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This public document was published at a total cost of \$1,895.55. Nine hundred, seventy-five copies of this public document were published in this monthly printing at a cost of \$3,895.55. The total cost of all printings of this document including reprints is \$1,895.55. This document was published by Bourque Printing, Inc., 13112 South Choctaw Drive, Baton Rouge, LA 70815, as service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-987. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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Executive Orders

EXECUTIVE ORDER MJF 97-20

Bond Allocation—Public Facilities Authority

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1997 (hereafter "the 1997 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1997 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS: the Louisiana Public Facilities Authority has requested an allocation from the 1997 Ceiling to be used in connection with providing funds for the purchase of student loans which bear interest rates at approximately 1 percent below the rates established by the United States Department of Education and which (1) are made (a) to residents of the state of Louisiana attending a post-secondary school located within or without the state, or (b) to an out-of-state resident attending a post-secondary school located within the state; (2) are guaranteed; (3) are "eligible student loans" within the meaning of the Higher Education Act of 1965 (hereafter "the Higher Education Act"); and (4) meet certain additional requirements under financing documents (hereafter "the Student Loan Program"). "Eligible student loans" include consolidation loans and other loans which are guaranteed and meet all the requirements of the Higher Education Act and applicable financing documents;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1997 Ceiling as follows:

| AMOUNT OF ALLOCATION | NAME OF ISSUER | NAME OF PROJECT |
|----------------------|---------------------------------------|----------------------------|
| \$43,500,000 | Louisiana Public Facilities Authority | Student Loan Revenue Bonds |

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the state of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1997, provided that

such bonds are delivered to the initial purchasers thereof on or before July 9, 1997.

SECTION 4: All references in this order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the *Internal Revenue Code* of 1986, as amended.

SECTION 6: This order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated 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 10th day April, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9705#010

EXECUTIVE ORDER MJF 97-21

School Based Health Clinic Task Force

WHEREAS, Executive Order MJF 96-74, signed on December 16, 1996, created and established within the Executive Department, Office of the Governor, the School Based Health Clinic Task Force (hereafter "Task Force") and ordered it to submit two reports to the Governor by specified dates;

WHEREAS, the dates specified for submitting the reports to the Governor were amended by Executive Order 97-13, signed on February 25, 1997; and

WHEREAS, it is once again necessary to change the dates on which the task force shall submit its reports to the governor on the progress and/or fulfillment of its primary and secondary objectives and duties;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 4 of Executive Order MJF 96-74 and Section 1 of Executive Order MJF 97-13 are amended to provide as follows:

The task force shall prepare and submit a report to the governor on the progress and/or fulfillment of its primary objectives and duties, no later than June 30, 1997, and on the progress and/or fulfillment of its secondary objectives and duties, no later than August 15, 1997.

SECTION 2: All other Sections and Subsections of Executive Order MJF 96-74 and 97-13 shall remain in full force and effect.

SECTION 3: The provisions of this order are effective upon signature and shall remain in effect until amended,

modified, terminated, or rescinded by the governor, or terminated 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 6th day May, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9705#069

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Animal Health Services
Livestock Sanitary Board

Equine Infectious Anemia and Livestock
Auction Market (LAC 7:XXI.11765 and 11766)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), R.S. 3:2093, and R.S. 3:2095, the Department of Agriculture and Forestry, Livestock Sanitary Board finds that this emergency rule setting forth the equine infectious anemia eradication program is required so that the eradication program can continue uninterrupted. The board has been advised of allegations that legal defects exist in the present equine infectious anemia eradication program. The board has further been advised that in the event the alleged legal defects are found to exist, the equine infectious anemia eradication program could be interrupted. The resultant interruption in the equine infectious anemia eradication program would cause imminent peril to public health, safety, and welfare of the citizens of this state in the that a major disease eradication program would be compromised. Out of an abundance of caution and in order to insure that the equine infectious anemia eradication program remains in place and uninterrupted pending final adoption of this rule through the normal promulgation process, the board declares an emergency to exist and adopts by emergency process the attached rule setting forth the equine infectious anemia eradication program. The effective date of this emergency rule is June 17, 1997, and it shall be in effect for 120 days or until an appropriate final rule takes effect through the normal adoption and promulgation process, whichever occurs first.

This declaration of emergency and adoption of rule by emergency process is in accordance with and under the authority of the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), R.S. 3:2093, and R.S. 3:2095.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

§11765. Equine Infectious Anemia and Livestock Auction Market

A. Identification. Beginning February 1, 1994, all equine prior to an official test for Equine Infectious Anemia (EIA) shall be individually and permanently identified by one of the following means:

1. implanted electronic identification transponder with individual number;
2. individual lip tattoo;
3. individual hot brand or freeze brand.

B. Equine Required to be Tested

1.a. All equine moving into the state of Louisiana for any purpose other than immediate slaughter, shall be accompanied by a record of a negative official test for EIA, conducted within the past 12 months.

b. The official test shall be conducted by an approved laboratory.

c. The name of the laboratory, the case number, and the date of the official test shall appear on the health certificate, as required in LAC 7:XXI.11761.

2.a. All equine moving within the state to fairs, livestock shows, breeders association sales, rodeos, racetracks, or to any other concentration point, shall be accompanied by an official record of a negative official test for EIA, conducted within the past 12 months.

b. The official test shall be conducted by an approved laboratory and the name of the laboratory, the case number, and the date of the test shall appear on the official record of the test.

3.a. All equine sold or purchased in Louisiana shall have been officially tested negative for EIA within six months of the date of the sale or shall be officially tested negative for EIA at the time of sale or purchase.

b. The official test shall be conducted at an approved laboratory.

c. The official test record shall accompany the horse at the time of the sale or purchase and the name of the laboratory, the case number, and the date of the test shall appear on the official record of the test.

4.a. All equine offered for sale at Louisiana livestock auction markets must be accompanied by an official record of a negative official test for EIA conducted by an approved laboratory within six months of the date of the sale, except as provided in this Subsection hereof.

b. Exceptions are untested equine arriving at a Louisiana livestock auction market shall have a blood sample drawn for official EIA testing.

i. A fee of no more than \$18 shall be collected from the seller and paid to the testing veterinarian by the auction market.

ii. The buyer of the equine shall be charged a \$5 identification fee which will be collected by the auction market before the equine leaves the auction market. This fee will be forwarded to the Louisiana Department of Agriculture and Forestry.

iii. After the blood sample is obtained and the fee paid, untested horses may move to the purchaser's premises under a quarantine issued by Louisiana Livestock Sanitary board personnel until results of the official tests are received.

iv. The seller of any equine whose gross proceeds from the sale are less than \$50 will not be required to pay the fee for an official EIA test.

v. If no veterinarian is available for official EIA testing of equine at a Louisiana livestock auction market, the testing shall be done by Louisiana Livestock Sanitary Board personnel.

c. Authorized buyers for approved slaughter establishments may request that any equine they have purchased at a Louisiana livestock auction market be restricted to slaughter.

i. After the request, such equine shall be branded with the letter "S" on the left shoulder prior to leaving the auction market and shall be issued a VS Form 1-27 permit.

ii. The branding and permit issuing shall be done by Louisiana Livestock Sanitary Board personnel.

5. All equine domiciled within the state of Louisiana shall be maintained with a negative current official test for Equine Infectious Anemia.

a. A negative current official test is a written result of a test conducted by an approved laboratory where said official test was performed not more than 12 months earlier.

b. An equine is domiciled within the state when the equine has been pastured, stabled, housed, or kept in any fashion in the state more than 30 consecutive days.

c. Written proof of a negative current official test shall be made available in the form of negative results from an approved laboratory upon request by an authorized representative of the Louisiana Livestock Sanitary Board.

C. Identification and Quarantining of Equine Positive to the Official EIA Test

1.a. With the exception of the equine stabled at a racetrack regulated by the Louisiana State Racing Commission, all equine testing positive to the official test for EIA shall be quarantined to the owners premises and shall be destroyed or sold for immediate slaughter within 20 days of the date of the official test for EIA.

i. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian.

ii. If sold for slaughter, the equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved Louisiana livestock auction market or to an approved slaughter facility.

b. The owner or trainer of all equine stabled at a racetrack regulated by the Louisiana State Racing Commission testing positive to an official EIA test shall be notified immediately by the testing veterinarian, or by racetrack officials, or by Louisiana Livestock Sanitary Board personnel and the equine testing positive shall be removed from the racetrack premises immediately.

c. Exceptions are:

i. Upon request by the owner, any female equine testing positive to the official test for EIA that is at least 270 days pregnant or has a nursing foal no more than 120 days of age at her side may be quarantined to the owner's premises and kept at least 200 yards away from any other equine.

(a). The female equine shall be identified with a "72A" brand at least 3 inches in height on the left shoulder.

(b). The female equine may remain in quarantine until her foal dies or reaches an age of 120 days at which time

the female equine shall be destroyed or sold for immediate slaughter within 20 days.

(i). If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian.

(ii). If sold for slaughter, the female equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved Louisiana livestock auction market or to an approved slaughter facility.

(c). Any foal kept in quarantine with its EIA positive dam shall be officially tested for EIA no later than 90 days after it is weaned.

ii. Any equine testing positive to the official EIA test prior to the effective date of this regulation may be quarantined to the owner's premises and kept at least 200 yards away from any other equine.

(a). This equine shall be identified with a "72A" brand at least 3 inches in height on the left shoulder.

(b). If the EIA positive equine is sold, it must be sold for slaughter and a VS Form 1-27 permit must be issued by Livestock Sanitary Board personnel to move the EIA positive equine from the owner's premises to slaughter.

(c). If the EIA positive equine is destroyed or dies, verification of said destruction or death by written and signed statement must be furnished to the office of the state veterinarian.

iii. Any EIA positive equine found in violation of this quarantine shall be required to be sold for slaughter or destroyed within 20 days.

2. All equine stabled at a racetrack regulated by the Louisiana State Racing Commission, testing positive to the official EIA test and immediately removed from the racetrack shall be quarantine to the premises to which they are moved and shall be destroyed or sold for immediate slaughter within 20 days of the date of the official test for EIA.

a. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian.

b. If sold for slaughter, the equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved Louisiana livestock auction market or to an approved slaughter facility.

3. With the exception of the equine stabled at a racetrack regulated by the Louisiana State Racing Commission, the following shall be quarantined and officially tested for EIA no sooner than 30 days after the positive equine has been removed:

a. all equine on the same premises as an equine testing positive to the official EIA test;

b. all equine on all premises within 200 yards of the premises of the equine testing positive to the official EIA test; and

c. all equine which have been on these aforementioned premises within the past 30 days at the time the equine which is positive to the official EIA test was tested.

4. All equine stabled at a racetrack regulated by the Louisiana State Racing Commission which are stabled in the

same barn or in a directly adjacent barn of an equine which tests positive to the official EIA test shall be quarantined until the positive equine is removed and all other horses in the aforementioned barns are tested negative to the official EIA test.

5.a. Equine which are required to be officially tested for EIA as a result of being quarantined due to the circumstances described in §11765.C.3 and 4 of this Section may be tested by an accredited veterinarian chosen by the owner or by a state employed veterinarian if requested by the owner of the quarantined equine.

b. In the event that the official testing for EIA is done by a state employed veterinarian, the official record (VS Form 10-11) will not be made available to the owner.

6. Equine positive to the official test for EIA:

a. shall be identified with a "72A" brand on the left shoulder at least 3 inches in height, by Louisiana Livestock Sanitary Board personnel;

b. will be retested prior to identification by branding upon request by the owner, by Louisiana Livestock Sanitary Board personnel and the blood sample submitted to the Louisiana Veterinary Medical Diagnostic Laboratory for confirmation.

D. Collection and Submission of Blood Samples

1.a. All blood samples for official EIA testing must be drawn by an accredited veterinarian and submitted to either an approved laboratory or the Louisiana Veterinary Medical Diagnostic Laboratory as provided herein.

b. The seller of any equine which sells at a Louisiana livestock auction market in which the gross proceeds from the sale are less than \$50 may request that the blood sample be drawn by Louisiana Livestock Sanitary Board personnel.

2.a. Blood samples for official EIA testing shall be accompanied by a VS Form 10-11, Equine Infectious Anemia Laboratory Test Report, with completed information as to the equine owner's name, address, telephone number, and permanent individual identification of the equine.

b. The VS Form 10-11 shall be considered the official record for all official EIA tests conducted in Louisiana.

3. Only serum samples in sterile tubes shall be accepted for testing.

4. Blood samples drawn for EIA testing at Louisiana livestock auction markets and blood samples drawn for EIA testing by Louisiana Livestock Sanitary Board personnel shall be submitted to the Louisiana Veterinary Medical Diagnostic Laboratory for testing.

E. Testing of Blood Samples Collected

1. Only laboratories approved by the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services, shall be authorized to conduct the official test for EIA in Louisiana and such laboratories must also receive approval by the Louisiana Livestock Sanitary Board.

2. Approved laboratories shall submit the original (white copy) of each VS Form 10-11 at the end of each week to the Louisiana Livestock Sanitary Board office.

3. Approved laboratories may charge a fee to the accredited veterinarian for conducting the official test.

F. Requirements for a Permit for the Operation of an Equine Quarantine Holding Area

1. Any buyer desiring to operate an equine quarantine holding area must file an application for approval of the facility on forms to be provided by the Louisiana Livestock Sanitary Board.

2. The facility to be operated as an equine quarantine holding area, must have an area where equine testing positive to the official EIA test and/or "S" branded horses are kept and where such horses are separated by at least 440 yards from all other horses.

3. The facility must be approved by the Louisiana Livestock Sanitary Board in an inspection of the premises prior to the issuance of the permit.

4. The buyer desiring to operate an equine quarantine holding area, must agree, in writing, to comply with the rules and regulations of the Louisiana Livestock Sanitary Board.

5. No other equine except equine consigned for slaughter, shall be kept in an equine quarantine holding area.

6. No equine shall be kept in the equine quarantine holding area longer than 60 days.

7. All permits must be renewed annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 11:243 (March 1955), amended LR 11:615 (June 1955), LR 14:223 (April 1988), LR 14:697 (October 1988), LR 20:406 (April 1994), LR 20:1257 (November 1994), LR 23:

§11766. Equine Infectious Anemia Testing Laboratory

A. No person shall operate an Equine Infectious Anemia testing laboratory without first obtaining approval from the Louisiana Livestock Sanitary Board.

B. Conditions for Approving an Equine Infectious Anemia Testing Laboratory

1. The person must submit an application for approval to the office of the state veterinarian.

2. An inspection of the facility must be made by someone representing the office of the state veterinarian and who shall submit a report to the Louisiana Livestock Sanitary Board indicating whether or not the person applying for an Equine Infectious Anemia testing laboratory approval has the facilities and equipment which are called for in Veterinary Service Memorandum 555.8.

3. The applicant must agree, in writing, to operate the laboratory in conformity with the requirements of the regulation and Veterinary Service Memorandum 555.8.

4. The applicant must show the board that there is a need for the laboratory.

5. If the application is approved by the Louisiana Livestock Sanitary Board, the applicant will proceed with training, examination, and United States Department of Agriculture laboratory visitation.

6. Laboratory check test results shall be provided to the state veterinarian for final approval.

7. All Equine Infectious Anemia testing laboratories which have been approved by the United States Department of Agriculture, prior to the adoption of this regulation, shall

be automatically approved at the time this regulation goes into effect.

C. Conditions for Maintaining Equine Infectious Anemia Testing Laboratory Approval

1. Laboratories must maintain a work log clearly identifying each individual sample and tests results, which must be available for inspection, for a period of 18 months from the date of the test.

2. Laboratories must maintain on file and make available for inspection, a copy of all submitting forms for a period of 18 months.

3. Laboratories must continually meet all the requirements of Veterinary Services Memorandum 555.8.

4. Samples shall be periodically collected and laboratories periodically inspected without prior notification.

5. Laboratories shall report, immediately, by telephone or telephonic facsimile, all positive results to the official test for EIA to the state veterinarian's office.

6. The state veterinarian shall renew the approval in January of each year, as long as laboratories maintain the standards required by this regulation and Veterinary Services Memorandum 555.8.

D. Cancellation of Equine Infectious Anemia Testing Laboratory Approval. An Equine Infectious Anemia testing laboratory may have its approval canceled if the Louisiana Livestock Sanitary Board finds, at a public hearing, that the laboratory has failed to meet the requirements of this regulation or has falsified its records or reports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 14:698 (October 1988), amended LR 20:408 (April 1994), LR 23:

Maxwell Lea, Jr.
Executive Secretary

9705#053

DECLARATION OF EMERGENCY

**Department of Agriculture and Forestry
Office of Animal Health Services
Livestock Sanitary Board**

**Quarantining, Vaccinating and
Testing of Swine (LAC 7:XXI.11776)**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), R.S. 3:2093, and R.S. 3:2095, the Livestock Sanitary Board finds an emergency situation to exist due to the continued persistent incidence of brucellosis and pseudorabies in the swine population in Louisiana. The board finds that immediate implementation of change in ownership test requirements is necessary for Louisiana to reach a goal of eradication of brucellosis and pseudorabies in swine and to keep pace with the progress of the national eradication programs. The effective date of this emergency rule is May 9, 1997, and it

shall be in effect for 120 days or until the final rule takes effect through normal promulgation process whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

§11776. Quarantining, Vaccinating and Testing of Swine for Brucellosis and Pseudorabies

A.1. The state veterinarian, or his representative, shall have the authority to conduct epidemiologic investigations and quarantine of:

a. swine herds in which one or more of the animals are found to be positive to pseudorabies, as determined by the epidemiologist, based on the interpretation of official tests;

b. the herd of origin of swine that have been added to a herd that becomes quarantined because of pseudorabies, if swine have been acquired from said herd of origin within the last 12 months;

c. herds which have received swine from herds found to have pseudorabies;

d. herds of swine including feedlots, within a 1.5 mile radius of the quarantined herd, will be monitored in accordance with the recommendation of the state veterinarian and/or epidemiologist by either a test of all breeding swine or by an official random sample test.

2. A herd plan and epidemiology report must be completed within 30 days from the date an animal that originated from the herd was found to be a reactor at slaughter.

3. A herd test must be completed within 45 days from the date an animal that originated from the herd was found to be a reactor at slaughter.

B. To be eligible for release from quarantine, a swine herd must meet the following requirements:

1.a. All swine positive to an official pseudorabies test must be tagged with an official reactor tag in the left ear and permitted on Form VS 1-27 to recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws within 15 days.

b. All swine, over 6 months of age and a random sampling of any growing/finishing swine which remain in the herd, must be tested negative 30 days or more after removal of reactors.

c. No livestock on the premises shall have shown signs of pseudorabies after removal of reactors.

2. Whole Herd Depopulation

a. All swine on the premises must be tagged with an official reactor tag in the left ear and permitted on a Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws.

b. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant prior to putting swine back on the premises.

C. A herd of swine quarantined because of brucellosis must meet one of the following requirements:

1.a. All swine positive to an official brucellosis test must be tagged with an official reactor tag in the left ear and permitted on Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises by disposal means authorized by applicable state laws within 15 days.

b. All swine over 6 months of age which remain in the herd, must be tested according to an approved herd plan.

c. A herd may be released from quarantine upon completion of three negative Complete Herd Tests (CHT).

i. The first test must be completed at least 30 days after removal of the last reactor.

ii. A second CHT must be conducted 60-90 days following the first CHT.

iii. A third CHT is required 60-90 days following the second CHT.

iv. A fourth CHT is required six months after the third CHT.

2. Whole Herd Depopulation

a. All swine on the premises must be tagged with an official reactor tag in the left ear and permitted on a Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws.

b. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant prior to putting swine back on the premises.

D. All movement from pseudorabies/brucellosis quarantined herds, must be accompanied by a VS Form 1-27, Permit for Movement of Restricted Animals, listing the official, individual identification of each animal to be removed.

1. This form must be delivered to an authorized representative at destination.

2. These permits will be issued by a representative of the Louisiana Livestock Sanitary Board.

E. All exposed swine moving from quarantined premises in interstate or intrastate commerce, must move directly to a recognized slaughter establishment or to an approved swine quarantined feedlot or rendering plant.

F. The use of pseudorabies vaccine is prohibited, except by permission of the state veterinarian.

G.1. All swine, 6 months of age or older, must be tested negative for pseudorabies and brucellosis by an official test within 30 days prior to sale.

2. Swine originating from a brucellosis validated-pseudorabies qualified free herd or from a monitored feeder pig herd are exempt from this testing requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 16:392 (May 1990) amended LR 18:839 (August 1992), LR 20:1258 (November 1994), LR 23:

§11777. Operation of Livestock Auction Markets

All swine which are sold or offered for sale in livestock auction markets must meet the general requirements of

LAC 7:XXI.11709 and the following specific Pseudorabies/Brucellosis requirements:

1. All breeder and feeder swine moving to Louisiana auction markets from farms outside Louisiana, must meet the requirements of LAC 7:XXI.11709; and

2. All swine over 6 months of age, being sold at Louisiana livestock auction markets must be identified by an official swine backtag, placed on the animals's forehead and an official metal eartag.

3.a. The market shall furnish the Livestock Sanitary Board's official representative a copy of each check-in slip, showing the name of the auction market, the date, the name and complete address of each consignor, and the official backtag numbers applied to the consignor's livestock.

b. It shall be a violation of this regulation for anyone to consign livestock to a Louisiana livestock auction market and give a name and address that is not the name and address of the owner consigning the livestock to the auction market.

4.a. All swine 6 months of age or older arriving at a livestock auction market without an official negative test will have a blood sample drawn for testing.

b. Swine originating from a brucellosis validated-pseudorabies qualified free herd or from a monitored feeder pig herd are exempt from this testing requirement.

c. Testing for pseudorabies and brucellosis at livestock auction markets may be suspended by the state veterinarian due to climatic conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:245 (March 1985), amended LR 11:615 (June 1985), LR 16:392 (May 1990), LR 18:839 (August 1992), LR 23:

Maxwell Lea, Jr.
Executive Secretary

9705#052

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Animal Health Services
Livestock Sanitary Board

Sanitary Disposal of Dead Poultry
(LAC 7:XXI.Chapter 117)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), R.S. 3:2093 and R.S. 3:2095, the Department of Agriculture and Forestry, Livestock Sanitary Board finds that this emergency rule, setting forth the regulations governing the sanitary disposal of dead poultry, is necessary for the health and safety of the citizens of Louisiana. The board has discovered that certain Subsections of §11771 of the Livestock Sanitary Board regulations which outline the approved methods for the sanitary disposal of dead poultry were deleted through a

clerical error which occurred during an amendment of that Section in August, 1994. The lack of approved methods of sanitary disposal of dead poultry, and the resultant disposal of dead poultry through unapproved methods would cause imminent peril to public health, safety, and welfare of the citizens of this state in that other, unsanitary, disposal methods may be employed and could result in a health crisis in Louisiana. In order to insure that noted methods of sanitary disposal of dead poultry remains in place and uninterrupted pending final adoption of this rule through the normal promulgation process, the board declares an emergency to exist and adopts by emergency process the following emergency rule. The effective date of this emergency rule is June 17, 1997, and it shall remain in effect for 120 days or until the final rule takes effect through the normal adoption and promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

§11701. Definitions

* * *

Digester—a specially designed water tight system which is buried in the ground below the frost line and has the ability and strength to hold liquid, without leakage or seepage, and is used to dispose of dead poultry through use of bacteria.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 12:289 (May 1986), LR 12:498 (August 1986), LR 14:217 (April 1988), LR 15:811 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 23:

Subchapter D. Poultry

§11771. Sanitary Disposal of Dead Poultry

A. All commercial poultry producers are required to obtain a certificate of approval. Failure to obtain a certificate shall be considered a violation of this regulation. Certificates of approval are continuous, but subject to review and cancellation should the poultry producer fail to dispose of dead poultry in accordance with this regulation.

B. Approved Methods. Dead poultry must be removed from the presence of the live poultry without delay. The carcasses, parts of carcasses and offal must be held in covered containers until disposal is made by one of the approved methods. In no instance, however, will the storage of dead poultry be allowed to create sanitary problems. Commercial poultry producers shall be required to dispose of dead poultry by one of the following methods:

1. Disposal pits shall be constructed in a manner and design capable of providing a method of disposal of dead poultry to prevent the spread of diseases. The design and construction must be approved by an authorized representative of the Livestock Sanitary Board.

a. Effective January 1, 1993, no disposal pits will be approved.

b. Disposal pits that are currently in use will be allowed to operate until January 1, 1995.

2. Incinerators. Incinerators shall be constructed in a manner and design capable of providing a method of disposal of dead poultry to prevent the spread of diseases. The design and construction must be approved by an authorized representative of the Livestock Sanitary Board.

3. Rendering Plant. Dead poultry, parts of carcasses and poultry offal may be transported in covered containers to approved rendering plants. Poultry carcasses may be held on the premises of commercial poultry producers as long as the storage does not create a sanitary problem. All such methods of storage and transportation of dead poultry to approved rendering plants must be approved by an authorized representative of the Livestock Sanitary Board.

4. Composting. The design, construction, and use of compost units must be approved by an authorized representative of the Livestock Sanitary Board.

5. Digesters. Poultry digesters may be used if the following conditions are met:

a. The design, construction, location, and use of digesters must be approved by an authorized representative of the Livestock Sanitary Board.

b. The bacteria being used in the digester must be approved by an authorized representative of the Livestock Sanitary Board.

c. The digester must be maintained according to recommendations of an authorized representative of the Livestock Sanitary Board.

C. In the event of the death of more than 1 percent of broilers or 0.5 percent of pullets or breeders over 4 weeks of age on the same premises within a 24-hour period of time, the death of which is not known to be caused by a contagious or infectious disease, the dead poultry may be disposed of by on-site burial. The state veterinarian's office must be notified immediately by telephone or facsimile in the event of excessive mortality requiring on-site burial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), LR 17:874 (September, 1991), amended LR 18:1355 (December 1992), LR 20:550 (August, 1994), LR 23:

Maxwell Lea, Jr.
State Veterinarian

9705#044

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Alternative Livestock—Imported Exotic
Deer and Antelope, Elk, and Farm-Raised
White-Tailed Deer (LAC 7:XXI.11793-11798)

In accordance with the Administrative Procedure Act, specifically R.S. 49:953(B), and R.S. 3:3101, the

commissioner of Agriculture and Forestry finds that this emergency rule regulating the slaughter and sale of imported exotic deer and antelope, elk and farm-raised white-tailed deer for commercial purposes in the state of Louisiana is necessary to prevent imminent peril to the health, safety and welfare of the citizens of Louisiana.

Without regulations in place, diseased or contaminated animals may be brought into the state of Louisiana or slaughtered and sold as food to be consumed by Louisiana citizens. Louisiana is certified by the United States Department of Agriculture (USDA) as a tuberculosis- and brucellosis-free state. The introduction of any imported exotic deer and antelope, elk and farm-raised white-tailed deer infected with either of these diseases will subject Louisiana cattle and other livestock to infection. Any infection of cattle or other livestock will cause the owner of such livestock to lose the commercial value of such animals. In addition, introduction of these diseases into the state will jeopardize Louisiana's certifications from the USDA. The loss of the commercial value of infected livestock, as well as the loss of USDA certification, will cause a substantial adverse economic impact on the agricultural economy of this state.

For these reasons, the commissioner of Agriculture and Forestry has determined that this emergency rule is necessary in order to immediately regulate the raising, slaughtering and sale of imported exotic deer and antelope, elk and farm-raised white-tailed deer for commercial purposes in the state of Louisiana.

This emergency rule becomes effective April 22, 1997. It shall remain in effect 120 days or until the final rule becomes effective, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter K. Alternative Livestock—Imported Exotic Deer and Antelope, Elk, and Farm-Raised White-Tailed Deer

§11793. Scope

A. Statement of Purpose

1. The purpose of these Subchapter K Rules and Regulations is to protect the industry related to wild native and domesticated species against infringement by overpopulation and disease from non-native species of animal.

2. Additionally, these regulations augment and support the legislation authorizing the Louisiana Department of Agriculture and Forestry to administer and enforce the laws dealing with the production, raising, slaughtering, sale, and transfer of certain native and non-native wild species which are farm-raised.

B. Definitions

Alternative Livestock—farm-raised animal species and farm-raised avian species which are normally found in the wild in substantial populations.

Commerce/Commercial—the buying, selling, trading, or transferring ownership of a commodity from one person to another.

Elk—any animals of the species and genus *Cervus canadensis*.

Farm-Raised—any animal and avian species including but not limited to imported exotic deer and antelope, elk, and white-tailed deer which is bred, born, raised, and/or kept within a closed circumscribed fenced premise for the purpose of buying, selling, or trading in commerce. This definition does not include animal and avian species which are part of a zoo, game park or wildlife exhibit where the purpose of the same is the exhibition of animals.

Identify/Identification—the implantation of an electronic transponder, also known as a microchip, which has a unique alpha-numeric code which can be detected and displayed by an appropriate scanner, into the subcutaneous tissue at the base of the left ear of any imported exotic deer or antelope, elk, or farm-raised white-tailed deer.

Imported Exotic Deer and Antelope—any animal of the family *Cervidae*, including but not limited to red deer, seika deer and fallow deer, which are not indigenous to North America.

Livestock—cattle, sheep, swine, goats, horses, mules, burros, asses and alternative livestock of all ages including but not limited to ratites and *Cervidae* when maintained under farm-raised circumstances.

Quarantine—the secure and physical isolation of an animal or animals in a specified confined area to prevent the spread of a contagious disease.

White-Tailed Deer—any animal of the species and genus *Odocoileus virginianus*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§11794. Obligations of the Owner

A. Any person who operates a farm for the purpose of raising, slaughtering, selling, and/or trading of imported exotic deer and antelope, elk, or farm-raised white-tailed deer for commercial purposes shall obtain a license from the Louisiana Department of Agriculture and Forestry before engaging in such activity.

B. A person may apply for a license to operate a farm for the purpose of raising, slaughtering selling and/or trading of imported exotic deer, antelope, elk, or white-tailed deer for commercial purposes if said person is the owner of at least one pregnant female or one male and one female of the same species.

C. Each applicant for a license to operate a farm shall:

1. submit a written application. The written application shall contain the following:

- a. name of the applicant;
- b. mailing address of the applicant;
- c. telephone number of the applicant;
- d. physical location of the premise;
- e. the size of the premise;
- f. the specie(s) of animals to be kept on the premise
- g. the approximate number of animals to be kept on

the premise; and

h. a plan for recapture of any animals that escapes;

2. submit to an inspection of the premises by Louisiana Department of Agriculture and Forestry personnel to verify the following requirements:

- a. the premise is located in a rural area;
- b. adequate shelter and water is available for the number of animals to be located there;
- c. the area of the premise for elk and white-tailed deer is at least 5000 square feet for the first animal and 2500 square feet for each subsequent animal if the total area of the premise is less than five acres;
- d. the fences meet the following specifications:
 - i. minimum height of 7 feet;
 - ii. minimum gauge wire is 12½;
 - iii. the fencing material is chain link, woven wire, solid panel, or welded panel:
 - (a). welded wire fences are not acceptable unless approved by the Louisiana Department of Wildlife and Fisheries prior to the effective date of these regulations;
 - (b). any previously approved welded wire fences that are replaced must be replaced with a type listed in Paragraph 2.d.i - iii;

- e. premises have sufficient drainage to prevent extended periods of standing water;
- 3. pay a license fee of \$50.

D. License

- 1. A license shall be valid for one calendar year, from January 1 through December 31.
- 2. A license can be renewed each year upon written request for renewal and submission of a renewal fee of \$50 to the Louisiana Department of Agriculture and Forestry.
- 3. Written requests for renewal and renewal fees received after January 31 will be rejected and the license deemed expired as of December 31.

E. Records

- 1. Each licensee shall maintain records of all sales, trades, purchases, or transfers of any type for at least 24 months.
- 2. These records shall include:
 - a. the total number of animals, or the parts thereof, killed, sold, or transported;
 - b. the complete name and address of the person to whom the animals were sold or transported;
 - c. the permanent identification number of the animal; and
 - d. copies of any health certificates issued.
- 3. These records shall be made available to representatives of the Louisiana Department of Agriculture and Forestry upon request.

F. Sellers or transferors of alternative livestock shall furnish the purchaser or transferee with a bill of sale or letter of transfer as verification of farm-raised status.

G. All imported exotic deer and antelope, elk and farm-raised white-tailed deer in Louisiana shall be identified by means of an implanted electronic device (microchip). The microchip shall be implanted under the skin at the base of the left ear.

H. All imported exotic deer and antelope, elk, and farm-raised white-tailed deer, prior to entering Louisiana, shall be permanently and individually identified by means of an implanted electronic device (microchip) which shall be:

- 1. listed on the Certificate of Veterinary Inspection; and
- 2. implanted under the skin at the base of the left ear.

I. Hunting

1. Any person who owns or leases a premise on which imported exotic deer and antelope, elk, and/or farm-raised white-tailed deer are located or any person who engages in business with said person where said animals are bought, sold, or traded in commerce by means of hunting shall abide by all laws, rules, and regulations of the Louisiana Department of Wildlife and Fisheries that pertain to hunting.

2. In the event that there are *Cervidae* species for which species the Louisiana Department of Wildlife and Fisheries has no applicable laws, rules or regulations pertaining to hunting then, in the event, the Louisiana Department of Agriculture and Forestry may establish rules for the hunting of those species.

J. Hunting Fee

1. Any person who owns or leases a premise on which imported exotic deer and antelope, elk, and/or farm-raised white-tailed deer are located or are to be located where said animals are or are to be bought, sold, or traded in commerce by means of hunting shall pay a fee of \$500 per white-tailed deer contained on said premise before any imported exotic deer and antelope, elk, or farm-raised white-tailed deer are introduced onto the premise.

2. The fee shall be paid to the Louisiana Department of Agriculture and Forestry and be forwarded to the Louisiana Department of Wildlife and Fisheries within 30 days of receipt.

3. The number of white-tailed deer for which compensation is due shall be determined by the population of white-tailed deer per acre as estimated by the Louisiana Department of Wildlife and Fisheries for the parish in which the premise is located.

K. All imported exotic deer and antelope, elk, and farm-raised white-tailed deer entering Louisiana must meet the general requirements of LAC 7:XXI.11705.

L. Import Requirements

1. All imported exotic deer and antelope, elk, and farm-raised white-tailed deer entering Louisiana shall be accompanied by a Certificate of Veterinary Inspection (health certificate) including an entry permit number which:

- a. is issued by the state veterinarian's office no more than 15 days before entry into Louisiana; and
- b. shall be included on the Certificate of Veterinary Inspection.

2. Imported exotic deer and antelope consigned directly to an approved slaughter establishment are exempt from §11794.L.

M. Brucellosis Testing

1. Prior to entering Louisiana all imported exotic deer and antelope, elk, and farm-raised white-tailed deer moving into Louisiana shall be tested for brucellosis in accordance with the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* when published by USDA, APHIS.

2. Until such time as the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* is published, all imported exotic deer and antelope, elk, and farm-raised white-tailed deer 6 months of age and older shall be tested negative for brucellosis within 30 days of entry into Louisiana unless they originate from a herd which has been officially declared as a certified brucellosis free herd by the state of origin.

N. Tuberculosis Testing. Prior to entering Louisiana all imported exotic deer and antelope, elk, and farm-raised white-tailed deer moving into Louisiana shall be tested for tuberculosis in accordance with the *Tuberculosis Eradication in Cervidae Uniform Methods and Rules* as published by USDA, APHIS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§11795. Prohibitions

A. No imported exotic deer or antelope, elk, or farm-raised white-tailed deer shall be released into the wild without written permission from both the Louisiana Department of Agriculture and Forestry and the Louisiana Department of Wildlife and Fisheries.

B. Alternative Livestock Meat

1. White-tailed deer meat shall not be bought, sold, traded, or moved in commerce in any way.

2. Elk meat shall not be bought, sold, traded, or moved in commerce without written approval from the Louisiana Department of Agriculture and Forestry.

3. Imported exotic deer and antelope meat shall be subject to and handled in accordance with state and federal meat inspection laws and regulations.

C. It is a violation of this regulation to sell, purchase or otherwise transfer any imported exotic deer and antelope, elk, or farm-raised white-tailed deer for any purpose other than immediate slaughter, unless said animal(s) originates from a herd which is not under quarantine for brucellosis and/or tuberculosis.

D. Failure to comply with any mandatory provisions of these Subchapter K Regulations or an order of quarantine is prohibited and each such act or omission shall constitute a violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§11796. Exceptions

A. Licensed Game Breeder

1. Any person holding a valid game breeders license issued by the Louisiana Department of Wildlife and Fisheries for the possession of imported exotic deer and antelope, elk, and/or farm-raised white-tailed deer at the time these Subchapter K Regulations become effective who makes written application for a license from the Louisiana Department of Agriculture and Forestry, as stated in §11794.C will have the initial license fee of \$50 waived if the application is made within the same calendar year as these regulations become effective.

2. This license shall be valid until the end of the calendar year in which it is issued at which time normal renewal procedures and fees will be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§11797. Other

A. The owner or leasee of any premise from which imported exotic deer or antelope, elk, or farm-raised white-tailed deer are bought, sold, or traded in commerce by means of hunting may apply to the Louisiana Department of Agriculture and Forestry for removal, by hunting, of additional white-tailed deer over and above the number allowed by hunting regulations if:

1. said owner or leasee participates in the Louisiana Department of Wildlife and Fisheries Deer Management Assistance Program; and

2. such application is accompanied by a favorable recommendation from a Louisiana Department of Wildlife and Fisheries biologist.

B. The additional removal of white-tailed deer shall be done during the regular hunting season established by Louisiana Department of Wildlife and Fisheries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§11798. Enforcement and Penalties

A. Enforcement

1. Any imported exotic deer or antelope, elk or farm-raised white-tailed deer which has been exposed to brucellosis and/or tuberculosis shall be quarantined and tested for the diseases to which it has been exposed within 60 days of the date of the quarantine.

2. Authorized representatives of the Louisiana Department of Agriculture and Forestry may inspect all premises on which imported exotic deer and antelope, elk and farm-raised white-tailed deer are located for the purposes of issuing and/or reviewing licenses and to insure that fencing, space, and other premise conditions meet regulation standards.

3. Authorized representatives of the Louisiana Department of Agriculture and Forestry may inspect any records dealing with purchases sales or any transfer of ownership of imported exotic deer and antelope elk and farm-raised white-tailed deer. These records may be inspected during any reasonable hours.

4. Any exotic deer or antelope, elk or farm-raised white-tailed deer which escapes the premise on which it is located and is not captured within 96 hours of the escape may be captured by authorized representatives of the Louisiana Department of Agriculture and Forestry by whatever means deemed necessary by that agency.

B. Penalties

1. The penalty for a violation of Subchapter K, Alternative Livestock Rules and Regulations, shall be a fine of up to \$100 for each violation.

2. With regard to continuing violations, whether acts or omissions, each day a violation occurs or continues shall be a separate violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

Bob Odom
Commissioner

9705#005

DECLARATION OF EMERGENCY

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

Mentally Retarded/Developmentally Disabled Waiver

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing administers four Home and Community Based Services Waiver Programs. Participation in each home and community based services waiver is limited to a specific number of participants based on the approval of the waiver application by the Health Care Financing Administration. The bureau adopted an emergency rule, effective July 13, 1995, not to fill vacated slots in the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver Program except in certain specified circumstances (*Louisiana Register*, Volume 21, Number 7). Another emergency rule was adopted, effective October 10, 1995, that allowed vacated slots in the MR/DD waiver to be filled in accordance with the methodology utilized prior to July 13, 1995 except that the number of slots to be filled could not exceed the total number of filled slots as of September 1, 1995 (*Louisiana Register*, Volume 21, Number 10). The bureau has now determined that it is necessary to adopt regulations governing the MR/DD Waiver Program to:

1. terminate the previous restrictions placed on the assignment of vacated waiver slots;
2. establish methodology for the assignment of slots vacated by discharged waiver participants and the 342 previously unoccupied slots; and
3. clarify policies on admission and discharge criteria, mandatory reporting requirements and the effective date that Medicaid reimbursement for waiver services shall begin.

The eligibility criteria for the MR/DD Waiver Program shall remain unchanged. The total number of slots assigned shall not exceed the maximum number of slots approved by the Health Care Financing Administration. A previous emergency rule was published in the *Louisiana Register*, (Volume 22, Number 10) which continued the above provisions in force.

The following emergency rule is necessary to preserve the health and welfare of individuals on the MR/DD waiver waiting list by assuring them an opportunity to make application for Medicaid eligibility and waiver services.

Emergency Rule

Effective May 31, 1997, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following regulations governing the MR/DD Waiver Program to:

1. terminate the previous restrictions placed on the assignment of vacated waiver slots;
2. establish methodology for the assignment of slots;
3. clarify admission and discharge criteria, mandatory reporting requirements and the effective date that Medicaid reimbursement for waiver services shall begin.

The total number of slots assigned shall not exceed the maximum number of slots approved by the Health Care Financing Administration. The assignment of vacated and previously unoccupied waiver slots; admission and discharge criteria; mandatory reporting requirements and the effective date for Medicaid reimbursement for waiver services to begin shall be determined in accordance with the following guidelines.

Programmatic Allocation of Waiver Slots

The waiting list shall be used to protect the individual's right to be evaluated for waiver eligibility. The Office for Citizens with Developmental Disabilities (OCDD) shall notify the next individual on the waiting list in writing that a slot is available and that they are next in line to be evaluated for possible waiver slot assignment. A copy of the notification letter shall be forwarded to the regional Health Standards Office. The individual then chooses a case manager who will assist in the gathering of the documents needed for both the financial and medical certification eligibility process. If the individual is determined to be ineligible either financially or medically, that individual is notified in writing and a copy of the notice is forwarded to the regional OCDD office. The next person on the waiting list is notified as stated above and the process continues until an eligible person is encountered. A waiver slot is assigned to an individual when eligibility is established and the individual is certified. Utilizing these procedures, waiver slots shall be allocated to the targeted groups cited below as follows:

1. When a currently certified participant is discharged from the waiver, the vacated slot shall be available for allocation to the next person on the MR/DD Waiver waiting list who successfully completes the financial and medical certification eligibility process and is certified for the waiver.
2. A minimum of 40 slots shall continue to be available for allocation to foster children in the custody of the Office of

Community Services (OCS) who successfully complete the financial and medical certification eligibility process and are certified for the waiver. OCS is the parent for those children who have been placed in their custody by court order. OCS shall be responsible for assisting the individual to gather the documents needed in the eligibility determination process; preparing the comprehensive plan of care; and submitting the plan of care document to the Health Standards Section.

3. A maximum of 80 slots shall be available for allocation to the next 80 persons on the MR/DD Waiver waiting list who successfully complete the financial and medical certification eligibility process and are certified for the waiver.

4. A maximum of 160 slots shall be available for allocation to current residents of the Pinecrest Development Center who successfully complete the financial and medical certification eligibility process and are certified for the waiver.

5. A maximum of 78 slots shall be available for allocation to current residents of public community homes who successfully complete the financial and medical certification eligibility process and are certified for the waiver.

6. Waiver slots shall no longer be reserved for use as emergency slots nor shall emergency slots be assigned.

Waiver Admission Criteria

Admission to the MR/DD Waiver Program shall be determined in accordance with the following criteria:

1. initial and continued Medicaid eligibility as determined by the parish BHSF Office;
2. initial and continued eligibility for an ICF-MR level of care as determined by the BHSF Health Standards Office in consultation with the OCDD Office;
3. the plan of care must provide justification that the waiver services are appropriate, cost effective in the aggregate and represent the least restrictive treatment alternative for the individual; and
4. assurance that the health and safety of the individual can be maintained in the community with the provision of reasonable amounts of waiver services as determined by the BHSF Health Standards Office.

Waiver Discharge Criteria

Participants shall be discharged from the MR/DD Waiver Program if one of the following criteria is met:

1. loss of Medicaid eligibility as determined by the parish BHSF Office;
2. loss of eligibility for an ICF-MR level of care as determined by the BHSF Health Standards Office in consultation with the OCDD Office;
3. incarceration or placement under the jurisdiction of penal authorities, courts or state juvenile authorities;
4. change of residence to another state with the intent to become a resident of that state;
5. admission to an ICF-MR facility or nursing facility;
6. the health and welfare of the waiver participant cannot be assured in the community through the provision of reasonable amounts of waiver services as determined by the

BHSF Health Standards Office, i.e., the waiver participant presents a danger to himself or others;

7. failure to cooperate in either the eligibility determination process or the performance of the care plan; or

8. continuity of services is interrupted as a result of the participant not receiving waiver services during a period of 14 or more consecutive days. This does not include interruptions in services because of hospitalization.

Mandatory Reporting Requirements

Case managers and waiver service providers are obligated to report changes that could affect the waiver participant's eligibility, including but not limited to those changes cited in the discharge criteria, to either the parish BHSF Office or the BHSF Health Standards Office within five working days. In addition, case managers and waiver service providers are responsible for documenting the occurrence of incidents or accidents that affect the health, safety and/or well-being of the waiver participant and completing an incident report. The incident report shall be submitted to the BHSF Health Standards Office within five working days of the incident.

Reimbursement of Waiver Services

Medicaid reimbursement for the provision of waiver services shall become effective on the date that the plan of care is approved by BHSF Health Standards.

Bobby P. Jindal
Secretary

9705#051

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Liquefied Petroleum Gas as a
Refrigerant (LAC 55:IX.183)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt an emergency rule, effective April 24, 1997, for 120 days or until a final rule takes effect through the normal promulgation process, whichever occurs first.

Emergency rule action is necessary to avoid an imminent peril to the public health, safety or welfare by using, selling or distributing a refrigerant containing liquefied petroleum gas for use in mobile air conditioning systems. Failure to adopt the rule on an emergency basis can result in greater exposure to the public health, safety or welfare should a leak develop in a mobile air conditioning system, in which liquefied petroleum gas has been used as a refrigerant.

**Title 55
PUBLIC SAFETY**

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

**Subchapter J. Use of Liquefied Petroleum Gas
Limited**

**§183. Use of Liquefied Petroleum Gas as a Refrigerant
Prohibited**

No person, firm, or corporation shall use, sell, or distribute a refrigerant containing liquefied petroleum gas for use in mobile air conditioning systems. Mobile air conditioning system means mechanical vapor compression equipment which is used to cool the driver's or passengers' compartment of any motor vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 23:

Charles M. Fuller
Director

9705#011

DECLARATION OF EMERGENCY

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

**Food Stamps—Disqualification of Certain
Recipients/Applicants (LAC 67:III.1988)**

The Department of Social Services, Office of Family Support has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Food Stamp Program, effective May 1, 1997. It is necessary to extend emergency rulemaking since the declaration of emergency of January 1, 1997 was effective for a maximum of 120 days, and will expire before the final rule takes effect.

Pursuant to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, a change in Food Stamp policy will permanently disqualify an individual convicted of a felony involving the use of a controlled substance. This emergency rule is necessary to effect this mandated regulation and to avoid sanctions or penalties which could be imposed by delaying implementation.

**Title 67
SOCIAL SERVICES**

**Part III. Office of Family Support
Subpart 3. Food Stamps**

Chapter 19. Certification of Eligible Households

**Subchapter J. Determining Household Eligibility and
Benefit Levels**

§1988. Eligibility Disqualification of Certain Recipients

* * *

B. Effective January 1, 1997, an individual convicted under federal or state law of any offense which is classified as

a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance [as defined in Section 102(6) of the Controlled Substances Act 21 U.S.C. 802 (6)] shall be permanently disqualified from receiving food stamps. This shall not apply to convictions occurring on or before August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), LR 23:

Madlyn Bagneris
Secretary

9705#013

DECLARATION OF EMERGENCY

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

Plan Document—Infertility Exclusion

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

This emergency rule shall become effective May 1, 1997, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend the Plan Document to clarify provisions related to the exclusion of benefits for treatment of infertility. Failure to adopt these amendments on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Subsection S of Article 3, Section VIII, of the Plan Document to read as follows:

VIII. Exceptions and Exclusions for All Medical Benefits
No benefits are provided under this contract for:

* * *

S. Artificial organ implants, penile implants, transplantation of other than Homo sapiens (human) organs, and any expense for treatment, subsequent to initial diagnosis, of infertility and complications thereof, including, but not limited to, services, drugs, and procedures or devices to achieve fertility; in-vitro fertilization, low tubal transfer,

artificial insemination, intracytoplasmic sperm injection, embryo transfer, gamete transfer, zygote transfer, surrogate parenting, donor semen, donor eggs, and reversal of sterilization procedures;

James R. Plaisance
Executive Director

9705#012

7. nutritional or parenteral therapy;
8. vitamins and minerals; and
9. drugs available over the counter.

* * *

James R. Plaisance
Executive Director

9705#033

DECLARATION OF EMERGENCY

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

**Plan Document—Prescription
Drug Exclusions and Limitations**

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

This emergency rule shall become effective on May 1, 1997, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend the Plan Document to restrict benefits for amphetamines to diagnoses of Attention Deficit Disorder or Narcolepsy, and to exclude benefits for smoking deterrents. Failure to adopt these amendments on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section VIII, Subsection W to read as follows:

VIII. Exceptions and Exclusions for All Medical Benefits
No benefits are provided under this contract for:

* * *

W. The following drugs, medicines, and related services:

1. appetite suppressant drugs;
2. dietary supplements;
3. topical forms of Minoxidil;
4. Retin-A dispensed for covered persons over age 26;
5. amphetamines dispensed for diagnoses other than Attention Deficit Disorder or Narcolepsy;
6. nicotine, gum, patches, or other products, services, or programs intended to assist an individual to reduce or cease smoking or other use of tobacco products;

DECLARATION OF EMERGENCY

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

**Plan Document—Prescription
Drug Exclusions and Limitations (Serostim)**

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to amend the Plan Document of Benefits.

This emergency rule is effective on May 17, 1997, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend the Plan Document to restrict benefits for Serostim, a new recombinant human growth hormone, to treatment of AIDS wasting. Failure to amend these rules on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section VIII, Subsection W to read as follows:

VIII. Exceptions and Exclusions For All Medical Benefits
No benefits are provided under this contract for:

* * *

W. The following drugs, medicines, and related services:

1. appetite suppressant drugs;
2. dietary supplements;
3. topical forms of Minoxidil;
4. Retin-A dispensed for covered persons over age 26;
5. amphetamines dispensed for diagnoses other than Attention Deficit Disorder or Narcolepsy;
6. nicotine, gum, patches, or other products, services, or programs intended to assist an individual to reduce or cease smoking or other use of tobacco products;
7. nutritional or parenteral therapy;
8. vitamins and minerals;
9. drugs available over the counter; and

10. Serostim dispensed for any diagnoses or therapeutic purposes other than AIDS wasting;

James R. Plaisance
Executive Director

9705#032

DECLARATION OF EMERGENCY

**Department of Treasury
Board of Trustees of the State
Employees' Retirement System**

Election of Trustees (LAC 58:I.Chapters 3 and 5)

Pursuant to the authority granted by R.S. 11:515 vesting the Board of Trustees with the responsibility for administration of the Louisiana State Employees' Retirement System (LASERS) and granting the power to adopt and promulgate rules with respect thereto, the board of trustees and the executive director hereby invoke the emergency rule provisions of R.S. 49:953(B), amending the rules regarding the election of trustees.

The board finds it necessary to amend these rules to effect an orderly transition to new election procedures. Failure to adopt these emergency rules could impair the ability to elect representatives of employees and retirees of this state to the board of trustees. The rule becomes effective on May 8, 1997 and shall remain in effect 120 days or until adopted through the normal promulgation process, whichever comes first.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement System (LASERS)

Chapter 3. Election of Active Member Trustees

§301. General Schedule of Elections

A. Elections for active member trustees shall be held in years ending with an odd number. Three active member trustees shall be chosen in each election and shall serve a four-year term.

B. The schedule for elections shall be as follows.

1. second Tuesday in June: nominations shall be opened.

2. second Tuesday in July: nominations shall be closed. All nominating petitions must be received by the close of business (4:30 p.m. Central Daylight Savings Time).

3. Friday following second Tuesday in July: a drawing to determine candidate positions on a ballot shall be held.

4. second Friday in September: the final day that information on candidates and ballots may be mailed.

5. fourth Friday in October: all ballots or electronic votes must be received by the close of business (4:30 p.m. Central Standard Time).

6. Wednesday following fourth Friday in October: all ballots and electronic votes shall be tallied and verified.

7. regular November meeting: the board shall be presented with the certified ballot count, and if it is accepted, shall authorize publication of results.

8. regular December meeting: newly elected members receive orientation; oaths shall be taken prior to the following January meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:

§ 303. Election Rules

A. An active member candidate for a position on the board of trustees must be an active member of the system with at least 10 years of credited service (excluding any military service credit) as of the second Tuesday in July, the date on which nominations close. The board of trustees shall accept the name and Social Security number of every candidate nominated by petition of 25 or more active members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning members' signatures must be accompanied by their Social Security numbers. The petition should contain all of the information which the candidate wishes to be included in the election brochure.

B. The three candidates who receive the most votes shall be declared successful candidates and presented to the board.

C. There shall be a drawing at 11 a.m. on the Friday following the second Tuesday in July, in the Retirement Systems Building, 8401 United Plaza Boulevard, Baton Rouge, LA, to determine the position each candidate shall have on the ballot or election brochure. All candidates may attend or send a representative to the drawing.

D. Ballots or election brochures shall be distributed or mailed by the second Friday in September. Every active contributing member appearing on the June monthly retirement reports shall receive a ballot or election brochure for voting. Participants in the DROP program shall vote in the active member's election and shall have ballots or election brochures mailed to their homes.

E. If electronic voting methods are utilized, members shall follow the instructions on the election brochure for registering their votes. Votes shall be confidential. Ballots or electronic votes received after the close of business on the fourth Friday in October (4:30 p.m. Central Standard Time) or postmarked after that date shall be rejected. Ballots must be returned to the address set forth in the instructions on the election brochure.

F. All valid ballots shall be tallied on Wednesday following the fourth Friday in October. Envelopes, valid ballots and electronic information displaying individual votes shall be destroyed after the results of the election have been promulgated by the board of trustees.

G. Ties affecting elected positions shall be decided by a coin toss held by the executive director in the presence of the candidates affected or the representative they designate.

H. The executive director shall submit a written report of the election results to the board of trustees no later than the regular November meeting of the board of trustees.

I. Upon receipt of the results of the election, the board of trustees shall promulgate the election and notify the successful candidates of their election and the secretary of state timely, so as to allow the candidates sufficient time to take and file the oath of office with the secretary of state within the time specified by law.

J. Active members cannot solicit employees of LASERS to participate in their campaigns, and LASERS' employees cannot participate, or give assistance to any member who is running for election or reelection to the board. Active member candidates shall not solicit or have contact with any vendor or employee of a vendor who is providing LASERS with products or services related to elections of the LASERS Board of Trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:

§ 305. Vacancies; Special Elections

A. The board shall appoint a member to fill any active member vacancy created on the board. The appointee shall possess the necessary qualifications under R.S. 11:511 for the active member position, and shall be the member who garnered the next-highest vote in the previous election, if that member is willing to serve and the appointment does not violate law or these regulations.

B. The appointment shall be valid only until January 1 of the year following the next election.

C. When the unexpired term for the vacancy is greater than two years, a special election shall be held to fill the vacancy simultaneous with the election ordinarily held in odd number years. The ballot for the special election may be the same as that used in the regular election. Candidates for four-year terms may not also be candidates to complete unexpired terms.

D. The deadlines and procedures for special elections shall be identical to those for elections normally held in years ending with odd numbers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511, R.S. 11:512 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:

Chapter 5. Election of Retired Member Trustees

§ 501. General Schedule of Elections

A. Beginning in 1995 and continuing thereafter every four years, two retired member trustees shall be chosen in an election and shall serve a four-year term. Beginning in 1997 and continuing thereafter every four years, a single retired trustee shall be chosen in an election and shall serve a four-year term.

B. The schedule for elections shall be as follows:

1. second Tuesday in June: nominations shall be opened.

2. second Tuesday in July: nominations shall be closed. All nominating petitions must be received by the close of business (4:30 p.m.).

3. Friday following second Tuesday in July: a drawing to determine candidate positions on a ballot shall be held.

4. second Friday in September: the final day that information on candidates and ballots may be mailed.

5. fourth Friday in October: all ballots or electronic votes must be received by the close of business (4:30 p.m. Central Standard Time).

6. Wednesday following fourth Friday in October: all ballots and electronic votes shall be tallied and verified.

7. regular November meeting: the board shall accept the certified ballot count and shall authorize publication of results.

8. regular December meeting: newly elected members receive orientation; oaths shall be taken prior to the following January meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:

§ 503. Election Rules

A. A candidate for a position of retired member trustee on the board of trustees must be a retired member of the system who has been on retired status (not including retired status under the Deferred Retirement Option Plan) for at least two years by the date on which nominations close. The board of trustees shall accept the name and Social Security number of every candidate nominated by petition of 25 or more retired members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning retired members' signatures must be accompanied by their Social Security numbers. All nominations for the board of trustees election must be in the office of the retirement system no later than the second Tuesday in July, close of business (4:30 p.m. Central Daylight Savings Time).

B. For purposes of this Chapter, the term "retired member" shall not include any person still employed by the state but treated as retired under the Deferred Retirement Option Plan.

C. There shall be a drawing on the Friday following the second Tuesday in July at 11 a.m. Central Daylight Savings Time in the Retirement Systems Building, 8401 United Plaza Boulevard, Baton Rouge, LA to determine the position each candidate shall have on the ballot or election brochure. All candidates may attend or send a representative to the drawing.

D. Ballots or election brochures shall be distributed to each retired member by the second Friday in September. Every retiree member appearing on the June retiree master list shall receive a ballot or election brochure for voting.

E. Each retiree may vote for two candidates during the election when two retiree members are up for election, but may only vote for one candidate during the election where only one retiree member is up for election. Those envelopes received as postmarked or date-stamped shall be placed in a ballot file for counting. If electronic voting methods are utilized, members shall follow the instructions on the election brochure for registering their votes.

F. Ballots or electronic votes received after the close of business on the fourth Friday in October (4:30 p.m. Central Standard Time) or postmarked after that date shall be rejected.

Ballots must be returned to the address set forth in the instructions on the election brochure.

G. All valid ballots or electronic votes shall be tallied on the Wednesday following the fourth Friday in October. Envelopes and valid ballots shall be destroyed after the results of the election have been promulgated by the board of trustees.

H. Tie votes shall be decided by a coin toss held by the executive director in the presence of the candidates affected or the representative they designate.

I. The executive director shall submit a written report of the election results to the board of trustees no later than the regular November meeting of the board of trustees.

J. Upon receipt of the results of the election, the board of trustees shall promulgate the election and notify the successful candidates of their election and also notify the secretary of state in order that the candidates may take their oath of office and file it with the secretary of state within the time specified by law.

K. Retiree candidates cannot solicit employees of LASERS to participate in their campaigns, and LASERS' employees cannot participate, or give assistance to any retiree candidate who is running for election or reelection to the board. Retiree candidates shall not solicit or have contact with any vendor or employee of a vendor who is providing LASERS with products or services related to elections of the LASERS Board of Trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:

§ 507. Vacancies; Special Elections

A. The executive board of the retired state employees association shall appoint a member to fill any retired member vacancy created on the board. The appointee shall possess the necessary qualifications under R.S. 11:511 for the retired member position.

B. The appointment shall be valid only until January 1 of the year following the next election.

C. When the unexpired term for the vacancy is greater than two years, a special election shall be held to fill the vacancy simultaneous with the election ordinarily held in odd number years. The ballot for the special election may be the same as that used in the regular election.

D. The deadlines and procedures for special elections shall be identical to those for elections normally held in years ending with odd numbers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511, R.S. 11:512 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:

James O. Wood
Executive Director

9705#042

DECLARATION OF EMERGENCY

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

Freshwater Mussel Harvest (LAC 76:VII.161)

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 56:450, which allows the secretary to promulgate rules and regulations for the harvest of freshwater mussels, 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. This emergency rule shall be effective 12:01 a.m., May 20, 1997, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

The secretary promulgates the emergency rule to allow resident buyers to import mussel shells of species and sizes legal in Louisiana, in order to compete with the national shell industry. The emergency rule will help alleviate financial hardships of mussel harvesters who must currently harvest and sell freshwater mussels on the same day. The provisions of the emergency rule will allow harvesters to store sacked and tagged mussels in a cold storage facility for up to a five-day period prior to sale. The emergency rule also reduces daily notification requirements if the harvester remains in one location on a weekly basis.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§161. Freshwater Mussel Harvest

*** * ***

D. Species for Harvest

1. Only the following taxa may be legally harvested:

| | |
|-------------|--|
| washboard | <i>Magaloniaias nervosa</i> |
| pimpleback | <i>Quadrula spp.</i> |
| three ridge | <i>Amblema plicata</i> |
| bleufer | <i>Potamilus (Proptera) purpuratus</i> |
| Asian clam | <i>Corbicula fluminea</i> |

2. Only specimens equal to or larger than the following minimum sizes shall be harvested:

| | |
|-------------------------|---------------|
| washboard | 4 inches |
| three ridge and bleufer | 3 inches |
| pimpleback | 2 3/4 inches |
| Asian clam | no size limit |

3. Minimum size will be measured by passing the specimen through a ring or appropriate circular measuring device so designed as to allow undersized mussels to pass through the opening. There is no allowance for undersized shell. All mussels must be sized (graded) immediately after each dive and undersized shell returned to the mussel bed before the harvester moves his boat or begins another dive. All mussels harvested shall be removed from the water daily during daylight hours only. All mussels harvested must be sold on a daily basis unless stored and tagged as required herein. Mussels may not be stored in the water after sunset. All mussels not sold at the end of each day shall be sacked and tagged before official sunset. The tag shall contain the following information:

- a. name;
- b. harvester permit number;
- c. date harvested;
- d. harvest location;
- e. confirmation number.

4. The mussel harvester may store mussels harvested at the end of each day in a cold storage facility prior to selling, provided the sacked mussels are properly tagged. Mussels shall not be stored longer than five days or after official sunset on Friday of each week.

5. The zebra mussel (*Dreissena polymorpha*), an introduced nuisance aquatic species, has the potential to severely clog industrial and public water intakes, deplete nutrients and consume huge amounts of dissolved oxygen in state water bodies, and potentially decimate endemic freshwater mussel populations. Therefore, the Department of Wildlife and Fisheries strongly encourages actions to prevent the spread of zebra mussels.

G. Reporting

5. 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. Such notification will be on a daily basis, unless the harvester fishes in the same area during a Monday through Friday period. However, even if harvesting in the same location for an extended period, weekly notification will be required. The permittee will be given a confirmation number at the time of notification.

H. Special Restrictions

5. Mussel shells (opened without meat) may be imported into Louisiana by properly licensed and permitted mussel buyers when accompanied by the appropriate licenses or permits, bills of lading, and proof of legality in the state of origin. The bill of lading shall include species of mussels contained in the shipment, pounds of mussels by species, the origin of the shipment, the destination of the shipment and the consignee and consignor. The buyer importing mussel shells into Louisiana must notify the Enforcement Division (toll-free 1-800-442-2511) within 24 hours prior to shipment with bill

of lading information, date and time of shipment, and route to be taken to the point of destination.

6. All mussels possessed under provisions of Subsection H.5 of this Section must be of legal size and species open to harvest in Louisiana.

7. Except under the provisions of Subsection H.5 and 6 of this Section, no mussels harvested from waters outside of Louisiana may be sold in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:450.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 19:510 (April 1993), amended LR 21:193 (February 1995), LR 22:374 (May 1996), LR 23:

James H. Jenkins, Jr.
Secretary

9705#020

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Black Bass—John K. Kelly-Grand
Bayou Reservoir (LAC 76:VII.149)

The Wildlife and Fisheries Commission does hereby exercise emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 49:967(D), and pursuant to its authority under R.S. 56:6(25)(a), 325(C), and 326.3, adopts an emergency rule as set forth below. This emergency rule is necessary because the current black bass regulations on John K. Kelly-Grand Bayou Reservoir will expire on May 31, 1997. Department biologists needed to collect Spring 1997 fisheries data before submitting a management proposal to the commission.

This declaration of emergency shall become effective June 1, 1997 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing §149. Black Bass Regulations-Daily Take and Size Limits

B. In addition, the commission establishes special size and daily take regulations for black bass on the following water bodies:

2. Lake Bartholomew (Morehouse and Ouachita Parishes), Black Bayou Lake (Bossier Parish), Chicot Lake (Evangeline Parish), Cross Lake (Caddo Parish), John K. Kelly-Grand Bayou Reservoir (Red River Parish), Lake Rodemacher (Rapides Parish) and Vernon Lake (Vernon Parish):

- a. Size Limit: 14 inch - 17 inch slot. A 14 - 17 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive;
- b. Daily Take: eight fish of which no more than four fish may exceed 17 inches maximum total length*;
- c. Possession limit:
 - i. On water—same as daily take;
 - ii. Off water—twice the daily take.

*Maximum total length—the distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325 (C), 326.3

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), amended LR 17:278 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:

Daniel J. Babin
Chairman

9705#015

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Nonresident Duck Stamp Fee Increase (LAC 76:V.317)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of R.S. 56:6(28), the Wildlife and Fisheries Commission hereby increases the fee for the nonresident duck stamp. This increase will be effective for nonresident duck stamps sold beginning with the 1997-98 license year. This action is being taken to allow the department to order stamps for the 1997-98 license year with these fees duly noted and available by July 1, 1997.

This declaration of emergency shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

§317. Nonresident Duck Stamp Fee Increase

Beginning in the 1997-98 license year, the fee for purchasing a nonresident duck stamp will be increased from

\$7.50 to \$13.50. This change will remain in effect until additional changes are warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(28).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 23:

Daniel J. Babin
Chairman

9705#016

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spring Inshore Shrimp Season—1997

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497, which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and shall have the authority to open or close outside waters, the Wildlife and Fisheries Commission does hereby set the 1997 Spring Inshore Shrimp Season to open as follows:

Zone 1, that portion of Louisiana's inshore waters from the Mississippi State Line to the eastern shore of South Pass of the Mississippi River, to open at 6 a.m., May 19, 1997; and

Zone 2, that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, to open at 6 a.m., May 19, 1997; and

Zone 3, that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island westward to the Texas State Line, to open at 6 a.m., May 26, 1997.

The commission also hereby grants to the secretary of the Department of Wildlife and Fisheries the authority to close any zone or portion of the state's waters to protect small white shrimp if biological and technical data indicates the need to do so, or enforcement problems develop.

Daniel J. Babin
Chairman

9705#014

Rules

RULE

Department of Agriculture and Forestry Office of Forestry

Forest Management Fees (LAC 7:XXXIX.20701)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Agriculture and Forestry, Office of Forestry hereby amends LAC 7:XXXIX.20701, Forest Management Fees. The department published a notice of intent to amend these rules in the December 20, 1996 *Louisiana Register* (Volume 22, Page 1245). The amended rules hereby have an effective date of May 20, 1997.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 207. Forest Landowner Assistance

§20701. Management Service Fees

The Department of Agriculture and Forestry, Office of Forestry, shall, under the direction of the state forester, provide private landowners with assistance in the management of their forestlands.

A. Basic Services. Performed on an as-requested basis in all Office of Forestry Districts.

1. Prescribed Burning Services

- | | |
|--|---|
| a. Reforestation (cutover areas) | \$10/acre plus \$60/hour for fireline establishment. Minimum \$100 |
| b. Afforestation (pasture, etc.) | \$7/acre. Minimum \$100 |
| c. Helicopter Assisted Burns | \$5/acre plus \$60/hour for fireline establishment. Minimum \$100 |
| d. Other Prescribed Burns (fuel reduction, hardwood control, wildlife habitat, etc.) | \$7/acre. Minimum 100 |
| e. Fireline Plowing Only | \$60/hour. Minimum \$100 |

2. Timber Marking

\$15/acre

B. Special Services. Performed when approved on a case-by-case basis.

- | | |
|--------------------|-----------|
| 1. Tree Planting* | \$42/acre |
| 2. Direct Seeding* | \$ 5/acre |
| 3. Tractor Work | \$60/hour |

*Seedlings or seed not included.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, LR 8:419 (August 1982), amended by the Department of Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 11:1178 (December 1985), LR 19:1414 (November 1993), LR 23:553 (May 1997).

Bob Odom
Commissioner

9705#045

RULE

Department of Agriculture and Forestry Office of Forestry

Indian Creek Recreation Area User Fees (LAC 7:XXXIX.20501)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Agriculture and Forestry, Office of Forestry hereby amends LAC 7:XXXIX.20501, Indian Creek Recreation Area, Usage Fees. The department published a notice of intent to amend these rules in the December 20, 1996 *Louisiana Register* (Volume 22, Page 1246). The amended rules have an effective date of May 20, 1997.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 205. Indian Creek Recreation Area

§20501. Usage Fees

The Department of Agriculture and Forestry, Office of Forestry, hereby announces the following usage fee revisions:

- | | |
|--|---|
| A. Entrance Fees (Day Use) | \$3/per vehicle with up to six occupants. Additional \$.50 per person for additional occupants. |
| B. Regular Campsite | \$12/day |
| C. Pull-through Campsite | \$16/day |
| D. Primitive Campsite | \$7/day |
| E. Pavilion Rental | \$35/day |
| F. Boat Launch | \$3/per boat |
| G. 30-day Off-season Rate for Regular Campsite (Oct. - Feb. only) | \$180/month |
| H. 30-day Off-season Rate for Pull-through Campsite (Oct. - Feb. only) | \$240/month |

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1476 [renumbered R.S. 3:4276] and R.S. 3:4274.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 6:734 (December 1980), amended LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 17:476 (May 1991), LR 23:553 (May 1997).

Bob Odom
Commissioner

9705#046

RULE

Department of Economic Development Economic Development Corporation

BIDCO Investment and Co-Investment Program (LAC 19:X.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Economic Development Corporation Act, R.S. 51:2312(C), the Department of Economic Development amends the following rules and regulations for the BIDCO Investment and Co-Investment Program.

Title 19

CORPORATIONS AND BUSINESS

Part X. Economic Development Corporation

Subpart 1. BIDCO Investment Program

Chapter 1. BIDCO Investment and Co-Investment Program

§103. Definitions

A. - D. ...

E. A *Specialty BIDCO* shall be defined in accordance with the Office of Financial Institution's BIDCO policy.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:554 (May 1997).

§105. LEDC Application Process

A. - B. ...

1. Applications will be processed in the order in which they are received.

2. - 5. ...

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:554 (May 1997).

§109. Amount of Investment

A. Co-Investment

1. If a nonspecialty BIDCO can show private cash capital contributions or commitments, as defined in §103, of at least \$1,000,000, LEDC may co-invest \$1 for each \$2 for each LEDC approved project submitted to it by the BIDCO. The LEDC investment will participate pro-rata with the BIDCO share of the investment. The LEDC investment will not exceed 33 percent of any project nor will LEDC funding

exceed \$1 for each \$2 of other BIDCO capital committed. On each project submitted for review, an application fee of \$250 is required.

2. If a specialty BIDCO can show private cash capital contributions or commitments, as defined in §103, of at least \$250,000, LEDC may co-invest \$1 for each \$1 for each LEDC approved project submitted to it by the BIDCO. The LEDC investment will participate pro-rata with the BIDCO share of the investment. The LEDC investment will not exceed 50 percent of any project nor will LEDC funding exceed \$1 for each \$1 of other BIDCO capital committed. On each project submitted for review, an application fee of \$250 is required.

B. Match Investment

1. If a nonspecialty BIDCO can show private cash capital contributions or commitments, as defined in §103, of \$2,000,000, exclusive of any previous investments by LEDC, the BIDCO may request a matching equity capital contribution from LEDC. Each request should be accompanied by a \$500 application fee. If the BIDCO is considered an acceptable risk, based upon LEDC review of its credentials, performance, and business plan, or some combination thereof, LEDC may make a matching cash contribution on the basis of \$1 for each \$2 of the BIDCO capital not to exceed \$2,500,000, reduced for any previous LEDC capital contributions. LEDC will base its matching equity capital contribution on the amount of non-LEDC capital as calculated in accordance with §103(D). Thereafter it will participate in all future BIDCO investments on a pro-rata basis with all other BIDCO funds. Any BIDCO which has received a LEDC match investment is ineligible to present portfolio projects to LEDC for assistance through any of LEDC's other programs.

2. If a specialty BIDCO can show private cash capital contributions or commitments, as defined in §103, of \$250,000, exclusive of any previous investments by LEDC, the BIDCO may request a matching equity capital contribution from LEDC. Each request should be accompanied by a \$500 application fee. If the BIDCO is considered an acceptable risk, based upon LEDC review of its credentials, performance, and business plan, or some combination thereof, LEDC may make a matching cash contribution on the basis of \$1 for each \$1 of the BIDCO capital not to exceed \$2,500,000, reduced for any previous LEDC capital contributions. LEDC will base its matching equity capital contribution on the amount of non-LEDC capital as calculated in accordance with §103(D). Thereafter it will participate in all future BIDCO investments on a pro-rata basis with all other BIDCO funds. Any BIDCO which has received a LEDC match investment is ineligible to present portfolio projects to LEDC for assistance through any of LEDC's other programs.

(Editor's Note: Existing Subsections E. and F. are renumbered 3. and 4., respectively.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:554 (May 1997).

§111. Terms of Investments

A. ...

B. LEDC will have the right to appropriate representation on and control of the BIDCO's management and governance as negotiated with the BIDCO. This may include, but not be limited to, board seat(s); veto authority or supermajority requirements for key management and financial decisions; board visitation rights.

C.1. LEDC's stock may be repurchased by the BIDCO or, secondarily, by its private-capital stockholders at the end of the fifth year or each subsequent annual operating period for a discounted amount of LEDC's then-current book value or market value, whichever is higher, subject to LEDC's concurrence on the valuation methodology and the achievement of BIDCO performance objectives specified at the time of LEDC's investment. The BIDCO or its private-capital investors can experience an appreciation in their investment commensurate with the amount of discount granted by LEDC in the sale of its stock back to the BIDCO or its shareholders. The discount at the end of the five years or annually thereafter, is:

| | DISCOUNT | LEDC RECEIVES |
|---------------------|----------|---------------|
| End of 5 Years | 25% | 75% |
| 6th Year | 20% | 80% |
| 7th Year | 15% | 85% |
| 8th Year | 10% | 90% |
| 9th Year and Beyond | 5% | 95% |

2. This scenario provides greater incentives for the BIDCO/shareholders to repurchase LEDC's interest earlier than later, but retains incentive for the buy-out beyond the ninth year. See Exhibit 1 for an example of the buy-out scenarios. This provision is not applicable to nonprofit BIDCO's.

D. LEDC may negotiate additional operating requirements with individual applicant BIDCO's on a case-by-case basis, as needed to safeguard the quality of LEDC's investment or to promote achievement of the objectives of the program or LEDC. Such requirements may include, but not be limited to, a put (sell) option to liquidate LEDC's investment in the BIDCO.

E. All agreements will be executed by duly authorized persons outlining the details of the transaction.

F. LEDC's funding under its commitment will be made on a quarterly basis subject to verification of non-LEDC funds received by the BIDCO.

G. Capital match investments in a nonprofit BIDCO will be in the form of a debenture with terms and rates to be negotiated consistent with the BIDCO's business plan and LEDC's investment objectives and polices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:555 (May 1997).

§113. Application Requirements

To apply for LEDC financing, A BIDCO shall submit to LEDC evidence of its OFI approval or preliminary approval. The applicant must desirably submit to LEDC information in the sequence outlined below. The Applicant may provide other information which it believes relevant. LEDC may request further information beyond what is specified below.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:555 (May 1997).

Brett Crawford
Executive Director

9705#073

RULE

**Department of Economic Development
Economic Development Corporation**

Micro Loan Program (LAC 19:VII.Chapter 75)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Economic Development Corporation Act, R.S. 51:2312(C), the Department of Economic Development, Economic Development Corporation adopts the following rules and regulations for the Micro Loan Program.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 9. Micro Loan Program

Chapter 75. Loan Policies

§7501. Purpose

A. The Louisiana Economic Development Corporation (LEDC) wishes to stimulate the flow of private capital, long-term loans, and other financial assistance for the sound financing of the development, expansion, and retention of small business concerns in Louisiana as a means of providing high levels of employment, income growth, and expanded economic opportunities, especially to disadvantaged persons and within distressed and rural areas.

B. The corporation will consider sound loans so long as resources permit. The board of the corporation recognizes that guaranteeing, participating, or lending money carries certain risks and is willing to undertake reasonable exposure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:555 (May 1997).

§7503. Definitions

Disabled Person's Business Enterprise—a small business concern which is at least 51 percent owned and controlled by a disabled person as defined by the federal Americans With Disabilities Act of 1990.

Economically Disadvantaged Business—a Louisiana business certified as economically disadvantaged by the Department of Economic Development's Division of Economically Disadvantaged Business Development.

Micro Loans—those loans ranging in size from \$5,000 to \$50,000.

Small Business Concerns—as defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:555 (May 1997).

§7505. Application Process

A. Applicant is required to first contact a financial lending institution that is willing to entertain such a loan with the prospect of additional credit support provided by a LEDC guarantee or a participation and complete the application process. An applicant may also apply to LEDC directly for loan consideration, provided it is based upon documented eligibility as established as follows. Only after rejection by at least two lending institutions for participation on the basis of either a loan participation or a loan guarantee shall an applicant be eligible to be considered for a direct loan by LEDC. Such applications may be forwarded directly to LEDC.

B. Information submitted to LEDC with the application representing the applicant's business plan, financial position, financial projections, personal financial statements and background checks will be kept confidential to the extent allowed under the Public Records Law, R.S. 44:1 et seq. Confidential information in the files of LEDC and its accounts acquired in the course of duty will be used solely by and for LEDC.

C. Submission and Review Policy

1. A completed Louisiana Economic Development Corporation application form along with information identified by LEDC as appropriate must be submitted to LEDC. Applications will be processed, with decisions confirmed promptly.

2. Economically disadvantaged businesses applying for assistance under that provision will have to submit certification from the Division of Economically Disadvantaged Business Development Office of the Department of Economic Development along with the request for financial assistance.

3. Businesses applying for consideration under the Disabled Persons provision shall submit adequate information to support the disabled status.

4. LEDC staff will review the applications for completeness and submit only complete packages for analysis. Any applications not receiving approval in the initial analysis process shall be individually reviewed and exceptions to underwriting criteria noted. The LEDC staff will report to the screening committee monthly those applications approved, and those not recommended for approval with reasons.

5. Loans guaranteed or participated in by LEDC must qualify under LEDC pre-approved underwriting criteria using standardized LEDC documentation. The originating bank is responsible for all loan closing documentation. Closing will

occur only after a site visit by an LEDC staff member or designated representative.

6. Direct loans by LEDC must qualify under LEDC pre-approved underwriting criteria, or be approved by the board of directors as an exception to such criteria. Such loans will be closed by LEDC or its designated agents using standardized LEDC documentation.

7. Only those applicants and/or their designated representatives asked to be present by the LEDC staff need to be present for the screening committee.

8. The board of directors will review the results of all applications processed and screened. Loans recommended for approval by the LEDC staff as exceptions to standard underwriting criteria will be presented to the screening committee of the board for approval. Loans approved under standard underwriting procedures requiring direct LEDC funding, LEDC guarantees or participation shall be approved by LEDC in accordance with established policies and procedures.

9. The applicant will be notified promptly from date accepted for processing by mail of the outcome of the application.

10. A LEDC commitment letter, standard guaranty or participation agreement will be mailed to the bank promptly after approval by the LEDC staff applying standardized evaluation processes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:556 (May 1997).

§7507. Eligibility

A. Small business concerns as defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

B. Small businesses whose owner(s) or principal stockholder(s) shall be a resident of Louisiana and the business is domiciled in Louisiana with preference given to certified economically disadvantaged businesses or businesses owned by disabled persons.

C. Funding request for all but the following may be considered:

1. restaurants, except for regional or national franchises;

2. bars;

3. any project established for the principal purpose of dispensing alcoholic beverages;

4. any establishment which has gaming or gambling as its principal business;

5. any establishment which has consumer or commercial financing as its business;

6. funding for the acquisition, renovation, or alteration of a building or property for the principal purpose of real estate speculation;

7. funding for the principal purpose of refinancing existing debt in excess of 10 percent of the total requested loan amount;

8. funding for the purpose of buying out any stockholder or equity holder by another stockholder or equity holder in a business;

9. funding for the purpose of establishing a park, theme park, amusement park, or camping facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:556 (May 1997).

§7509. General Loan Provisions

A. The Louisiana Economic Development Corporation will be guided by the following general principles in making loans:

1. The corporation shall not knowingly approve any loan guarantee, loan participation or loan if the applicant has presently pending or outstanding any claim or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness including state or federal taxes, or bankruptcy proceeding; nor shall the corporation approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

2. The terms or conditions imposed and made part of any loan or loan guarantee authorized by vote of the corporation board shall not be amended or altered by any member of the board or employee of the Department of Economic Development except by subsequent vote of approval by the board at the next meeting of the board in open session with full explanation for such action.

3. The corporation shall not subordinate its position.

B. Interest Rates

1. On all loan guarantees the interest rate is to be negotiated between the borrower and the bank but may not exceed four percentage points above New York prime as published in the Wall Street Journal at either a fixed or variable rate.

2. On all participation loans the interest rate to LEDC shall be determined by utilizing the rate for a U.S. Government Treasury Security for the time period that coincides with the term of the participation and adding 1 percent.

3. On all direct loans by LEDC the interest rate to LEDC shall be negotiated at a rate commensurate with the loan risk for either variable or fixed rate loans.

C. Collateral

1. Collateral to loan ratio will be no less than 1:1, except for direct loans where the ratio will be 1.2:1.

2. Collateral position shall be negotiated but will be no less than a sole second position.

3. Collateral Value Determination

a. The appraiser must be certified by recognized organization in area of collateral.

b. The appraisal cannot be over 90 days old.

c. The percentage of value considered shall be consistent with the underwriting criteria established by the LEDC Board from time to time.

4. Acceptable collateral may include, but not be limited to, the following:

a. fixed assets—real estate, buildings, fixtures;

b. equipment, machinery, inventory;

c. personal guaranties are open for negotiation, if used, there must be signed and dated personal financial statements;

d. accounts receivable with supporting aging

schedule, except for direct loans where accounts receivable are ineligible;

5. unacceptable collateral may include but not be limited to the following:

a. stock in applicant company and/or related companies;

b. personal items.

D. Equity

1. Will be no less than 10 percent of the loan amount for a start-up operation, acquisition, or expansion.

2. Equity is defined to be:

a. cash;

b. paid in capital;

c. paid in surplus and retained earnings;

d. partnership capital and retained earnings.

3. No research, development expense or intangibles will be considered equity.

E. Amount

1. For small businesses the corporation's guarantee shall be no greater than 80 percent of a loan.

2. For certified economically disadvantaged businesses or businesses owned by disabled persons, the guarantee shall be no greater than 90 percent of a loan.

3. The corporation's participation in loans shall be no greater than 50 percent, but in no case shall it exceed \$25,000.

F. Terms. Terms may be negotiated with the bank but in no case shall the terms exceed five years.

G. Fees. LEDC will charge a minimum guarantee fee of 1 percent of the guarantee amount.

H. Use of Funds

1. Purchase of fixed assets, including buildings that will be occupied by the applicant to the extent of at least 51 percent.

2. Purchase of equipment, machinery, or inventory.

3. Line of credit for accounts receivable or inventory.

4. Debt restructure may be considered by LEDC but will not be considered when the debt:

a. exceeds 10 percent of total loan; and/or

b. pays off a creditor or creditors who are inadequately secured; and/or

c. provides funds to pay off debt to principals of the business; and/or

d. provides funds to pay off family members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:557 (May 1997).

§7511. General Agreement Provisions

A. Guaranty Agreement

1. Originating bank or LEDC agent responsible for proper administration and monitoring of loan and proper liquidation of collateral in case of default.

2. The loan shall not be sold, assigned, participated out, or otherwise transferred without prior written consent of the LEDC Board.

3. If liquidation through foreclosure occurs, the bank sells collateral and handles legal proceedings.

4. There will be a reduction of the guarantee:

a. in proportion to the principal reduction of the

amortized portion of the loan;

b. if no principal reduction has occurred in any annual period of the loan, a reduction in the guarantee amount will be made proportional to the remaining guarantee life.

5. The guarantee will cover the unpaid principal amount owed only.

6. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined in the guaranty agreement. Notification of delinquency will be made to the corporation, in writing and verbally, in a time satisfactory to the bank and the corporation as stated in the guaranty agreement.

B. Participation Agreement

1. The bank is responsible for administration and monitoring of the loan.

2. The lead bank will hold no less participation in the loan than that equal to LEDC's but not to exceed its legal lending limit.

3. The lead bank may sell other participation with LEDC's consent.

4. Should liquidation through foreclosure occur, the bank will sell the collateral and handle the legal proceedings.

5. The bank is able to set its rate according to risk. A blend with the LEDC rate to yield a lower overall rate to project.

6. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation.

C. Borrower Agreement. At the discretion of LEDC the borrower will agree to strengthen management skills by participation in a form of continuing education acceptable to LEDC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:557 (May 1997).

§7513. Confidentiality

Confidential information in the files of the corporation and its accounts acquired in the course of duty is to be used solely for the corporation. The corporation is not obliged to give credit rating or confidential information regarding applicant. Also see Attorney General Opinion Number 82-860.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:558 (May 1997).

§7515. Conflict of Interest

No member of the corporation, employee thereof, or employee of the Department of Economic Development, members of their immediate families shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the corporation for any matter, cause, or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such corporation. If any contract or agreement shall be made in violation of the provisions of this Section the same shall be

null and void and no action shall be maintained thereon against the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:558 (May 1997).

Brett Crawford
Executive Director

9705#075

RULE

Department of Economic Development Economic Development Corporation

Venture Capital Match Program (LAC 19:VII.2301-2313)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Economic Development Corporation Act, R.S. 51:2312(C), the Department of Economic Development, Board of the Louisiana Economic Development Corporation, amends the following rules and regulations for the Venture Capital Match Program.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 2. Venture Capital Program

Chapter 23. Venture Capital Match Program

§2301. Eligibility

Eligible applicants are:

1. Venture Capital Funds with a minimum of \$5,000,000 of privately raised capital for risk investment under management with:

a. proven, experienced management recognized in the venture capital community. The management should have significant management experience in risk investments of the types and volumes contemplated by the applicant venture capital funds;

b. a Louisiana-based production office. The production office shall have permanent employees employed by the fund capable of evaluating potential investment opportunities;

c. funds without headquarters located in Louisiana must have a minimum of one-year operating history.

2. For the purposes of this Chapter, *Risk Investment* means an investment which may provide equity through the purchase of common stock, preferred stock, partnership rights or any other equity instrument. Additionally it may mean debt positions which may act as equity or have equity features such as subordinated debt, debentures or other such instruments used in conjunction with features intended to yield significant capital appreciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:463 (June 1989), amended LR 23:558 (May 1997).

§2303. Valuation of Investment Fund

The amount of privately raised funds under management shall mean the value of any monies invested or otherwise used as risk capital in businesses plus the unexpended monies available for investment or used as risk capital. The value of an equity investment and/or risk capital investment shall be the amount of dollars actually invested. For the purpose of calculating private capital, only cash and commitments which are available for risk investments at the time of LEDC's match, may be counted in the match amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:463 (June 1989), amended LR 23:559 (May 1997).

§2305. Application Procedure

The application shall contain, but not be limited to, an offering memorandum which includes, but is not limited to, the following:

1. name of fund, address (mailing and physical);
2. specify the amount of LEDC investment/commitment requested;
3. specify the minimum and maximum amounts of non-LEDC capital to be raised if LEDC makes the requested investment/commitment;
4. specify applicant's projected timetable, with milestones for completion of the fund raising;
5. specify whether applicant anticipates taking in all of the committed capital investment at closing, or whether applicant plans a phase in. If a phase-in is planned, specify the proposed schedule. It is permissible to have different scenarios based on the actual amount of capital raised;
6. market—identify the proposed market of the applicant:
 - a. describe and discuss the types of businesses that the fund will finance. Discuss the extent to which the fund intends to specialize in certain industries, or if special circumstances will be addressed;
 - b. describe the size range of businesses that it is contemplated the fund will finance, with a general indication of where most of the focus is expected;
 - c. discuss the life cycle stage or stages of the companies which the fund will likely finance, with an indication of where most of the focus is contemplated, e.g., start-up, expansion;
 - d. discuss the geographic area in which the fund plans to focus. Specify the city or parish in which the fund's principal office will be located, and discuss intentions, if any, to establish any additional offices;
 - e. describe the types of financing instruments that are intended to be utilized for investments, e.g., debentures, notes, preferred stock, royalties, etc.;
7. management assistance—discuss the plans of the fund to provide management and/or technical assistance to companies for which the fund provides financing. Discuss the fund's plans for monitoring its financing, and enforcing provisions of loan or investment agreements. Discuss how the

fund plans to handle problem loans and investments;

8. idle funds—describe plans for the management of the idle funds of the fund;

9. realization of returns by investors—discuss long-term plans and strategies for providing a tangible return to the investors in the fund ;

10. tax and accounting issues—discuss relevant tax and accounting issues for the fund;

11. management structure—describe the proposed management structure for the Fund;

12. describe the proposed responsibilities of each of the members of the management team. If any of these people will not be full time, describe their other activities;

13. describe the responsibilities of any management position for which a person has not been identified;

14. specify any other key people including any advisors, consultants, attorneys and accountants, and submit resumes and/or descriptions of firms. LEDC reserves the right to perform general and criminal background checks on these key people.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:463 (June 1989), amended LR 23:559 (May 1997).

§2307. Amount of Investment

The corporation may invest up to \$5,000,000. The corporation may use its discretion to set the ratio of corporation investment to private investment. However, the ratio shall not exceed \$1 of corporation monies to \$2 of privately raised dollars.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:463 (June 1989), amended LR 23:559 (May 1997).

§2309. Investment Criteria

The criteria for investment may include but not be limited to the following:

1. The applicant will be required to make investments that will at least create jobs in, create wealth in, and shall have a substantial economic impact to the economy of Louisiana.

2. The investment made by LEDC shall be made on no less than the same terms and conditions, and with the same expected return on investment, as other private investors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:463 (June 1989), amended LR 23:559 (May 1997).

§2311. Reporting Requirements

Funds receiving investments under this program shall submit quarterly and annual financial and narrative reports on the use of monies and all investments made by the fund during the reporting period. The narrative report shall include the number of applications received in addition to other activities. The narrative report shall include a listing of all investors in each business and all subsequent financings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:463 (June 1989), amended LR 23:559 (May 1997).

§2313. Inactivity

If no activity has occurred in the fund for a period of one year or reporting requirements are not met, the Venture Fund shall be reviewed by the board of the corporation. After review the board may choose to revoke its investment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:463 (June 1989), amended LR 23:560 (May 1997).

Brett Crawford
Executive Director

9705#074

RULE

Board of Elementary and Secondary Education

Bulletin 741—Adding Elective Courses

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 741, Louisiana Handbook for School Administrators, Standards 1.090.11, and 1.105.37 as stated below.

Adding Electives/Exploratories to the Program of Studies

1.090.11 A school system choosing to add an elective/exploratory course to its program of studies shall apply to the director of the Bureau of Elementary Education, State Department of Education (SDE), at least 60 days prior to the anticipated date of implementation. The State Department of Education shall follow the guidelines for elective approval as submitted to the SBESE.

The application for an elective/exploratory course shall be submitted by the superintendent and shall contain the following information:

1. detailed outline of course content;
2. time requirements (minutes per day; days per year or semester);
3. detailed course objectives and methods by which they shall be measured;
4. qualifications of the instructor;
5. date the course is to begin;
6. approximate number of students; and
7. criteria for enrollment.

If the course is to be offered for the succeeding school year, an end-of-year evaluation shall be sent on provided forms to the Bureau of Elementary Education for determining its continuation.

After an elective/exploratory course has been in effect for three successive school years and if the system wants the course to be a permanent part of its curriculum, the school superintendent shall apply by letter to the director of the Bureau of Elementary Education for permission to include it. The State Department of Education shall review the request along with course evaluations and notify the applicant

whether or not the course is approved.

The State Department of Education will provide the SBESE with a listing of any new elective courses or permanently approved courses every two months.

Adding Elective Courses to the Program of Studies

1.105.37 A school system choosing to add an elective course to its program of studies shall apply to the director of the Bureau of Secondary Education, SDE, at least 60 days prior to the anticipated date of implementation. The State Department of Education shall follow the guidelines for elective approval as submitted to the SBESE.

The director of the Bureau of Secondary Education shall determine, from the information submitted, whether or not the course is approved and so notify the applicant.

The application for an elective course shall be signed by the superintendent and shall contain the following information:

1. detailed outline of course content;
2. units of credit to be granted;
3. detailed course objectives and the methods by which they shall be measured;
4. qualifications of the instructor;
5. date the course is to begin;
6. approximate number of students; and
7. criteria for enrollment.

Elective courses designed specifically for special education students shall also be approved by the Office of Special Education Services.

If the course is to be offered for the succeeding school year, an end-of-the-year evaluation shall be sent, on forms provided, to the Bureau of Secondary Education for determining its continuation.

After an elective course has been in effect for three successive school years and if the system wants the course to be a permanent part of its curriculum, the school superintendent shall apply by letter to the director of the Bureau of Secondary Education for permission to include it. The State Department of Education shall review the request along with course evaluations and notify the applicant whether or not the course is approved.

The State Department of Education will provide the SBESE with a listing of any new elective courses or permanently approved courses every two months.

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:560 (May 1997).

Weegie Peabody
Executive Director

9705#029

RULE

Board of Elementary and Secondary Education

Bulletin 741—Alternative Schools/Programs

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education hereby amends *Bulletin 741, Louisiana Handbook*

for *School Administrators*, Standards 1.151.01 and 2.151.01 as stated below:

1.151.01 Approval shall be obtained from the State Department of Education prior to the establishment of the alternative school/program.

A narrative proposal describing the alternative school/program shall be submitted and shall include the following information:

1. purpose;
2. needs assessment;
3. type (alternative within regular education or alternative to regular education placement);
4. list of the *Louisiana Handbook for School Administrators, Bulletin 741* policy and standard deviations;
5. anticipated date of implementation;
6. student eligibility;
7. entrance and exit criteria;
8. total number of students;
9. individual class sizes;
10. detailed outline of curriculum;
11. methods of instruction to meet individual student needs;
12. type and number of staff including qualifications/certification;
13. plan for awarding Carnegie units, when applicable;
14. grading and reporting procedures;
15. plan for parental and community involvement;
16. educational support services;
17. in-service;
18. type and location of physical facility;
19. procedure for program evaluation.

A school system choosing to implement an alternative school/program shall submit the above proposal to the director of the appropriate bureau, (elementary education or secondary education) at least 60 days prior to the anticipated date of implementation.

Refer to guidelines for alternative schools.

The State Department of Education will provide the SBESE with a listing of approved alternative schools/programs every two months.

2.151.01 Approval shall be obtained from the State Department of Education prior to the establishment of the alternative school/program.

A narrative proposal describing the alternative school/program shall be submitted and shall include the following information:

1. purpose;
2. needs assessment;
3. type (alternative within regular education or alternative to regular education placement);
4. list of the *Louisiana Handbook for School Administrators, Bulletin 741* policy and standard deviations;
5. anticipated date of implementation;
6. student eligibility;
7. entrance and exit criteria;
8. total number of students;
9. individual class sizes;
10. detailed outline of curriculum;
11. methods of instruction to meet individual student

needs;

12. type and number of staff including qualifications/certification;
13. plan for awarding Carnegie units, when applicable;
14. grading and reporting procedures;
15. plan for parental and community involvement;
16. educational support services;
17. in-service;
18. type and location of physical facility;
19. procedure for program evaluation.

A school system choosing to implement an alternative school/program shall submit the above proposal to the director of the appropriate bureau, (elementary education or secondary education) at least 60 days prior to the anticipated date of implementation.

Refer to guidelines for alternative schools.

The State Department of Education will provide the SBESE with a listing of approved alternative schools/programs every two months.

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:560 (May 1997).

Weegie Peabody
Executive Director

9705#028

RULE

Board of Elementary and Secondary Education

Bulletin 746—Ancillary Secondary and Elementary School Principals

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved an addition to Bulletin 746, Louisiana Standards for State Certification of School Personnel as follows:

Ancillary Secondary School Principal

Secondary school principals shall either hold a Louisiana teaching certificate which authorizes service as a secondary school principal or meet the following requirements:

- A. have an earned master's degree from a regionally accredited institution of higher education;
- B. have completed five or more years of professional school experience at the secondary level;
- C. a score of 620 on the Educational Administration and Supervision Area Exam of the National Teacher Examinations is required;
- D. have completed a minimum of 30 semester hours of graduate credit as follows:

1. nine semester hours of educational administration and instructional supervision to include the following:
 - a. foundations of (introductory) educational administration or theory of educational administration;
 - b. secondary school principal;
 - c. principles of instructional supervision in the secondary school;

2. twenty-one semester hours of professional education as follows:

a. eighteen semester hours in professional education to include the following:

- i. educational research;
- ii. history or philosophy of education;
- iii. secondary school curriculum;
- iv. school law;
- v. school finance;
- vi. school personnel administration;

b. three semester hours of electives in education administration from:

- i. school-community relations;
- ii. school facilities;
- iii. program development and evaluation (in professional education or area(s) outside of professional education);

E. a provisional secondary school principal ancillary certificate may be issued to an applicant who has met the requirements of Paragraphs A through D.2 above and who is employed as a secondary school principal in a Louisiana school system. The certificate may be issued at the request of the Louisiana employing superintendent and is valid only for the period and place of employment. Upon employment as a principal, an individual with provisional certification must enroll in the two-year Principal Internship Program under the auspices of the Administrative Leadership Academy. A secondary school principal ancillary certificate will be issued upon satisfactory completion of the two-year Principal Internship Program;

F. persons holding an ancillary principal certificate at either the elementary or secondary school level may serve as a principal of a combination elementary-secondary school.

Ancillary Elementary School Principal

Elementary school principals shall either hold a Louisiana teaching certificate which authorizes service as an elementary school principal or meet the following requirements:

A. have an earned master's degree from a regionally accredited institution of higher education;

B. have completed five or more years of professional school experience at the elementary level;

C. a score of 620 on the Educational Administration and Supervision Area Exam of the National Teacher Examinations is required;

D. have completed a minimum of 30 semester hours of graduate credit as follows:

1. nine semester hours of educational administration and instructional supervision to include the following:

- a. foundations of (introductory) educational administration or theory of educational administration;
- b. elementary school principal;
- c. principles of instructional supervision in the elementary school;

2. twenty-one semester hours of professional education as follows:

a. eighteen semester hours in professional education to include the following:

- i. educational research;
- ii. history or philosophy of education;

iii. elementary school curriculum;

iv. school law;

v. school finance;

vi. school personnel administration;

b. three semester hours of electives in education administration from:

i. school-community relations;

ii. school facilities;

iii. program development and evaluation (in professional education or area(s) outside of professional education);

E. a provisional elementary school principal ancillary certificate may be issued to an applicant who has met the requirements of Paragraphs A through D.2 above and who is employed as an elementary school principal in a Louisiana school system. The certificate may be issued at the request of the Louisiana employing superintendent and is valid only for the period and place of employment. Upon employment as a principal, an individual with provisional certification must enroll in the two-year Principal Internship Program under the auspices of the Administrative Leadership Academy. An elementary school principal ancillary certificate will be issued upon satisfactory completion of the two-year Principal Internship Program;

F. persons holding an ancillary principal certificate at either the elementary or secondary school level may serve as a principal of a combination elementary-secondary school.

AUTHORITY NOTE: Promulgated in accordance with 17:6.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:560 (May 1997).

Weegie Peabody
Executive Director

9705#027

RULE

Board of Elementary and Secondary Education

Bulletin 746—Health and Physical Education Certification

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended the certification requirements for health education, physical education, and combined health and physical education. This proposed change in certification requirements stated below is an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel. These revisions are mandatory September 1, 2001.

Health and Physical Education

Health Education

The minimal requirements for certification in health education are a total of 22 semester hours.

1. First Aid and Cardiopulmonary Resuscitation—1 semester hour.
2. Comprehensive School Health Program—3 semester hours.
3. Personal and Community Health—3 semester hours.

4. Methods and Materials in Health Education—3 semester hours.

5. Health Education Process—3 semester hours.

6. Health Content Areas**—9 semester hours.

Physical Education

The minimal requirements for certification in physical education are a total of 24 semester hours.

1. Principles of Health and Physical Education—3 semester hours.

2. Physical Education Methods/Strategies—3 semester hours.

3. Exercise Physiology—3 semester hours.

4. Kinesiology or Biomechanics—3 semester hours.

5. Motor Learning or Motor Development or Adapted Physical Education—3 semester hours.

6. Physical Education Skills/Techniques—5 semester hours.

7. Measurement and Evaluation in Physical Education—3 semester hours.

8. First Aid and Cardiopulmonary Resuscitation—1 semester hour.

Health and Physical Education

The minimal requirements for certification in health and physical education are a total of 37 semester hours.

1. First Aid and Cardiopulmonary Resuscitation—1 semester hour.

2. Personal and Community Health—3 semester hours.

3. Principles of Health and Physical Education or Comprehensive School Health Program—3 semester hours.

4. Methods and Materials in Health Education—3 semester hours.

5. Physical Education Methods/Strategies—3 semester hours.

6. Physical Education Skills/Techniques*—6 semester hours.

7. Exercise Physiology—3 semester hours.

8. Kinesiology or Biomechanics—3 semester hours.

9. Measurement and Evaluation in Health/Physical Education—3 semester hours.

10. Motor Development or Motor Learning or Adapted Physical Education—3 semester hours.

11. Health Content Areas**—6 semester hours.

*(Physical Education skills/techniques-selected from aquatics, dance, fitness and conditioning, gymnastics, individual activities, recreational activities, team sports. Coaching courses are excluded.)

** (Health-problem-specific content areas including planning and evaluation of health education programs, aging, consumer health, death and dying, environmental health, family life, human sexuality, mental or emotional health, injury prevention and safety, nutrition, prevention and control of disease, substance abuse, stress management, spiritual health, or other current health problems or issues. Courses not acceptable include: exercise physiology, biology courses, kinesiology, coaching courses, physical education skill instruction, anatomy, physiology, athletic training.)

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:562 (May 1997).

Weegie Peabody
Executive Director

9705#026

RULE

Board of Elementary and Secondary Education

Bulletin 1134—Standards for Library Media Programs (LAC 28:I.911)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education revised Chapter IV, Bulletin 1134, Standards and Guidelines for Library Media Programs. Bulletin 1134 is referenced in the *Louisiana Administrative Code*, LAC 28:I.911.A.

The current language describes the number of encyclopedias, magazines, and newspapers needed in the school library to fulfill the basic needs of the students. The current language deals with print versions only. The revisions incorporate electronic versions of these materials and provide school libraries options in mixing the print and electronic versions of the materials to comply with the standards of Bulletin 1134. Other changes replace the word "print" with the word "materials."

A complete text of revisions to Chapter IV of Bulletin 1134 may be viewed in the Department of Education, Bureau of Special Projects, in the Office of the State Board of Elementary and Secondary Education, both located in the Education Building, or at the Office of the State Register, Capitol Annex, Fifth Floor, Baton Rouge, LA 70802.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans §911. School Library Standards

Bulletin 1134

1. Bulletin 1134, Standards and Guidelines for Library Media Programs in Louisiana Schools, is adopted, as revised.

2. This bulletin contains regulations and guidelines to be used by library media centers in public and nonpublic schools to assure standard library services to students. These apply to the library media staff, to the library collection, to the facilities, and to the service program and include guidelines for the selection of library media. The bulletin also includes a suggested procedure to be used in processing citizen complaints and censorship challenges.

AUTHORITY NOTE: Promulgated in accordance with 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 4:2 (January 1978), amended LR 4:360 (October 1978), LR 7:287 (June 1981), LR 16:297 (April 1990), LR 23:563 (May 1997).

Weegie Peabody
Executive Director

9705#030

RULE

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

RCRA V Federal Package
(LAC 33:V.Chapters 1,
15, 22 and 41)(HW055*)

Under the authority of the 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 Hazardous Waste Division Regulations, LAC 33:V.Chapters 1, 15, 22, and 41 (HW055*).

This rule is identical to a federal law or regulation which is applicable in Louisiana. No fiscal or economic impact will result from the rule. Therefore, the rule is promulgated in accordance with R.S. 49:953(F)(3) and (4).

The rule contains the following provisions: 1) the exclusion from the definition of solid waste of secondary materials that are recycled back into the secondary production process from which they were generated from the definition of solid waste; 2) treatment standards for certain newly identified organic toxicity wastes and for newly listed coke products, chlorotoluene production wastes, and dilution prohibitions for high total organic content ignitable and toxicity characteristic pesticides; 3) minor modifications to the land disposal restrictions; and 4) the removal of the exemption from anti-skid/de-icing uses of slags from high temperature metals recovery (HTMR) processing of hazardous wastes K061, K062, and F006.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including "solid waste" and "hazardous waste", appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

* * *

[See Prior Text in A-D.1]

2. A generator who temporarily stores hazardous wastes in an environmentally safe container or tank (see LAC 33:V.1109.E) on-site for 90 days or less is exempt from the permitting regulations except for the requirements of LAC 33:V.Chapter 11. Generators must record the date that storage began by proper marking of the container or by other methods acceptable to the administrative authority. Such temporary storage shall be in an environmentally sound

manner in compliance with the technical requirements of LAC 33:V.1505, 1509.A, 1513-1517, 1525, and as applicable, with LAC 33:V.1903.A and B, 1905-1913, 1919, 2103-2109.C, and 2111-2115.

* * *

[See Prior Text in D.3-28.e]

29. In accordance with the standards and criteria below and the procedures in LAC 33:V.105.K, the administrative authority may determine on a case-by-case basis that the following recycled materials are not solid wastes. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

* * *

[See Prior Text in D.29.a-M.10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), LR 23:564 (May 1997).

§109. Definitions

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

* * *

[See Prior Text]

Solid Waste—

* * *

[See Prior Text in 1-5.a.ii]

iii. returned to the original process from which they are generated, without first being reclaimed or land disposed. The material must be returned as a substitute for feedstock materials. In cases where the original process to which the material is returned is a secondary process, the materials must be managed such that there is no placement on land.

* * *

[See Prior Text in *Solid Waste* 5.b - *Zone of Engineering Control*]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181

(March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), LR 23:564 (May 1997).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

* * *

[See Prior Text in A-C.5]

6. the owner or operator of an elementary neutralization unit or wastewater treatment unit (see LAC 33:V.109) provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in LAC 33:V.Chapter 22.Table 2, Treatment Standards for Hazardous Wastes) or reactive (D003) waste to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in LAC 33:V.1517.B;

* * *

[See Prior Text in C.7-10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 23:565 (May 1997).

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2225. Treatment Standards Expressed as Concentrations in Waste Extract

A. LAC 33:V.Chapter 22.Table 7 identifies the hazardous constituents, along with the nonwastewater and wastewater treatment standard levels, that are used to regulate most prohibited hazardous wastes with numerical limits. For determining compliance with treatment standards for underlying hazardous constituents, as defined in LAC 33:V.2203, these treatment standards may not be exceeded. Compliance with these treatment standards is measured by an analysis of grab samples, unless otherwise noted in the LAC 33:V.Chapter 22.Table 7.

B. When wastes with differing treatment standards for a constituent of concern are combined for purposes of treatment, the treatment residue must meet the lowest treatment standard for the constituent of concern.

* * *

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 23:565 (May 1997).

§2230. Treatment Standards for Hazardous Debris

* * *

[See Prior Text in A-B.1]

2. the contaminants subject to treatment for debris that is contaminated with a prohibited listed hazardous waste are those constituents or wastes for which treatment standards are established under LAC 33:V.Chapter 22.Table 2; and

* * *

[See Prior Text in B.3-D.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended LR 22:22 (January 1996), LR 23:565 (May 1997).

§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements

* * *

[See Prior Text in A]

B. If a generator determines that he or she is managing a waste prohibited under this Chapter, and the waste does not meet the applicable treatment standards set forth in LAC 33:V.Chapter 22.Subchapter A or the waste exceeds the applicable prohibition levels set forth in LAC 33:V.2213 or RCRA section 3004(d), with each shipment of waste the generator must notify the treatment or storage facility in writing. The notice must include the following information:

* * *

[See Prior Text in B.1]

2. the waste constituents that the person treating the waste will monitor, if monitoring will not include all regulated constituents, for wastes F001-F005, F039, D001, D002, and D012-D043 and in LAC 33:V.2213 or RCRA section 3004(d). Generators must also include whether the waste is a nonwastewater or wastewater (as defined in LAC 33:V.2203) and indicate the subcategory of the waste (such as "D003 reactive cyanide"), if applicable;

* * *

[See Prior Text in B.3-5]

6. the date the waste is subject to the prohibitions.

* * *

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

b. the waste constituents that the person treating the waste will monitor, if monitoring will not include all regulated constituents, for wastes F001-F005, F039, D001, D002, and D012-D043 and in LAC 33:V.2213 or RCRA section 3004(d). Generators must also include whether the waste is a nonwastewater or wastewater (as defined in LAC 33:V.2203) and indicate the subcategory of the waste (such as "D003 reactive cyanide"), if applicable;

* * *

[See Prior Text in C.1.c-d]

2. The certification must be signed by a duly authorized representative and must state the following:

"I certify under penalty of law that I have personally examined and am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in LAC 33:V.Chapter 22.Subchapter A and all applicable prohibitions set forth in LAC 33:V.2213 or RCRA section 3004(d). I believe that the information I submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false certification, including the possibility of fines and imprisonment."

D. If a generator's waste is subject to an exemption from a prohibition on the type of land disposal method utilized for the waste (such as, but not limited to, a case-by-case extension under LAC 33:V.2239), an exemption under LAC 33:V.2241 or 2271, or a nationwide capacity variance under LAC 33:V.Chapter 22.Subchapter A, with each shipment of waste he or she must submit a notice to the facility receiving the waste, stating that the waste is not prohibited from land disposal. The notice must include the following information:

* * *

[See Prior Text in D.1-E.3]

F. If a generator determines whether the waste is prohibited solely on the basis of his or her knowledge of the waste, all supporting data used to make this determination must be retained on-site in the generator's files. If a generator determines whether the waste is prohibited on the basis of tests of this waste or an extract developed using the test method described in LAC 33:V.Chapter 49.Appendix B, all waste analysis data must be retained on-site in the generator's files.

G. If a generator determines that a prohibited waste that the generator is managing was excluded from the definition of hazardous or solid waste or exempted from regulation under LAC 33:V.Chapter 1, 39, or 41 subsequent to the point of generation, the generator must place a one-time notice stating such generation, subsequent exclusion from the definition of hazardous or solid waste or exemption from the regulation under LAC 33:V.Subpart 1, and the disposition of the waste, in the facility's file.

* * *

[See Prior Text in H]

I. If a generator is managing a lab pack that contains none of the wastes specified in LAC 33:V.Chapter 22.Table 6 and wishes to use the alternative treatment standards under LAC 33:V.2227.C, with each shipment of waste the generator must submit a notice to the treatment facility in accordance with LAC 33:V.2245.B, except that underlying hazardous constituents need not be determined. The generator must also comply with the requirements in LAC 33:V.2245.F and G, and must submit the following certification, which must be signed by a duly authorized representative:

"I certify under penalty of law that I have personally examined and am familiar with the waste, and that the lab pack does not contain any wastes identified in LAC 33:V.Chapter 22.Table 6. I am aware that there are significant penalties for submitting a false certification, including the possibility of fines and imprisonment."

* * *

[See Prior Text in J-K]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 22:1130 (November 1996), LR 23:565 (May 1997).

§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Recordkeeping, and Notice Requirements

* * *

[See Prior Text in A-E.1]

2. the waste constituents to be monitored, if monitoring will not include all regulated constituents, for wastes F001-F005, F039, D001, D002, and D012-D043 and in LAC 33:V.2261 or RCRA section 3004(d). Generators must also include whether the waste is a nonwastewater or wastewater (as defined in LAC 33:V.2203) and indicate the subcategory of the waste (such as D003 reactive cyanide), if applicable;

* * *

[See Prior Text in E.3-H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 23:566 (May 1997).

APPENDIX

* * *

[See Prior Text in Tables 2-5]

Table 6

Wastes Excluded from Lab Packs under the Alternative Treatment Standards of LAC 33:V.2227.C
Hazardous waste with the following EPA hazardous waste codes may not be placed in lab packs under the alternative lab pack treatment standards of LAC 33:V.2227.C.

| | | |
|------|------|------|
| D009 | K062 | P012 |
| F019 | K071 | P076 |
| K003 | K100 | P078 |
| K004 | K106 | U134 |
| K005 | P010 | U151 |
| K006 | P011 | |

* * *

[See Prior Text in Table 7-footnote 3]

⁴Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010 or 9012, found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in LAC 33:V.110, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

⁵Vanadium and Zinc are not "underlying hazardous constituents" in characteristic wastes, according to the definition at LAC 33:V.2203.A.

Note: NA means not applicable

* * *

[See Prior Text in Table 8 - Certification Statement G]

Chapter 41. Recyclable Materials
§4139. Recyclable Materials Used in a Manner Constituting Disposal

* * *

[See Prior Text in A-A.4]

5. Anti-skid/de-icing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of hazardous wastes K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in Subsection A.2-4 of this Section and remain subject to regulation.

* * *

[See Prior Text in B-B.2]

3. Owners and operators of facilities that use recyclable

materials in a manner that constitutes disposal are regulated under all applicable provisions of LAC 33:V.Chapters 1, 3, 5, 7, 9, 11, 15, 19, 21, 22, 23, 25, 27, 29, 31, 33, 35, 37; Subchapters A-M of Chapter 43; and the notification requirement under section 3010 of RCRA. These requirements do not apply to products which contain these recyclable materials under the provisions of LAC 33:V.4139.A.2.

* * *

[See Prior Text in B.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:367 (April 1991), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 22:21 (January 1996), LR 23:566 (May 1997).

H. M. Strong
Assistant Secretary

9705#008

RULE

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

Universal Waste Rule (LAC 33:V.Chapters 1, 3, 15, 22, 35, 38, 39, and 41)(HW054*)

Under the authority of the 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 Hazardous Waste Division Regulations, LAC 33:V.Chapters 1, 3, 15, 22, 35, 38, 39, and 41 (HW054*).

This rule is identical to a federal law or regulation which is applicable in Louisiana. No fiscal or economic impact will result from the rule. Therefore, the rule is promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule promulgates hazardous waste management regulations governing the collection and management of certain widely used wastes known as universal wastes. The specific wastes covered by this rule include batteries, pesticides that are either recalled or collected in waste pesticide collection programs and thermostats.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste

management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *Solid Waste* and *Hazardous Waste*, appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

* * *

[See Prior Text in A-D.47]

48. The following wastes are exempt from regulation under this Subpart, except as specified in LAC 33:V.Chapter 38, and therefore, are not fully regulated as hazardous waste. The wastes listed in this Section are subject to regulation under LAC 33:V.Chapter 38:

- a. batteries as described in LAC 33:V.3803;
- b. pesticides as described in LAC 33:V.3805; and
- c. thermostats as described in LAC 33:V.3807.

* * *

[See Prior Text in E-M.10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), LR 23:567 (May 1997).

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§305. Scope of the Permit

* * *

[See Prior Text in A-C.9]

10. owners and operators of facilities granted a research development and demonstration permit under Section 3005(g) of Subtitle C of RCRA, is so specifically exempted by the administrative authority; or

11. universal waste handlers and universal waste transporters (as defined in LAC 33:V.3813) handling the wastes listed below. These handlers are subject to regulation under LAC 33:V.Chapter 38, when handling the below listed universal wastes:

- a. batteries as described in LAC 33:V.3803;
- b. pesticides as described in LAC 33:V.3805; and
- c. thermostats as described in LAC 33:V.3807.

* * *

[See Prior Text in D-G.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 23:567 (May 1997).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

* * *

[See Prior Text in A-C.8]

9. The addition of absorbent material to waste in a container (see LAC 33:V.109), or the addition of waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container and LAC 33:V.1517.B, 2103, and 2105 are complied with;

10. a generator accumulating waste on-site in compliance with LAC 33:V.1109.E; or

11. universal waste handlers and universal waste transporters (as defined in LAC 33:V.3813) handling the wastes listed below. These handlers are subject to regulation under LAC 33:V.Chapter 38, when handling the below listed universal wastes:

- a. batteries as described in LAC 33:V.3803;
- b. pesticides as described in LAC 33:V.3805; and
- c. thermostats as described in LAC 33:V.3807.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 23:568 (May 1997).

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

* * *

[See Prior Text in A-1.2]

3. de minimis losses to wastewater treatment systems of commercial chemical product or chemical intermediates that are ignitable (D001), corrosive (D002), or are organic constituents that exhibit the characteristic of toxicity (D012-D043), and that contain underlying hazardous constituents as defined in LAC 33:V.2203 are not considered to be prohibited wastes. De minimis is defined as losses from normal material-handling operation (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers that are rendered empty by that rinsing;

4. land disposal prohibitions for hazardous characteristic wastes do not apply to laboratory wastes displaying the characteristic of ignitability (D001), corrosivity (D002), or organic toxicity (D012-D043) that are mixed with other plant wastewaters at facilities whose ultimate discharge is subject to regulation under the Clean Water Act (CWA) (including wastewaters at facilities that have eliminated the discharge of wastewater), provided that the annualized flow of laboratory wastewater into the facility's headworks does not exceed 1 percent, or provided that the laboratory wastes' combined annualized average concentration does not exceed one part per million in the facility's headworks; or

5. universal waste handlers and universal waste transporters (as defined in LAC 33:V.3813) are exempt from LAC 33:V.2205, 2245.A-I, 2246.E, and 2247 for the wastes listed below. These handlers are subject to regulation under LAC 33:V.Chapter 38, when handling the below listed universal wastes:

- a. batteries as described in LAC 33:V.3803;
- b. pesticides as described in LAC 33:V.3805; and
- c. thermostats as described in LAC 33:V.3807.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997).

Chapter 35. Closure and Post-Closure

§3525. Post-Closure Notices

* * *

[See Prior Text in A-B.1.b]

c. the survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by LAC 33:V.3517 and this Section have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the administrative authority; and

* * *

[See Prior Text in B.2-C.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 18:1256 (November 1992), LR 23:568 (May 1997).

Chapter 38. Universal Wastes

Subchapter A. General

§3801. Scope and Applicability

A. This Chapter establishes requirements for managing batteries, pesticides, and thermostats as described in LAC 33:V.3813. This Chapter provides an alternative set of management standards in lieu of regulations under this Subpart.

B. Persons managing household wastes that are exempt under LAC 33:V.105.D.10 and are also of the same type as the universal wastes defined in this Chapter may, at their option, manage these wastes under the requirements of this Chapter.

C. Persons who commingle the wastes described in Subsection B of this Section together with universal waste regulated under this Chapter, must manage the commingled waste under the requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:568 (May 1997).

§3803. Applicability—Batteries

A. Batteries Covered Under this Chapter

1. The requirements of this Chapter apply to persons

managing batteries, as described in LAC 33:V.3813, except those listed in Subsection B of this Section.

2. Spent lead-acid batteries which are not managed under LAC 33:V.Chapter 41 are subject to management under this Chapter.

B. Batteries Not Covered Under this Chapter. The requirements of this Chapter do not apply to persons managing the following batteries:

1. spent lead-acid batteries that are managed under LAC 33:V.Chapter 41;

2. batteries, as described in LAC 33:V.3813, that are not yet wastes under LAC 33:V.4901, including those that do not meet the criteria for waste generation in Subsection C of this Section; and

3. batteries, as described in this Chapter, that are not hazardous waste. A battery is a hazardous waste if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

C. Generation of Waste Batteries

1. A used battery becomes a waste on the date it is discarded (e.g., when sent for reclamation).

2. An unused battery becomes a waste on the date the handler decides to discard it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:568 (May 1997).

§3805. Applicability—Pesticides

A. Pesticides Covered Under this Chapter. The requirements of this Section apply to persons managing pesticides, as described in LAC 33:V.3813, meeting the following conditions, except those listed in Subsection B of this Section:

1. recalled pesticides that are:

a. stocks of a suspended and canceled pesticide that are part of a voluntary or mandatory recall under FIFRA section 19(b), including, but not limited to those owned by the registrant responsible for conducting the recall; or

b. stocks of a suspended or canceled pesticide, or a pesticide that is not in compliance with FIFRA, that are part of a voluntary recall by the registrant;

2. stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program.

B. Pesticides Not Covered Under this Chapter. The requirements of this Chapter do not apply to persons managing the following pesticides:

1. recalled pesticides described in Subsection A.1 of this Section, and unused pesticide products described in Subsection A.2 of this Section, that are managed by farmers in compliance with LAC 33:V.105.D.5 (LAC 33:V.105.D.5 addresses pesticides disposed of on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label, providing the container is triple rinsed in accordance with the definition of empty container under LAC 33:V.109);

2. pesticides not meeting the conditions set forth in Subsection A of this Section. These pesticides must be managed in compliance with the hazardous waste regulations

in LAC 33:V.Subpart 1;

3. pesticides that are not wastes under Subsection C of this Section, including those that do not meet the criteria for waste generation in Subsection C of this Section or those that are not wastes as described in Subsection D of this Section; and

4. pesticides that are not hazardous waste. A pesticide is a hazardous waste if it is listed in LAC 33:V.4901 or if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

C. When a Pesticide Becomes a Waste

1. A recalled pesticide described in Subsection A of this Section becomes a waste on the first date on which both of the following conditions apply:

a. the generator of the recalled pesticide agrees to participate in the recall; and

b. the person conducting the recall decides to discard (i.e., burn the pesticide for energy recovery).

2. An unused pesticide product described in Subsection A.2 of this Section becomes a waste on the date the generator decides to discard it.

D. Pesticides That Are Not Wastes. The following pesticides are not wastes:

1. recalled pesticides described in Subsection A.1 of this Section, provided that the person conducting the recall:

a. has not made a decision to discard (i.e., burn for energy recovery) the pesticide. Until such a decision is made, the pesticide does not meet the definition of "solid waste" under LAC 33:V.109; thus the pesticide is not a hazardous waste and is not subject to hazardous waste requirements, including this Chapter. This pesticide remains subject to the requirements of FIFRA; or

b. has made a decision to use a management option that, under LAC 33:V.109, does not cause the pesticide to be a solid waste (i.e., the selected option is use (other than use constituting disposal) or reuse (other than burning for energy recovery), or reclamation). Such a pesticide is not a solid waste and therefore is not a hazardous waste, and is not subject to the hazardous waste requirements including this Chapter. This pesticide, including a recalled pesticide that is exported to a foreign destination for use or reuse, remains subject to the requirements of FIFRA;

2. unused pesticide products described in Subsection A.2 of this Section, if the generator of the unused pesticide product has not decided to discard (i.e., burn for energy recovery) them. These pesticides remain subject to the requirements of FIFRA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:569 (May 1997).

§3807. Applicability—Mercury Thermostats

A. Thermostats Covered Under this Chapter. The requirements of this Chapter apply to persons managing thermostats, as described in LAC 33:V.3813, except those listed in Subsection B of this Section.

B. Thermostats Not Covered Under this Chapter. The requirements of this Chapter do not apply to persons managing the following thermostats:

1. thermostats that are not yet wastes under LAC 33:V.Chapter 49. Subsection C of this Section describes when thermostats become wastes; and

2. thermostats that are not hazardous waste. A thermostat is a hazardous waste if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

C. Generation of Waste Thermostats

1. A used thermostat becomes a waste on the date it is discarded (i.e., sent for reclamation).

2. An unused thermostat becomes a waste on the date the handler decides to discard it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:569 (May 1997).

§3813. Definitions

Battery—a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

Destination Facility—a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in LAC 33:V.3821.A and C and 3843.A and C. A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

FIFRA—The Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 - 136y).

Generator—any person, by site, whose act or process produces hazardous waste identified or listed in LAC 33:V.Chapter 49 or whose act first causes a hazardous waste to become subject to regulation.

Large Quantity Handler of Universal Waste—a universal waste handler (as defined in this Section) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, or thermostats, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste is accumulated.

On-Site—the same or geographically contiguous property which may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a crossroads intersection, and access is by crossing as opposed to going along the right of way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, are also considered on-site property.

Pesticide—any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

1. is a new animal drug under FFDCA section 201(w); or

2. is an animal drug that has been determined by regulation of the secretary of Health and Human Services not to be a new animal drug; or

3. is an animal feed under FFDCA section 201(x) that bears or contains any substances described by Paragraph 1 or 2 of this Subsection.

Small Quantity Handler of Universal Waste—a universal waste handler (as defined in this Section) who does not accumulate more than 5,000 kilograms total of universal waste (batteries, pesticides, or thermostats, calculated collectively) at any time.

Thermostat—a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of LAC 33:V.3821.C.2 or 3843.C.2.

Universal Waste—any of the following hazardous wastes that are subject to the universal waste requirements of this Chapter:

1. batteries as described in LAC 33:V.3803;
2. pesticides as described in LAC 33:V.3805; and
3. thermostats as described in LAC 33:V.3807.

Universal Waste Handler—a generator (as defined in this Section) of universal waste; or the owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination. A universal waste handler does not include a person who treats (except under the provisions of LAC 33:V.3821.A or C, or 3843.A or C), disposes of, or recycles universal waste; or a person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

Universal Waste Transfer Facility—any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for 10 days or less.

Universal Waste Transporter—a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:570 (May 1997).

Subchapter B. Standards for Small Quantity Handlers of Universal Waste

§3815. Applicability

This Subchapter applies to small quantity handlers of universal waste (as defined in LAC 33:V.3813).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:570 (May 1997).

§3817. Prohibitions

A small quantity handler of universal waste is:

1. prohibited from disposing of universal waste; and
2. prohibited from diluting or treating universal waste, except by responding to releases as provided in LAC 33:V.3829; or by managing specific wastes as provided in LAC 33:V.3821.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:571 (May 1997).

§3819. Notification

A small quantity handler of universal waste is not required to notify the department of universal waste handling activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:571 (May 1997).

§3821. Waste Management

A. Universal Waste Batteries. A small quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. a small quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a small quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

- a. sorting batteries by type;
- b. mixing battery types in one container;
- c. discharging batteries so as to remove the electric charge;
- d. regenerating used batteries;
- e. disassembling batteries or battery packs into individual batteries or cells;
- f. removing batteries from consumer products; or
- g. removing electrolyte from batteries; and

3. a small quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste identified in LAC 33:V.4903.

a. If the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste, it is subject to all applicable requirements of these regulations. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to LAC 33:V.Chapter 11.

b. If the electrolyte or other solid waste does not exhibit a characteristic of hazardous waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local Solid Waste Regulations.

B. Universal Waste Pesticides. A small quantity handler of universal waste must manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

1. a container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

2. a container that does not meet the requirements of Subsection B.1 of this Section, provided that the unacceptable container is over packed in a container that does meet the requirements of Subsection B.1 of this Section; or

3. a tank that meets the requirements of LAC 33:V.Chapter 19 except for LAC 33:V.1915.C; or

4. a transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

C. Universal Waste Thermostats. A small quantity handler of universal waste must manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. a small quantity handler of universal waste must contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a small quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats, provided the handler:

a. removes the ampules in a manner designed to prevent breakage of the ampules;

b. removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

c. ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of LAC 33:V.1109.E;

d. immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of LAC 33:V.1109.E;

e. ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

f. ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and

emergency procedures, including transfer of mercury from containment devices to appropriate containers;

g. stores removed ampules in closed, nonleaking containers that are in good condition;

h. packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

3. a small quantity handler of universal waste who removes mercury-containing ampules from thermostats must determine whether the mercury or clean-up residues resulting from spills or leaks, and/or other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units) exhibit a characteristic of hazardous waste identified in LAC 33:V.4903.

a. If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of these regulations. The handler is considered the generator of the mercury, residues, and/or other waste and must manage it subject to LAC 33:V.Chapter 11.

b. If the mercury, residues, and/or other solid waste does not exhibit a characteristic of hazardous waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local Solid Waste Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:571 (May 1997).

§3823. Labeling/Marking

A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

1. universal waste batteries (e.g., each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste—Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

2. a container, (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in LAC 33:V.3805.A.1 are contained must be labeled or marked clearly with:

a. the label that was on or accompanied the product as sold or distributed; and

b. the words "Universal Waste—Pesticide(s)" or "Waste—Pesticide(s);"

3. a container, tank, or transport vehicle or vessel in which unused pesticide products as described in LAC 33:V.3805.A.2 are contained must be:

a. labeled or marked clearly with:

i. the label that was on the product when purchased, if still legible;

ii. the appropriate label as required under the U.S. Department of Transportation Regulation 49 CFR part 172; or

iii. another label prescribed or designated by the waste pesticide collection program administered or recognized by the state; and

b. the words "Universal Waste—Pesticide(s)" or "Waste—Pesticide(s)."

4. universal waste thermostats (e.g., each thermostat), or a container in which the thermostats are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste—Mercury Thermostat(s)," or "Waste Mercury Thermostat(s)," or "Used Mercury thermostat(s)."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:572 (May 1997).

§3825. Accumulation Time Limits

A. A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of Subsection B of this Section are met.

B. A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

C. A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

1. placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

2. marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;

3. maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;

4. maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

5. placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

6. any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:572 (May 1997).

§3827. Employee Training

A small quantity handler of universal waste must inform all employees who handle or have responsibility for managing universal waste. The information must describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:573 (May 1997).

§3829. Response to Releases

A. A small quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

B. A small quantity handler of universal waste must determine whether any material resulting from the release is hazardous waste, and if so, must manage the hazardous waste in compliance with all applicable requirements of these regulations. The handler is considered the generator of the material resulting from the release, and must manage it in compliance with LAC 33:V.Chapter 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:573 (May 1997).

§3831. Off-Site Shipments

A. A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

B. If a small quantity handler of universal waste self-transportes universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of Subchapter D of this Chapter while transporting the universal waste.

C. If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR Parts 171-180, a small quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable U.S. Department of Transportation Regulations under 49 CFR parts 172-180.

D. Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

E. If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:

1. receive the waste back when notified that the shipment has been rejected; or

2. agree with the receiving handler on a destination facility to which the shipment will be sent.

F. A small quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a

shipment containing universal waste that he has received from another handler. If a handler rejects a shipment or a portion of a shipment, he must contact the originating handler to notify him of the rejection and to discuss reshipment of the load. The handler must:

1. send the shipment back to the originating handler; or
2. if agreed to by both the originating and receiving handler, send the shipment to a destination facility.

G. If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the administrative authority of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The administrative authority will provide instructions for managing the hazardous waste.

H. If a small quantity handler of universal waste receives a shipment of nonhazardous, nonuniversal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local Solid Waste Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:573 (May 1997).

§3833. Tracking Universal Waste Shipments

A small quantity handler of universal waste is not required to keep records of shipments of universal waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:573 (May 1997).

§3835. Exports

A small quantity handler of universal waste who sends universal waste to a foreign destination must:

1. comply with the requirements applicable to a primary exporter in LAC 33:V.1113.D, G.1.a-d, G.1.f, G.2, and H;

2. export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in LAC 33:V.1113; and

3. provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:573 (May 1997).

Subchapter C. Standards for Large Quantity Handlers of Universal Waste

§3837. Applicability

This Subchapter applies to large quantity handlers of universal waste (as defined in LAC 33:V.3813).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:573 (May 1997).

§3839. Prohibitions

A large quantity handler of universal waste is:

1. prohibited from disposing of universal waste; and
2. prohibited from diluting or treating universal waste, except by responding to releases as provided in LAC 33:V.3851; or by managing specific wastes as provided in LAC 33:V.3843.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:574 (May 1997).

§3841. Notification

A. Except as provided in Subsection A.1 and 2 of this Section, a large quantity handler of universal waste must have sent written notification of universal waste management to the administrative authority, and received an EPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.

1. A large quantity handler of universal waste who has already notified EPA of his hazardous waste management activities and has received an EPA Identification Number is not required to renotify under this Section.

2. A large quantity handler of universal waste who manages recalled universal waste pesticides as described in LAC 33:V.3805.A.1 and who has sent notification to EPA as required by 40 CFR part 165 is not required to notify for those recalled universal waste pesticides under this Section.

B. This notification must include:

1. the universal waste handler's name and mailing address;
2. the name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;
3. the address or physical location of the universal waste management activities;
4. a list of all of the types of universal waste managed by the handler (e.g, batteries, pesticides, thermostats); and
5. a statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste (e.g, batteries, pesticides, thermostats) the handler is accumulating above this quantity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:574 (May 1997).

§3843. Waste Management

A. Universal Waste Batteries. A large quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. a large quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or

damage that could cause leakage under reasonably foreseeable conditions;

2. a large quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

- a. sorting batteries by type;
- b. mixing battery types in one container;
- c. discharging batteries so as to remove the electric charge;
- d. regenerating used batteries;
- e. disassembling batteries or battery packs into individual batteries or cells;
- f. removing batteries from consumer products; or
- g. removing electrolyte from batteries; and

3. a large quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste identified in LAC 33:V.4903.

a. If the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of these regulations. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to LAC 33:V.Chapter 11.

b. If the electrolyte or other solid waste does not exhibit a characteristic of hazardous waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local Solid Waste Regulations.

B. Universal Waste Pesticides. A large quantity handler of universal waste must manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

1. a container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

2. a container that does not meet the requirements of Subsection B.1 of this Section, provided that the unacceptable container is over packed in a container that does meet the requirements of Subsection B.1 of this Section; or

3. a tank that meets the requirements of LAC 33:V.Chapter 19, except for LAC 33:V.1915.C; or

4. a transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

C. Universal Waste Thermostats. A large quantity handler of universal waste must manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. a large quantity handler of universal waste must

contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a large quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler:

a. removes the ampules in a manner designed to prevent breakage of the ampules;

b. removes ampules only over or in a containment device (e.g., tray or pan sufficient to contain any mercury released from an ampule in case of breakage);

c. ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of LAC 33:V.1109;

d. immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of LAC 33:V.1109;

e. ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

f. ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

g. stores removed ampules in closed, nonleaking containers that are in good condition;

h. packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

3. a large quantity handler of universal waste who removes mercury-containing ampules from thermostats must determine whether the mercury or clean-up residues resulting from spills or leaks and/or other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units) exhibit a characteristic of hazardous waste identified in LAC 33:V.4903:

a. if the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of these regulations. The handler is considered the generator of the mercury, residues, and/or other waste and is subject to LAC 33:V.Chapter 11;

b. if the mercury, residues, and/or other solid waste does not exhibit a characteristic of hazardous waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local Solid Waste Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:574 (May 1997).

§3845. Labeling/Marking

A. A large quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

1. Universal waste batteries (e.g., each battery), or a container or tank in which the batteries are contained, must be labeled or marked clearly with the any one of the following phrases: "Universal Waste—Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

2. A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in LAC 33:V.3805.A.1 are contained must be labeled or marked clearly with:

a. the label that was on or accompanied the product as sold or distributed; and

b. the words "Universal Waste—Pesticide(s)" or "Waste—Pesticide(s);"

3. A container, tank, or transport vehicle or vessel in which unused pesticide products as described in LAC 33:V.3805.A.2 are contained must be:

a. labeled or marked clearly with:

i. the label that was on the product when purchased, if still legible;

ii. appropriate label as required under the U.S. Department of Transportation Regulation 49 CFR part 172; or

iii. another label prescribed or designated by the pesticide collection program; and

b. the words "Universal Waste—Pesticide(s)" or "Waste—Pesticide(s);"

4. Universal waste thermostats (e.g., each thermostat), or a container or tank in which the thermostats are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste—Mercury Thermostat(s);" or "Waste Mercury Thermostat(s);" or "Used Mercury Thermostat(s)."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:575 (May 1997).

§3847. Accumulation Time Limits

A. A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of Subsection B of this Section are met.

B. A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

C. A large quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is

received. The handler may make this demonstration by:

1. placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

2. marking or labeling the individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;

3. maintaining an inventory system on-site that identifies the date the universal waste being accumulated became a waste or was received;

4. maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

5. placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

6. any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:575 (May 1997).

§3849. Employee Training

A large quantity handler of universal waste must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:576 (May 1997).

§3851. Response to Releases

A. A large quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

B. A large quantity handler of universal waste must determine whether any material resulting from the release is hazardous waste, and if so, must manage the hazardous waste in compliance with all applicable requirements of these regulations. The handler is considered the generator of the material resulting from the release, and is subject to LAC 33:V.Chapter 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:576 (May 1997).

§3853. Off-Site Shipments

A. A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

B. If a large quantity handler of universal waste self-transport universal waste off-site, the handler becomes a universal waste transporter for those self-transportation

activities and must comply with the transporter requirements of Subchapter D of this Chapter while transporting the universal waste.

C. If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR Parts 171-180, a large quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable U.S. Department of Transportation Regulations under 49 CFR parts 172-180.

D. Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

E. If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:

1. receive the waste back when notified that the shipment has been rejected; or

2. agree with the receiving handler on a destination facility to which the shipment will be sent.

F. A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that he has received from another handler. If a handler rejects a shipment or a portion of a shipment, he must contact the originating handler to notify him of the rejection and to discuss reshipment of the load. The handler must:

1. send the shipment back to the originating handler; or

2. if agreed to by both the originating and receiving handler, send the shipment to a destination facility.

G. If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the administrative authority of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The administrative authority will provide instructions for managing the hazardous waste.

H. If a large quantity handler of universal waste receives a shipment of nonhazardous, nonuniversal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local Solid Waste Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:576 (May 1997).

§3855. Tracking Universal Waste Shipments

A. Receipt of Shipments. A large quantity handler of universal waste must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

1. the name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent;

2. the quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats); and

3. the date of receipt of the shipment of universal waste.

B. Shipments Off-Site. A large quantity handler of universal waste must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste sent must include the following information:

1. the name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;

2. the quantity of each type of universal waste sent (e.g., batteries, pesticides, thermostats); and

3. the date the shipment of universal waste left the facility.

C. Record Retention

1. A large quantity handler of universal waste must retain the records described in Subsection A of this Section for at least three years from the date of receipt of a shipment of universal waste.

2. A large quantity handler of universal waste must retain the records described in Subsection B of this Section for at least three years from the date a shipment of universal waste left the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:576 (May 1997).

§3857. Exports

A large quantity handler of universal waste who sends universal waste to a foreign destination must:

1. comply with the requirements applicable to a primary exporter in LAC 33:V.1113.D, G.1.a-d, G.1.f, G.2, and H;

2. export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in LAC 33:V.1113; and

3. provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:577 (May 1997).

Subchapter D. Standards for Universal Waste Transporters

§3859. Applicability

This Subchapter applies to universal waste transporters (as defined in LAC 33:V.3813).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:577 (May 1997).

§3861. Prohibitions

A universal waste transporter is:

1. prohibited from disposing of universal waste; and

2. prohibited from diluting or treating universal waste, except by responding to releases as provided in LAC 33:V.3867.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:577 (May 1997).

§3863. Waste Management

A. A universal waste transporter must comply with all applicable U.S. Department of Transportation Regulations in 49 CFR parts 171-180 for transport of any universal waste that meets the definition of hazardous material in 49 CFR 171.8. For purposes of the U.S. Department of Transportation Regulations, a material is considered a hazardous waste if it is subject to the hazardous waste manifest requirements specified in LAC 33:V.Chapter 11. Because universal waste does not require a hazardous waste manifest, it is not considered hazardous waste under the U.S. Department of Transportation Regulations.

B. Some universal waste materials are regulated by the U.S. Department of Transportation as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 CFR 173.2. As universal waste shipments do not require a manifest under LAC 33:V.Chapter 11, they may not be described by the U.S. Department of Transportation proper shipping name "hazardous waste, (I) or (s), n.o.s.," nor may the hazardous material's proper shipping name be modified by adding the word "waste."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:577 (May 1997).

§3865. Storage Time Limits

A. A universal waste transporter may only store the universal waste at a universal waste transfer facility for 10 days or less.

B. If a universal waste transporter stores universal waste for more than 10 days, the transporter becomes a universal waste handler and must comply with the applicable requirements of Subchapter B or C of this Chapter while storing the universal waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:577 (May 1997).

§3867. Response to Releases

A. A universal waste transporter must immediately contain all releases of universal wastes and other residues from universal wastes.

B. A universal waste transporter must determine whether any material resulting from the release is hazardous waste, and if so, it is subject to all applicable requirements of these regulations. If the waste is determined to be a hazardous waste, the transporter is subject to LAC 33:Chapter 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:577 (May 1997).

§3869. Off-Site Shipments

A. A universal waste transporter is prohibited from transporting the universal waste to a place other than a universal waste handler, a destination facility, or a foreign destination.

B. If the universal waste being shipped off-site meets the U.S. Department of Transportation's definition of "hazardous materials" under 49 CFR 171.8, the shipment must be properly described on a shipping paper in accordance with the applicable U.S. Department of Transportation Regulations under 49 CFR part 172.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:578 (May 1997).

§3871. Exports

A universal waste transporter transporting a shipment of universal waste to a foreign destination may not accept a shipment if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter must ensure that:

1. a copy of the EPA Acknowledgment of Consent accompanies the shipment; and
2. the shipment is delivered to the facility designated by the person initiating the shipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:578 (May 1997).

Subchapter E. Standards for Destination Facilities

§3873. Applicability

A. The owner or operator of a destination facility (as defined in LAC 33:V.3813) is subject to all applicable requirements of LAC 33:V.Chapters 3, 5, 9, 15, 17, 19, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 37, 41, and 43, and the notification requirement under LAC 33:V.105.A.

B. The owner or operator of a destination facility that recycles a particular universal waste without storing that universal waste before it is recycled must comply with LAC 33:V.4115.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:578 (May 1997).

§3875. Off-Site Shipments

A. The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility, or a foreign destination.

B. The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a

portion of a shipment, he must contact the shipper to notify him of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility must:

1. send the shipment back to the original shipper; or
2. if agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.

C. If the owner or operator of a destination facility receives a shipment containing hazardous waste that was shipped as a universal waste, the owner or operator of the destination facility must immediately notify the administrative authority of the illegal shipment, and provide the name, address, and phone number of the shipper. The administrative authority will provide instructions for managing the hazardous waste.

D. If the owner or operator of a destination facility receives a shipment of nonhazardous, nonuniversal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal or state Solid Waste Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:578 (May 1997).

§3877. Tracking Universal Waste Shipments

A. The owner or operator of a destination facility must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

1. the name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;
2. the quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats); and
3. the date of receipt of the shipment of universal waste.

B. The owner or operator of a destination facility must retain the records described in Subsection A of this Section for at least three years from the date of receipt of a shipment of universal waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:578 (May 1997).

Subchapter F. Import Requirements

§3879. Imports

Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of this Chapter, immediately after the waste enters the United States, as indicated below:

A. A universal waste transporter is subject to the universal waste transporter requirements of Subchapter D of this Chapter.

B. A universal waste handler is subject to the small or large quantity handler of universal waste requirements of Subchapter B or C of this Chapter, as applicable.

C. An owner or operator of a destination facility is subject to the destination facility requirements of Subchapter E of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:578 (May 1997).

Chapter 39. Small Quantity Generators §3915. Requirements

The small quantity generator must:

* * *

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

5. for universal waste managed under LAC 33:V.Chapter 38, a universal waste handler or destination facility subject to the requirements of LAC 33:V.Chapter 38.

* * *

[See Prior Text in C-C.7.b]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:237 (April 1987), LR 16:220 (March 1990), repromulgated LR 18:1256 (November 1992), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 23:579 (May 1997).

Chapter 41. Recyclable Materials

§4105. Requirements for Recyclable Material

Recyclable materials are subject to additional regulation as follows:

* * *

[See Prior Text in A-B.1.b]

2. Reserved

* * *

[See Prior Text in B.3-E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:219 (March 1990), LR 17:362 (April 1991), repromulgated LR 18:1256 (November 1992), amended LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), LR 23:579 (May 1997).

§4145. Spent Lead-Acid Batteries Being Reclaimed

A. Applicability. The regulations of this Section apply to persons who reclaim (including regeneration) spent lead-acid batteries that are recyclable materials ("spent batteries"). Persons who generate, transport, or collect spent batteries, who regenerate spent batteries, or who store spent batteries but do not reclaim them (other than spent batteries that are to be regenerated) are not subject to these regulations.

B. General Requirements. Owners or operators of facilities that store spent lead acid batteries before reclaiming (other than spent batteries that are to be regenerated) them are subject to the following requirements:

* * *

[See Prior Text in B.1-3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 13:237 (April 1987), LR 23:579 (May 1997).

H.M. Strong
Assistant Secretary

9705#007

RULE

Department of Health and Hospitals Office of Public Health

Genetic Diseases—Neonatal Screening (LAC 48:V.6303)

(Editor's Note: A portion of the following rule, published on pages 301 through 302 in the March, 1997 *Louisiana Register* is being republished to correct typographical errors.)

Title 48

PUBLIC HEALTH - GENERAL

Part V. Public Health Services

Subpart 19. Genetic Diseases Services

Chapter 63. Neonatal Screening

§6303. Purpose, Scope, Methodology

* * *

F. Medical/Nutritional Management. In order for a patient with PKU or other rare inborn errors of metabolism, limited to organic acidemia, urea cycle defects and aminoacidopathies, to receive the special formulas for the treatment of these disorders from the state's Genetic Diseases Program and/or Special Supplemental Nutrition Program for Infants, Women, and Children (WIC), the following guidelines must be met:

a. ...

b. The patient must receive a medical evaluation at least once annually at Tulane Human Genetics Program Clinic or from another medical center program providing specialized management of metabolic patients under the supervision of a physician who is board certified in clinical biochemical genetics or a physician with written documentation of a medical evaluation and continuing consultation with a geneticist board certified in clinical biochemical genetics. A licensed and/or registered dietitian must also be on staff and readily available for both acute and chronic dietary needs of the patient.

c. The patient must provide necessary specimens as requested by the medical specialist at Tulane Human Genetics Program or a specialist at another medical center meeting the above criteria. Laboratory test results for phenylalanine and tyrosine levels must be submitted to the Genetics Program Office by the treating medical center.

d. - f. ...

G.1. - 8. ...

¹Reference ...

²References pertaining to Subsection G: ...

a. - e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR 17:378 (April 1991), LR 18:1131 (October 1992), LR 20:1386 (December 1994), LR 23:301 (March 1997), repromulgated LR 23:579 (May 1977).

Bobby P. Jindal
Secretary

9705#054

RULE

Department of Natural Resources Office of Conservation

Automatic Custody Transfer (LAC 43:XIX.2301-2305)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-G.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 9. Statewide Order No. 29-G-1

Chapter 23. Automatic Custody Transfer

§2301. Scope

This Statewide Order provides rules and regulations governing applications for measurement and transfer of custody of liquid hydrocarbons by the use of methods other than customary gauge tanks from fields in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, July 15, 1959, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:758 (June 1993), amended LR 23:580 (May 1997).

§2303. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meanings when found in this Statewide Order:

Automatic Custody Transfer—that the liquid hydrocarbons were automatically measured as they are transferred from the producer to the carrier.

Commissioner—the commissioner of Conservation.

District Manager—the head of any one of the districts of the state of Louisiana under the Office of Conservation, and specifically, the manager within whose district the field or fields affected by the application are located.

Interested Party—any person who is known to the applicant after reasonable search to presently own an interest in production being considered for automatic custody transfer.

Office—the Office of Conservation of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, July 15, 1959, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:758 (June 1993), amended LR 23:580 (May 1997).

§2305. Order

A. From and after the effective date hereof, permission to measure and transfer custody of liquid hydrocarbons by use of methods other than customary gauge tanks may be obtained as hereinafter provided and upon strict compliance with the procedure set forth herein.

B. No permission to use methods other than customary gauge tanks for measurement and custody transfer of liquid hydrocarbons will be granted unless and until the following data and information have been filed with the commissioner with a copy to the district manager:

1. a completed application form for permission to measure and transfer custody of liquid hydrocarbons by use of methods other than customary gauge tanks along with the requisite fee;

2. a diagrammatic sketch of the mechanical installation to be used along with a detailed explanation of the flow of liquid hydrocarbons, indicating locations of locking devices and seals to provide assurance against or evidence of tampering;

3. a cosigned statement by producer and carrier that, in their opinion, the transfer of liquid hydrocarbons in the manner proposed will provide reasonably accurate measurement and will not create inequities, and will afford the owner of any interest the opportunity to recover his just and equitable share of production. The statement incorporated in the application form will suffice for this purpose if signed by both parties, otherwise a separate statement is required;

4. a list of interested parties. This list shall include only those parties who have interests in the leases and/or units from which production is to be measured and custody transferred if approval is granted to the applicant and for which the applicant has no existing authority.

C. Notice of the filing of an application to measure and transfer of custody of liquid hydrocarbons by use of methods other than customary gauge tanks shall be published in the Official Journal of the state of Louisiana (by the Office of Conservation) and mailed (by the applicant) to the interested parties with an affidavit of mailing submitted to the Office of Conservation. A copy of the application does not have to be mailed to all interested parties.

D. No administrative approval for measurement and automatic custody transfer of liquid hydrocarbons will be granted, if, in the judgment of the commissioner, after considering all the data and information submitted, including any opposition expressed by interested parties, administrative approval is not warranted, or in the event any interested party files an application for a public hearing opposing the granting of authority for measurement and automatic custody transfer, together with the requisite hearing fee, within 10 days following the first publication of the notice of the application. The party seeking authority for measurement and automatic custody transfer may elect to file an application setting the matter for consideration at a public hearing if administrative approval is not granted.

E. Should the application for measurement and automatic custody transfer of liquid hydrocarbons be approved, the applicant shall provide a suitable means of testing each meter in order that its accuracy in operation can be proven, such

testing to be done before or at the time the meter is initially installed and monthly thereafter or at such other times as the commissioner of Conservation shall prescribe. The applicant shall retain the actual reports of such tests, and such reports shall be kept on file and available for inspection by any agent of the Office of Conservation or any interested party for a period of not less than three years.

F. This Statewide Order shall supersede Statewide Order No. 29-G, but shall be in addition to all other statewide orders, rules and regulations affecting the production and measurement of liquid hydrocarbons heretofore promulgated. To the extent of any conflict with such other statewide orders, rules and regulations, however, the provisions of this statewide order shall govern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, July 1959, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:758 (June 1993), amended LR 23:580 (May 1997).

George L. Carmouche
Commissioner

9705#040

RULE

Department of Natural Resources Office of Conservation

Gas/Oil Ratios, Allowables and Venting Natural Gas (LAC 43:XIX.3501-3511)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 45-I.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 15. Statewide Order No. 45-I-A

Chapter 35. Gas/Oil Ratios, Allowables and Venting of Natural Gas

§3501. Scope

This Statewide Order provides special rules and regulations governing gas/oil ratios, allowables, and the venting of natural gas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by Department of Conservation, July 20, 1943, amended January 1, 1966, December 1, 1973, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 23:581 (May 1997).

§3503. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meaning when found in this Statewide Order:

Base Gas/Oil Ratio—amount of natural gas, in cubic feet, which may be produced with one barrel of oil from a well recognized by the Office of Conservation as an oil well without reduction of the base oil allowable.

Base Oil Allowable—amount of oil, in barrels per day,

which may be produced from a well recognized by the Office of Conservation as an oil well before application of the base gas/oil ratio.

Commissioner—the commissioner of Conservation of the State of Louisiana

District Manager—the head of any one of the districts of the state of Louisiana under the Office of Conservation, and specifically the manager within whose district the well affected by this Statewide Order is located.

Horizontal Well—well with the wellbore drilled laterally at an angle of at least 80 degrees to the vertical and with a horizontal displacement of at least 50 feet in the pool in which the well is completed for production, measured from the initial point of penetration into such pool.

Oil Allowable—amount of oil authorized to be produced by the Office of Conservation from a well recognized by the Office of Conservation as an oil well.

Point of Delivery—point at which gas is vented to the atmosphere, whether from one or more wells or at any type of production facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by Department of Conservation, July 20, 1943, amended January 1, 1966, December 1, 1973, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 23:581 (May 1997).

§3505. Base Gas/Oil Ratio and Allowables

A. The base gas/oil ratio for a well recognized by the Office of Conservation as an oil well is hereby fixed at 2000 cubic feet of natural gas per barrel of oil (2000/1). Any well recognized by the Office of Conservation as an oil well which has a gas/oil ratio of 2000/1 or below will be allowed to produce its base oil allowable without reduction. Any well recognized by the Office of Conservation as an oil well which has a gas/oil ratio exceeding 2000/1 and from which the operator cannot use or sell the gas will have its base oil allowable reduced by assigning to such well an oil allowable determined by multiplying the base oil allowable by the base gas/oil ratio and dividing by the gas/oil ratio of the well.

B. If the operator can use or sell the gas, the allowable which shall be granted to a well which produces oil with a gas/oil ratio in excess of 2000/1, or to a well which produces hydrocarbons from the gas cap of an oil pool, shall be equivalent volumetrically to the quantity of hydrocarbons a well in the same pool would be allowed to produce if it were producing oil with a gas/oil ratio of 2000/1, each computed at reservoir conditions based on available data; provided that reasonable estimates of reservoir conditions shall be used if actual reservoir conditions cannot be determined from available data. Such allowables shall be calculated as follows:

1. Any well recognized by the Office of Conservation as an oil well which has a gas/oil ratio exceeding 2000/1 will have its base oil allowable reduced by assigning to such well an oil allowable determined by the following formula:

$$Q_o (2000+) = Q_o \left[\frac{V(R_p - R_o) + B}{V(R_i - R_o) + B} \right]$$

where:

Q_o = current depth bracket oil allowable for one well

when producing gas-oil ratio is less than 2000:1.

$Q_o(2000+)$ = oil allowable for one well when producing gas-oil ratio is greater than 2000:1.

V = barrels of space occupied by one std. Mcf of gas at reservoir conditions (res. bbls. per MSCF).

R_p = permissible gas-oil ratio for an oil well (2.0 MSCF/STB).

R_i = producing gas-oil ratio of wells for which the allowable is being calculated (MSCF/STB).

R_o = solution gas-oil ratio at the current bottomhole pressure (MSCF/bbl.).

B = volume occupied by one barrel of stock tank oil and its solution gas at the current reservoir pressure (Res. bbl. per STB).

2. Any well recognized by the Office of Conservation as a gas well and which is determined by the Office of Conservation to be producing from the gas cap of an oil pool will be assigned a volumetric gas allowable determined by application of the following formula:

$$Q_s = A_g \frac{Q_o}{A_o} \left[\frac{V (R_p - R_o) + B}{V} \right]$$

where:

Q_g = gas well allowable (MSCF per day).

A_o = number acres in oil unit.

A_g = number acres in gas unit.

Q_o = current depth bracket oil allowable for one well when producing gas-oil ratio is less than 2000:1.

R_o = solution gas-oil ratio at the current bottomhole pressure (MSCF/bbl.).

B = volume occupied by one barrel of stock tank oil and its solution gas at the current reservoir pressure (Res. bbl. per STB).

V = barrels of space occupied by one std. Mcf of gas at reservoir conditions (res. bbls. per MSCF).

R_p = permissible gas-oil ratio for an oil well (2.0 MSCF/STB).

C. The gas/oil ratios of wells which have been assigned an oil allowable based on a gas/oil ratio of 2000/1 or below shall be determined by testing at as close as practical the allowable rate. The gas/oil ratios of wells which are known to have high gas/oil ratios >2000/1 shall be determined by testing at the rate determined by the operator and the district manager as the most efficient rate. The gas/oil ratio for a gas lift well shall be calculated by subtracting the input gas from the output gas and dividing by the oil produced.

D. Any flowing oil well which produces oil with excessive amount of salt water and has a gas/oil ratio exceeding 2000/1 shall not have its base oil allowable reduced by assigning a penalized allowable under §3505.A or a volumetric allowable under §3505.B hereof if to do so would reduce the base oil allowable for the well to such a figure that the well could not produce by natural flow. Requests for exemption of any such well from the penalized or volumetric allowable shall be made in writing to the district manager, accompanied by appropriate data to establish that the well qualifies for the requested exemption, and such request may be granted by the district manager, upon receipt of such data, without the necessity of

a public hearing.

E. The operator of any well which is subject to a volumetric allowable restriction under Subsection B of this Section this may be granted an exemption from such restriction if such operator can use or sell the natural gas produced from such well and if, pursuant to written application to and subsequent written approval by the appropriate district manager, it is established that:

1. the well is the only well capable of producing from the pool; or

2. the productive limits of the pool underlies a single lease or voluntary unit; or

3. all persons owning interests in the pool agree in writing, to the requested exemption from the volumetric allowable restriction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by Department of Conservation, July 20, 1943, amended January 1, 1966, December 1, 1973, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 23:581 (May 1997).

§3507. Venting of Gas

The venting of natural gas from any well producing in the state of Louisiana is hereby expressly prohibited except in those instances where the Office of Conservation finds, upon written application, that such prohibition would result in an economic hardship on the operator of the well, lease or production facility from which the gas is proposed to be vented; provided, however, that no such economic hardship can be found in the case where the current market value, at the point of delivery, of the gas proposed to be vented exceeds the cost involved in making such gas available to a market. Such applications shall be filed with the district office and approval thereof will be at the discretion of the district manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by Department of Conservation, July 20, 1943, amended January 1, 1966, December 1, 1973, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 23:582 (May 1997).

§3509. Exceptions and Hearings

A. These rules and regulations shall govern the production of oil and gas or both in the state of Louisiana, except:

1. where the production of oil and gas or both is regulated by special field orders; and

2. in the recognized stripper areas; and

3. production of oil and gas or both from horizontal wells.

B. Other exceptions to the provisions of this Statewide Order which are found to be proper and in the interest of conservation, the prevention of waste, and the protection of the rights of all persons owning interests in the pool shall be granted only after public hearing based on legal notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by Department of Conservation, July 20, 1943, amended January 1, 1966, December 1, 1973, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 23:582 (May 1997).

§3511. Violations

Unless specifically prohibited by the commissioner or his authorized staff, the venting of gas due to unavoidable situations will not be considered a violation of this Statewide Order. However, any venting which contradicts the spirit or intent of this Statewide Order shall be a violation hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by Department of Conservation, July 20, 1943, amended January 1, 1966, December 1, 1973, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 23:583 (May 1997).

George L. Carmouche
Commissioner

9705#039

RULE

Department of Natural Resources Office of Conservation

Multiple Completions (LAC 43:XIX.1301-1305)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-C.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 5. Statewide Order No. 29-C-4

Chapter 13. Multiple Completions

§1301. Scope

This Statewide Order provides Rules and Regulations governing the multiple completion of wells productive of hydrocarbons from multiple zones in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended June 21, 1960, September 1, 1960, June 15, 1962, March 1, 1967, September 1, 1971, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:766 (June 1993), amended LR 23:583 (May 1997).

§1303. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meaning when found in this Statewide Order:

Commissioner—the commissioner of Conservation.

District Manager—the head of any one of the districts of the state of Louisiana under the Office of Conservation, and specifically, the manager within whose district the well which is subject to an application under the provisions of this Statewide Order is located.

Multiple Completion—the completion of any well so as to permit simultaneous production from two or more pools while maintaining segregation of each such pool through the single wellbore to the surface. Segregation and simultaneous production of separate intervals within a recognized pool through a single wellbore to the surface shall not be considered a multiple completion.

Owner—as used herein, shall have the meaning as such term is defined in Title 30 of the Louisiana Revised Statutes of 1950.

Pool—as used herein, shall have the meaning as such term is defined in Title 30 of the Louisiana Revised Statutes of 1950.

Selective Completion—the completion of any well utilizing downhole equipment so as to permit production to be changed from one separate pool to another without the necessity of a workover or additional perforating.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended June 21, 1960, September 1, 1960, June 15, 1962, March 1, 1967, September 1, 1971, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:766 (June 1993), amended LR 23:583 (May 1997).

§1305. Order

A. On and after the effective date hereof, a permit to multiply complete a new or existing well in separate pools, where the proposed completions are in compliance with all applicable Office of Conservation statewide orders, may be obtained by submitting a complete application to drill, as outlined in Part XIX, Subpart 1 (Statewide Order No. 29-B), for each proposed completion concurrent with drilling and/or workover operations on the first completion, or at such other time as a desire to make a multiple completion is known, together with the prescribed fees in accordance with the procedure hereinafter outlined.

B. In the instance where a multiple completion is applied for, the completions must be in separate pools and the following procedure will be followed in submitting the required data for each multiple completion:

1. The applicant shall file the following in duplicate along with the appropriate fees as prescribed by Part XIX, Subpart 2 or successor regulation with the appropriate district manager:

- a. application for permit to drill (Form MD-10-R);
- b. location plat (as prescribed by Part XIX, Subpart 1, Chapter 1, Section 103).

2. After completion of the above well, the applicant shall file in duplicate the following with the appropriate district manager for multiple completion(s):

- a. application for multiple completion (Form A.D.C.);
- b. completion report (Form Comp.);
- c. electric log or portion thereof of the subject well showing clearly thereon the subsurface of the separate pools in which the applicant has multiply completed the well;
- d. diagrammatic sketch of the wellbore showing the mechanical installation;
- e. Packer Leakage Test (Form P.L.T.);
- f. Packer Setting Certificate (Form P.S.C.).

3. Any application for recompletion of an existing multiple completion shall comply with §1305.B.2 above.

C. An allowable will be granted for each completion of a multiply completed well upon the filing of all information, as prescribed in §1305.B.2 above, and after a permit to drill has been issued for each pool in which a completion has been made.

D. In the event the commissioner of Conservation approves the multiple completion as requested, the following shall be complied with:

1. Each multiple completed well shall be tested upon completion and annually thereafter in the following matter:

a. All completions shall be shut-in for a sufficient length of time to allow wellhead pressures to become stabilized and for a minimum of two hours thereafter, and a record made of the wellhead pressure buildup in each completion during the shut-in period. At the end of this shut-in period one of the completions shall be produced at such a rate and under such conditions as may be designated by the district manager, or his representative, for a period of six hours while the other completions are kept shut-in, and a record shall be made of the pressures of all completions during the test period. Upon completion of the initial test, the procedure shall be rotated and a following test carried out as outlined above with the completion that was produced during the previous test shut-in.

b. Under unusual circumstances and conditions of the well being tested, this procedure may be altered providing the desired information is obtained.

2. The operator shall submit, in duplicate, to the appropriate district manager, Form P.L.T.

E. Should the zones approved for multiple completion become intercommunicative, the operator shall immediately repair and separate the pools.

F. Each separate completion shall be considered a separate well as to permits, allowables, fees and for all other purposes.

G. The use of selective completion equipment in separate pools is expressly prohibited except as provided herein and no work should precede approval by the commissioner of Conservation of the application which shall be filed in duplicate with the appropriate district manager.

1. Onshore wells will only be considered for administrative approval of selective completion in separate pools where the documentation which follows clearly shows all such separate pools to be wholly contained within one lease. The application shall include the following:

a. application for multiple completion (Form A.D.C.);

b. electric log or portion thereof of the subject well showing clearly thereon the subsurface of the separate pools which applicant proposes to selectively complete in the well;

c. diagrammatic sketch of the wellbore showing the proposed mechanical installation;

d. lease ownership map showing all leases in area of the subject well and the productive outlines of the pools proposed for selective completion;

e. subsurface structure maps on each pool proposed for selective completion showing all boundaries which establish the productive outlines;

f. work permit (Form DM4R).

2. Offshore wells will be considered for administrative approval of selective completion in separate pools upon submission of the documentation required under §1305.G.1.a-f. Additionally, if the productive limits of any separate pool included in the application underlies more than one lease, the items listed below will also be required:

a. a list of the names and addresses of the owners of the leases shown to be underlain by the separate pools;

b. written concurrence of all the owners shown on the list required in §1305.G.2.a.

H. Notwithstanding the provisions of the previous Paragraph, an application for selective completion may be filed with the appropriate district manager for a well that does not meet all requirements set forth in §1305.G upon showing for good cause that such request should be considered. An exceptional application of this nature will be considered for administrative approval by the commissioner of Conservation upon recommendation of the district manager as a last resort to prevent the loss of oil and gas that could not be recovered by any other means than through the use of selective completion equipment or under other exceptional circumstances as determined to be appropriate by the commissioner.

I. In the event a well is authorized for selective completion in separate pools, the operator thereof shall continuously monitor the performance of such well in an effort to determine that the separate pools remain isolated and shall secure a work permit from the district manager before affecting a change from one separate pool to another through the use of the downhole selective equipment. Also, each such change in pool shall be considered a recompletion and all reports normally filed when recompleting a well will be required.

J. The foregoing shall supersede and replace the provisions of Statewide Order No. 29-C, and all prior amendments thereto and all prior memoranda issued thereunder and shall govern the multiple and selective completion of wells productive of hydrocarbons in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended June 21, 1960, September 1, 1960, June 15, 1962, March 1, 1967, September 1, 1971, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:766 (June 1993), amended LR 23:583 (May 1997).

George L. Carmouche
Commissioner

9705#041

RULE

Department of Natural Resources Office of Conservation

Oil and Gas Commingling (LAC 43:XIX.1501-1503)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-D.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 6. Statewide Order No. 29-D-1

Chapter 15. Commingling of Oil and Gas Production Onshore

§1501. Scope

This Statewide Order provides rules and regulations governing the applications for commingling and the use of methods other than gauge tanks for allocation of production from fields in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended February 25, 1957, June 1, 1962, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:768 (June 1993), amended LR 23:585 (May 1997).

§1503. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meanings where found in this Statewide Order:

Commingling—the combination of gas and/or liquid hydrocarbon production before sales from two or more leases and/or units, subject to the following:

a. Combination of lease production with production from a unit which is wholly contained geographically within that lease is not considered commingling.

b. No additional commingling approval is required for a unit if approval to commingle at the same commingling facility has previously been independently granted covering all leases contributing to the subject unit.

c. Once commingling approval for a unit has been granted, no additional commingling approval is required if interests in a unit change or the unit is revised if no new leases are added as a result of the change or unit revision.

Commingling Facility—any facility which has been authorized by the office for commingling as defined herein.

Commissioner—the commissioner of Conservation.

District Manager—the head of any one of the districts of the state of Louisiana under the Office of Conservation, and specifically, the manager within whose district the field or fields are located from which the applicant proposes to commingle production.

Interested Party—any person who is known to the applicant after reasonable search to presently own an interest in production from the leases or units being considered for commingling.

Office—the Office of Conservation of the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended February 25, 1957, June 1, 1962, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:768 (June 1993), amended LR 23:585 (May 1997).

§1505. Order

From and after the effective date hereof, permission to commingle gas and/or liquid hydrocarbons and to use metering, well test or other methods for allocation of

production may be obtained as hereinafter provided and upon strict compliance with the procedures set forth herein.

1. Metering

a. No authority to commingle gas and/or liquid hydrocarbons and to use metering for allocation of production will be granted unless and until the following data and information have been filed with the commissioner with a copy to the district manager:

i. a completed application form for permission to commingle gas and/or liquid hydrocarbon production along with the requisite fee;

ii. a diagrammatic sketch of the mechanical installation to be used along with a detailed explanation of the flow of the gas and/or liquid hydrocarbons, the procedures and frequency for calibration/proving of metering devices and allocation formula to be utilized;

iii. a signed statement that, in the opinion of the applicant, the commingling of gas and/or liquid hydrocarbons and the use of metering for allocation of production in a manner proposed will provide reasonably accurate measurement, will not create inequities, and will afford the owner of any interest the opportunity to recover his just and equitable share of production;

iv. a list of interested parties. This list shall include only those parties who have interests in the leases and/or units from which production is to be commingled if approval is granted to the applicant and for which the applicant has no existing commingling authority.

b. Notice of the filing of an application to commingle and to use metering for allocation of production shall be published in the official journal of the state of Louisiana (by the Office of Conservation) and mailed (by the applicant) to the interested parties with an affidavit of mailing submitted to the Office of Conservation. A copy of the application does not have to be mailed to all interested parties.

c. No administrative approval for the commingling of gas and/or liquid hydrocarbons and the use of metering for allocation of production will be granted, if, in the judgment of the commissioner, after considering all the data and information submitted, including any opposition expressed by interested parties, administrative approval is not warranted, or in the event any interested party files an application for a public hearing opposing the granting of commingling authority, together with the requisite hearing fee, within 10 days following the first publication of the notice of the application. The party seeking commingling authority may also elect to file an application setting the matter for consideration at a public hearing if administrative approval is not granted.

d. Should the application for the use of metering be approved, the applicant shall provide a suitable means of testing each meter in order that the accuracy of any meter in operation can be proven, such testing to be done monthly for liquid hydrocarbon allocation meters and quarterly for gaseous hydrocarbon allocation meters or at such other times as the commissioner of Conservation shall prescribe. The applicant shall retain the actual reports of such tests, and such reports shall be kept on file and available for inspection by any agent of the Office of Conservation or any interested

party for a period of not less than three years. Permission, in writing, from the Office of Conservation must be obtained for all by-pass or other lines that will permit flow around the regular meter, and each such line must have a meter that will permit measurement. The commissioner may grant an exception to this requirement if it is established to his satisfaction that good grounds exist justifying said exception.

e. Emergency authorization to commingle may be obtained from the Office of Conservation for 90 days upon proper showing that the methods of production and allocation meet the minimum standards necessary for formal approval if the well(s) would otherwise have to remain shut-in pending formal approval. Under exceptional circumstances this period may be extended for good cause shown but for no longer than needed for an applicant diligently pursuing formal approval.

f. Consolidation of two or more facilities may be approved administratively without the necessity of a public hearing by submitting a request for such to the Office of Conservation.

g. All allocation measurements must be in accordance with the American Petroleum Institute (API) *Manual of Petroleum Measurement Standards*, Chapter 20, Allocation Measurement.

2. Well Tests

a. No authority to commingle gas and/or liquid hydrocarbons and to use well tests for allocation of production will be granted unless and until the following data and information have been filed with the commissioner with a copy to the district manager:

i. a completed application form for permission to commingle gas and/or liquid hydrocarbon production along with the requisite fee;

ii. a diagrammatic sketch of the mechanical installation to be used along with a detailed explanation of the flow of the gas and/or liquid hydrocarbons, the procedures and frequency of well tests and for calibration/proving of any metering devices and allocation formulas to be utilized;

iii. a signed statement that, in the opinion of the applicant, the commingling of gas and/or liquid hydrocarbons and the use of well tests for allocation of production in the manner proposed will provide reasonably accurate measurement, will not create inequities, and will afford the owner of any interest the opportunity to recover his just and equitable share of production;

iv. a list of interested parties. This list shall include only those parties who have interests in the leases and/or units from which production is to be commingled if approval is granted to the applicant and for which the applicant has no existing commingling authority.

b. The application shall also include:

i. written approval of 100 percent of all interested parties; or

ii. a request for a public hearing pursuant to R.S. 30:6; or

iii. if the applicant can demonstrate that one or more prior commingling applications for the use of well test allocation at the subject commingling facility have been unsuccessful in obtaining 100 percent approval, that approval was granted by order after a public hearing, and that all leases

involved in the subject application are the same as the prior applications (i.e., no new leases), then the applicant may request, and the commissioner may authorize, the processing of such application under the same procedures outlined in §1505.A.2 and 3 of this Statewide Order.

c. Should the application for the approval of the use of well tests be approved, such testing shall be done in a manner that meets or exceeds the minimum standards set forth hereinbelow:

i. All wells shall be tested a minimum four hours at least once a month to determine productivity rate.

ii. Wells having any erratic producing characteristics that cause variable rates of flow while producing on a continuous choke size shall be tested a minimum of four hours biweekly to determine productivity rate.

iii. If at any time between the regular testing periods, as outlined above, the choke size of any well is changed, the time and date of change shall be recorded and productivity rate test conducted after the well has stabilized on the new choke. Production allocation shall be made according to these various productivity rates for the time they were in effect.

iv. If at any time the choke in a well is changed because of wear, tests shall be conducted before the choke is changed and after the well has stabilized on the new choke. The average rate between the previous productivity rate test and the productivity rate test conducted immediately after the choke has been changed shall be used to determine production for this period back to the first day of the current month.

v. If the producing characteristics of a well significantly change between the regular testing periods, such as: the beginning or increase in water percentage; a change in gas-oil ratio, especially above the 2000/1 limit; or considerable change in tubing pressure, etc., then tests shall be made at no longer than one-week intervals until production again stabilizes.

vi. Daily checks on individual wellhead pressures shall be recorded and maintained by the operator of each well covered by the approval to commingle by well tests, provided weather permits.

vii. If any operator feels that some other interval of testing is appropriate, he may request an exception to the above guidelines by writing the commissioner with a copy to the district manager outlining his problems and suggested interval of testing. The commissioner may, after consultation with the district manager and staff, grant such exceptions as he deems appropriate by special administrative order without a public hearing.

viii. All allocation measurements must be in accordance with the American Petroleum Institute (API) *Manual of Petroleum Measurement Standards*, Chapter 20, Allocation Measurement.

d. All required tests shall be recorded on Form DM-1-R, Form DT-1, or a document with a similar format and made available for inspection by any agent of the Office of Conservation or any interested party for a period of not less than three years.

e. Emergency application to commingle may be

obtained from the Office of Conservation for 90 days upon proper showing that the methods of production and allocation meet the minimum standards necessary for formal approval if the well(s) would otherwise have to remain shut-in pending formal approval. Under exceptional circumstances this period may be extended for good cause shown but for no longer than needed for an applicant diligently pursuing formal approval.

f. Consolidation of two or more facilities may be approved administratively without the necessity of a public hearing by submitting a request for such to the Office of Conservation.

3. Other

a. If any operator feels that commingling of gas and/or liquid hydrocarbons utilizing some method other than metering or well tests for allocation of production is appropriate, he may seek permission to do so in the manner hereinafter provided and upon strict compliance with the procedures set forth herein.

b. No authority to commingle gas and/or liquid hydrocarbon production utilizing any method will be granted unless and until the following data and information have been filed with the commissioner with a copy to the district manager:

i. a completed application form for permission to commingle gas and/or liquid hydrocarbon production along with the requisite fee;

ii. a diagrammatic sketch of the mechanical installation to be used along with a detailed explanation of the flow of the gas and/or liquid hydrocarbons and the manner in which measurement and allocation will be accomplished, including the procedures and frequency of well tests, calibration/proving of any metering devices and allocation formulas to be utilized;

iii. a signed statement that, in the opinion of the applicant, the commingling of gas and/or liquid hydrocarbons and the use of the method cited for allocation of production in the manner proposed will provide reasonably accurate measurement, will not create inequities, and will afford the owner of any interest the opportunity to recover his just and equitable share of production;

iv. a list of interested parties. This list shall include only those parties who have interests in the leases and/or units from which production is to be commingled if approval is granted to the applicant and for which the applicant has no existing commingling authority.

c. The commissioner shall advise the applicant whether such application will be processed under the provisions of §1505.A, B, or some alternative procedure he deems appropriate at his discretion, and the applicant shall take the actions so mandated if he wishes to continue pursuit of approval of his application.

d. Emergency authorization to commingle may be obtained from the Office of Conservation for 90 days upon proper showing that the methods of production and allocation meet the minimum standards necessary for formal approval if the well(s) would otherwise have to remain shut-in pending formal approval. Under exceptional circumstances this period may be extended for good cause shown but for no longer than needed for an applicant diligently pursuing formal approval.

e. Consolidation of two or more facilities may be approved administratively without the necessity of a public hearing by submitting a request for such to the Office of Conservation.

f. This Statewide Order shall supersede Statewide Order No. 29-D, but shall be in addition to all other statewide orders, rules and regulations affecting the drilling and production of gas and/or liquid hydrocarbons heretofore promulgated. To the extent of any conflict with such other orders, rules and regulations, however, provisions of this Statewide Order shall govern. In case of any conflict between this Statewide Order and the special orders on specific fields, said special orders on specific fields shall govern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended February 25, 1957, June 1, 1962, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:768 (June 1993), amended LR 23:585 (May 1997).

George L. Carmouche
Commissioner

9705#035

RULE

Department of Public Safety and Corrections Board of Private Security Examiners

Definitions, Organization, Board Membership,
Training, Investigations (LAC 46:LIX.Chapters 1-8)

Under the authority of the Private Security Regulatory and Licensing Law, R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Private Security Examiners has amended LAC 46:LIX.Chapters 1-8 as follows:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIX. Private Security Examiners

Chapter 1. Definitions, Organization, Board Membership and General Provisions

§101. Definitions

A. - B. ...

C. *Emergency Assignment*—any unplanned or unexpected event not covered by a prior contractual agreement.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:846 (October 1989), LR 18:189 (February 1992), LR 23:587 (May 1997).

§103. Organization, Board Membership and General Provisions

A - I. ...

J. Meetings shall be announced and held in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.),

and the Open Meetings Law (R.S. 42:4.2 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:11 (January 1989), LR 15:846 (October 1989), LR 18:189 (February 1992), LR 23:587 (May 1997).

Chapter 2. Company Licensure

§201. Qualifications and Requirements for Company Licensure

A. - E.5. ...

6. A certificate of general public liability insurance in an amount as required by law with the state of Louisiana named as an additional insured.

E.7. - J.4. ...

K. **Insurance Renewal.** On or before the expiration date of the required general liability insurance policy, licensee shall submit to the board a new certificate of insurance in an amount as required by law showing that insurance has been renewed and there has not been any lapse in coverage.

L.1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:846 (October 1989), LR 18:190 (February 1992), LR 23:588 (May 1997).

Chapter 3. Security Officer Registration

§301. Qualifications and Requirements for Security Officer Registration

A. An applicant for security officer registration shall meet all of the qualifications and requirements specified in R.S. 37:3283 in addition to the rules herein.

B. An applicant for security officer registration shall meet all of the qualifications of a licensee as defined in R.S. 37:3276, except:

1. the applicant may be a resident alien;
2. the applicant must be at least 18 years of age if registered unarmed, or if registered to carry a baton;
3. the applicant must be at least 21 years of age if registered armed.

C. Any person who performs the functions and duties of a security officer shall fill out and file with the board an application form provided and approved by the board. The application must be either postmarked or received in the board office within 20 calendar days of the applicant's date of hire.

D.1. - 2. ...

3. non-refundable application fee and fingerprint processing fee;

4. if applicant has worked less than 20 calendar days, documentation must nevertheless be submitted, but without the required fees if a termination form is included showing the dates worked.

E. Applicant must sign the application to certify that the information he is providing the board is correct.

F. - J.1. ...

2. Each company a security officer is employed with shall submit an application marked "dual registration" with the required application fee. The application must be either

postmarked or received in the board office within 20 calendar days of the applicant's date of hire.

3. ...

K.1 - 4.f. ...

5. If a registration card is lost or mutilated, registrant is responsible. A \$10 fee will be assessed to issue a replacement card and registrant shall submit in writing to the board his name, social security number, registration card number and circumstances surrounding loss or mutilation of card.

K.6. - M.2. ...

N. **Emergency Assignment**

1. Unarmed security officers may work emergency assignments a maximum of 20 calendar days within a six month consecutive period.

2. Registration requirements set forth in §301.D.4 apply.

3. Armed security officers must be registered with the board and have received all firearms training prior to working an armed post.

O. - P.1. ...

2. If registrant terminates employment with one employer and is reemployed within 30 calendar days in the same classification, the new employer, within 10 days of such reemployment, shall submit to the board a notice of the change on a form prescribed by the board, together with a transfer fee paid by the new employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:11 (January 1989), LR 15:846 (October 1989), LR 18:191 (February 1992), LR 23:588 (May 1997).

Chapter 4. Training

§403. Classroom Training

A. - C. ...

D. All scores of such examinations must be recorded and submitted to the board by the licensee or employer, as the case may be, on its prescribed training verification form signed by the licensed instructor within 30 calendar days from completion of training.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 18:192 (February 1992), LR 23:588 (May 1997).

§405. Firearms Training

A. Armed security officers, in addition to the training requirements outlined in R.S. 37:3284 and in the rules herein, shall complete 12 hours of firearms training and range qualifications by a board-licensed firearms instructor prior to working an armed assignment. Examination scores must be recorded and submitted to the board by the licensee or employer, as the case may be, on its prescribed verification form signed by the licensed instructor within 30 calendar days from completion of training.

B. - C. ...

D. Annual refresher firearms training is due one year from

the date of the last firearms training recorded at the board office. The anniversary date will not change if the training is taken within 30 days prior to said date.

E.1. - 3. ...

F. **Handgun Proficiency Course.** The handgun proficiency course shall have the following requirements:

1. a score of 75 percent required to qualify, 188 points out of 250 points;
2. an approved standard police or security firearms target shall be used;
3. the caliber weapon trained with must be the same caliber weapon the security officer carries while on duty;
4. the handgun course of fire shall be:
 - a. at a distance of four yards:
 - i. 12 shots, unsupported, point shooting, without sights: 45 seconds;
 - (a.) six shots, strong hand only;
 - (b.) six shots, weak hand only;
 - b. at a distance of seven yards:
 - i. two shots, unsupported, two-handed with sights: 5 seconds (indexing these rounds);
 - ii. 12 shots, unsupported, two-handed with sights: 60 seconds;
 - iii. 12 shots, unsupported, two-handed point shooting: 60 seconds
 - c. at a distance of 15 yards:
 - i. 12 shots, barricade, strong hand: 60 seconds;
 - ii. 12 shots, barricade, two handed with sights: 60 seconds:
 - (a.) six shots, standing right barricade;
 - (b.) six shots, standing left barricade.

G.1. - 3. ...

H. **Shotgun Proficiency Course.** The shotgun proficiency course shall have the following requirements:

1. ...
2. The shotgun course of fire shall be:
 - a. five rounds of buckshot (nine pellets only); 60 percent required to qualify out of 90 points possible on a NRA B-27 target. B-29 target may be used for 25 yards or 15 yards;
 - b. scoring: two points for each hit within the seven ring. One point for each hit outside the seven ring, in the black;
 - c. at a distance of 15 yards; two rounds, standing from the shoulder: 10 seconds;
 - d. at a distance of 25 yards; two rounds total from the shoulder; one round standing, two rounds kneeling. Time includes loading time with the shotgun starting from the "cruiser-safe" position (chamber empty, magazine loaded, safety on): 20 seconds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:192 (February 1992), amended LR 23:588 (May 1997).

§407. Baton Training

A. - D. ...

E. Security officers trained in baton must successfully pass a written examination administered by a board-licensed baton

instructor and achieve a minimum passing score of 70 percent. Examination scores must be recorded and submitted to the board by the licensee or employer, as the case may be, on its prescribed verification form signed by the licensed instructor within 30 calendar days from completion of training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:193 (February 1992), amended LR 23:589 (May 1997).

§409. Instructor Requirements, Responsibilities and Liability

A. The board shall collect the following instructor fees pursuant to R.S. 37:3286:

1. - 10. ...

B. ...

C. **Instructor Responsibilities and Liability**

1. An inhouse instructor who is covered under his employer's company insurance policy shall be required to have his employer submit a letter to the board stating that he is covered under the company policy for the teaching of security officers. If not covered under a company insurance policy, an instructor must provide a certificate of general public liability insurance in an amount as required by law with the state of Louisiana named as an additional insured.

C.2. - D.2. ...

E. **Insurance Renewal.** On or before the expiration date of the general liability insurance policy, instructor shall submit to the board a new certificate of insurance in an amount as required by law showing that insurance has been renewed and there has not been any lapse of coverage.

F. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:194 (February 1992), amended LR 23:589 (May 1997).

Chapter 8. Licensee Suitability, Records, Investigations and Registrant Violations

§805. Investigations

A. ...

B. An investigation conducted by a duly-authorized representative of the board is not to be construed as an inspection of files as described in §803.C hereof. It is an investigation of alleged violations by a licensee or registrant as a result of a complaint, and is exempt from written and verbal notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:195 (February 1992), amended LR 23:589 (May 1997).

§807. Violations by Registrants

A.1. - 2. ...

3. failure to affix a photograph of registrant, taken within the last six months, to registration card;

4. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:195 (February 1992), amended LR 23:589 (May 1997).

Wayne R. Rogillio
Executive Secretary

9705#021

RULE

**Department of Social Services
Office of Community Services**

**Central Registry—Child Abuse
and Neglect Cases (LAC 67:V.1103)**

The Department of Social Services, Office of Community Services amends LAC 67:V.1103, State Central Registry. This rule is mandated by the Louisiana Children's Code, Title VI, Child in Need of Care, Chapter 5, Article 615.

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Subpart 3. Child Protective Services

Chapter 11. Administration and Authority

§1103. State Central Registry

A. - A.1.a ...

b. Records of reports of suspected child abuse or neglect in which the determination is made that the reports appear to be justified will be maintained until the youngest child in the victim's family reaches the age of 18 or five years from the determination, whichever is longer. When, after the investigation, the determination is made by the department that the report does appear to be justified, any subsequent adjudication by a court exercising juvenile jurisdiction which dismisses the child in need of care petition involving this report shall be added to the central registry. Records of reports of child fatalities determined to have been caused by child abuse or neglect will be maintained for 20 years. Records on determinations of caretakers in restrictive care facilities and day care centers in which reports appear to be justified will be maintained for five years, unless there is another justified finding involving the same perpetrator. In those cases, the records will be maintained until there has been no subsequent justified finding for five years. Records on justified findings on foster families, when the child victim is a foster child, will be maintained indefinitely.

A.1.c. ...

2. The central registry shall release information regarding cases of child abuse or neglect to other states' child welfare agencies upon formal inquiry by that agency, when the inquiry is made pursuant to an ongoing child protection investigation, foster care home study, adoptive home study, or family services case following a child protection investigation in the requesting state, in accordance with R.S. 46:56 F(4)(a). The information may also be released to a private licensed child placing agency located in Louisiana. Information released to such agencies is confidential and will not be released to sources outside the agency.

B. ...

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Children's Code, Title VI, Child in Need of Care, Chapter 5, Articles 615 and 616, and Title XII, Adoption of Children, Chapter 2, Article 1173, and R.S. 14:403(H).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), amended LR 20:199 (February 1994), LR 21:583 (June 1995), LR 23:590 (May 1997).

Madlyn B. Bagneris
Secretary

9705#049

RULE

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

Food Stamp Disqualification (LAC 67:III.1988)

The Department of Social Services, Office of Family Support amends LAC 67:III.Subpart 3, Food Stamps.

Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, mandated certain food stamp policy revisions. This rule is being promulgated to add §1988.B which was omitted from the original notice of intent published October 20, 1996.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

**Subchapter J. Determining Household Eligibility and
Benefit Levels**

§1988. Eligibility Disqualification of Certain Recipients

A. Fleeing felons and probation/parole violators are ineligible for benefits.

B. Effective January 1, 1997 an individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance [as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802 (6)] shall be permanently disqualified from receiving food stamps. This shall not apply to convictions occurring on or before August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 23:590 (May 1997).

Madlyn B. Bagneris
Secretary

9705#048

RULE

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

**Individual and Family Grant
Correction of LAC (LAC 67:III.4702)**

The Department of Social Services, Office of Family Support has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 10, Individual and Family Grant (IFG) Program.

This rule corrects errors in codification which occurred between the amendments of April 1995 and December 1996, that is, §4702.C was deleted. A historical note for August 1995 had also been omitted. Therefore, §4702 is being repromulgated in its entirety. This rule represents no change in IFG Program policy.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 10. Individual and Family Grant Program

Chapter 47. Application, Eligibility, and Furnishing Assistance

Subchapter C. Need and Amount of Assistance

§4702. Flood Insurance

A. In order to be eligible for assistance under the IFG Program, an individual or family residing on property located in a flood hazard zone and whose losses are the result of flooding must agree to purchase adequate flood insurance and maintain such insurance for as long as they live in the home. This maintenance provision also applies to individuals who buy, or otherwise have transferred to them, any real estate for which flood insurance maintenance has been required.

B. The dollar value of the required flood insurance policy for housing and personal property grants where the applicant resides in a flood zone is also adjusted at the beginning of each federal fiscal year to reflect changes in the *Consumer Price Index for All Urban Consumers*.

C. A Group Flood Insurance Policy (GFIP), a policy covering all individuals named by a state as recipients of an IFG Program award for flood damage, has been established. The criteria for determining who is required to purchase flood insurance has not changed.

1. The amount of coverage provided by the GFIP will be equivalent to the IFG maximum grant and will cover both homeowners and renters.

2. The amount of coverage is adjusted annually according to the Consumer Price Index.

3. Implementation of the GFIP will be at the time of the disaster declaration and coverage will begin 60 days from the date of the disaster declaration.

4. Term of coverage will be 36 months from the inception date of the GFIP.

5. Coverage for IFG recipients will begin on the thirtieth day after the National Flood Insurance Program (NFIP) receives the premium payment from the state.

6. Premium is set at \$200 for each individual or family, but may be adjusted thereafter to reflect NFIP loss experience

and any adjustment of benefits under the IFG Program.

7. Premium sent to the NFIP on behalf of the recipient is considered as part of the grant.

8. Homeowners must maintain flood insurance coverage on the residence at the flood-damaged property address for as long as the structure exists, even if ownership of the property changes.

9. Renters must maintain flood insurance coverage on the contents for as long as the renter resides at the flood-damaged property address.

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131 and P.L. 93-288.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:444 (June 1989), LR 15:744 (September 1989), amended by the Department of Social Services, Office of Family Support, LR 17:474 (May 1991), LR 17:766 (August 1991), LR 17:888 (September 1991), LR 18:939 (September 1992), LR 18:1351 (December 1992), LR 19:167 (February 1993), LR 19:213 (February 1993), LR 19:606 (May 1993), LR 19:784 (June 1993), LR 20:449 (April 1994), LR 21:402 (April 1995), LR 21:837 (August 1995), LR 22:1232 (December 1996), repromulgated LR 23:591 (May 1997).

Madlyn B. Bagneris
Secretary

9705#047

RULE

**Department of Social Services
Office of the Secretary**

**Child Care Eligibility
Requirements—Aliens (LAC 67:I.101)**

The Department of Social Services, Office of the Secretary amends the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, in the Child Care Assistance Program, effective June 1, 1997.

Rulemaking is necessary in order to comply with the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, which was signed into law on August 22, 1996.

Title 67

SOCIAL SERVICES

Part I. Office of the Secretary

Chapter 1. Child Care Assistance Program

§101. Eligibility Requirements

General Requirements: Child Care and Development Block Grant and Title IV-A At-Risk Child Care

1. - 7. ...

8. Aliens

a. Only noncitizens who are "qualified aliens" are eligible for assistance. A qualified alien is:

i. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (8 USC 1101 et seq.);

ii. an alien who is granted asylum under Section 208 (8 USC 1158) of such act;

iii. a refugee who is admitted under Section 207 (8 USC 1157) of such act;

iv. an alien who is paroled into the United States under Section 212(d)(5) [8 USC 1182(d)(5)] of such act for at least one year;

v. an alien whose deportation is being withheld under Section 243(h) [8 USC 1253(h)] of such act; or

vi. an alien who was granted conditional entry pursuant to Section 203(a)(7) [8 USC 1153(a)(7)] of such act as in effect prior to April 1, 1980.

b. Qualified aliens who enter the United States on or after August 22, 1996 are ineligible for assistance for five years from the date of entry, with the following exceptions:

i. Aliens admitted as refugees under Section 207 (8 USC 1157) of the Immigration and Nationality Act are eligible from the date of entry.

ii. Aliens granted asylum under Section 208 (8 USC 1158) of such act are eligible from the date asylum was granted.

iii. Aliens whose deportation is withheld under Section 243(h) (8 USC 1253) of such act are eligible after such withholding.

iv. Veterans as defined in 38 USC 101 lawfully residing in the United States who were honorably discharged for reason other than alienage or their spouses and unmarried dependent children and persons on active duty (other than active duty for training) in the armed forces or their spouses and unmarried dependent children are eligible.

c. In determining eligibility and benefit amount for an alien, the income and resources of their sponsor and the sponsor's spouse must be considered. A sponsor is defined as any person who executed an affidavit of support pursuant to Section 213.A of the Immigration and Nationality Act on behalf of the alien. The income and resources of the sponsor shall apply until the alien either 1) achieves United States citizenship through naturalization or 2) has worked 40 qualifying quarters of coverage as defined under Title II of the Social Security Act (42 USC 413) or can be credited with such qualifying quarters as provided under Section 435 of the Personal Responsibility and Work Opportunity Act of 1996. No quarter beginning after December 31, 1996 shall be credited if the alien received any federal means-tested public benefits (as defined in Section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) during that quarter.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L.104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1133 (October 1992), LR 18:1415 (December 1992), LR 19:1440 (November 1993), LR 20:459 (April 1994), LR 20:794 (July 1994), LR 20:899 (August 1994), LR 21:589 (June 1995), LR 23:591 (May 1997).

Madlyn B. Bagneris
Secretary

9705#050

RULE

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

Plan Document—Prescription Drug Exclusions and Limitations

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby amends the Plan Document of Benefits.

The board finds that it is necessary to amend the Plan Document to restrict benefits for amphetamines to diagnoses of Attention Deficit Disorder or Narcolepsy, and to exclude benefits for smoking deterrents. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section VIII, Subsection W to read as follows:

VIII. Exceptions and Exclusions for All Medical Benefits

No benefits are provided under this contract for:

* * *

W. The following drugs, medicines, and related services:

1. appetite suppressant drugs;
2. dietary supplements;
3. topical forms of Minoxidil;
4. Retin-A dispensed for covered persons over age 26;
5. amphetamines dispensed for diagnoses other than Attention Deficit Disorder or Narcolepsy;
6. nicotine, gum, patches, or other products, services, or programs intended to assist an individual to reduce or cease smoking or other use of tobacco products;
7. nutritional or parenteral therapy;
8. vitamins and minerals; and
9. drugs available over the counter.

* * *

James R. Plaisance
Executive Director

9705#034

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Experimental Dove Field
Leasing (LAC 76:XIX.107)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Wildlife and Fisheries Commission does hereby promulgate rules governing public

dove hunting on property leased by the Department of Wildlife and Fisheries.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting

Chapter 1. Resident Game Hunting Seasons

§107. Experimental Dove Field Leasing Program

A. In recognition of the popularity of dove hunting and the lack of lands available to the general public for dove hunting, the Wildlife and Fisheries Commission establishes rules for an experimental public dove hunting program on private lands leased by the Department of Wildlife and Fisheries.

B. The following rules will apply to those lands which dove hunting rights have been leased by the Department of Wildlife and Fisheries for the day(s) specified in the lease:

1. All hunters are required to have a daily permit. This permit will be available at the field on the day of the hunt. Permits will be issued on a first come, first serve basis. An administrative fee may be charged for daily permits.

2. Leased fields may be closed to additional hunters when a predetermined number of permits have been issued. However, additional hunters may be admitted throughout the day as hunters leave the field and surrender their permits.

3. No alcoholic beverages may be consumed or possessed on the leased property. Persons who appear to be impaired or under the influence of alcohol or other controlled substances will be denied access to the field(s).

4. Shot larger than size 7½ is prohibited.

5. Only mourning doves may be taken.

6. Loaded firearms are prohibited in vehicles or at check stations.

7. Persons exhibiting unsafe gun handling shall be removed from the field(s).

8. Vehicles are restricted to designated areas or roads.

9. No littering. Each hunter is responsible for removing his/her trash, including shell hulls, from the leased property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:783 and 56:109B.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 23:593 (May 1997).

Daniel J. Babin
Chairman

9705#019

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Charges, Settlement, and Attorney Fees

The Civil Service Commission will hold a public hearing on June 4, 1997 to consider the following notice of intent. The hearing will begin at 9 a.m. and will be held in the Department of Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA. The following will be considered at the meeting:

Amend Rule 16.4

16.4 Formal Charges

- (a) ...
- (b) Formal charges should be clearly identified as such, may not be combined with any other matter filed with the director or the commission and must:
 - 6. [delete the final word "and"]
 - 7. [replace the final period with a semicolon and insert a final word "and"]
 - 8. describe what evidence the complainant has to prove the charges.

Explanation: This amendment will give the commission a means of gauging whether a complainant has any evidence to support the charges before the commission decides to order a public investigation.

Amend Rule 16.12

16.12 Withdrawal of Charges; Settlement

- (a) [pick up existing rule 16.12.]
- (b) With the approval of the commission, the parties may settle a public investigation and the settlement shall constitute a final disposition of the investigation.

Explanation: A provision for settling investigations was inadvertently omitted when Chapter 16 was revised.

Add Rule 16.15.1

16.15.1 Attorney Fees

When a complainant does not bear his burden of proving the charges, the commission may order him to pay attorney fees in an amount not to exceed \$1500 per respondent.

Explanation: The courts have consistently held that attorney fees cannot be awarded absent a specific statutory provision therefor. This amendment will allow the commission to award attorney fees when a complainant does not prove his or her case.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the director of Civil Service at Box 94111, Baton Rouge, LA 70804-9111. If any accommodations are needed, give notification prior to this meeting.

Allen H. Reynolds
Director

9705#022

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Performance Planning and Review System

The Civil Service Commission will hold a public hearing on June 4, 1997 to consider the following rule amendments. The hearing will begin at 9 a.m. and will be held in the Department of Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA. The following will be considered at the meeting:

Amend Rule 6.14(d) and (i)

6.14 Merit Increases

(d) The appointing authority may... provided the employee has not received an official overall "poor" or "needs improvement" performance planning and review rating for ...

(i) An employee who has a current official overall performance planning and review rating of "poor" or "needs improvement" shall not be eligible for any increase under the provisions of this rule.

Explanation: In order to be consistent with wording in Chapter 10, the references to unsatisfactory service ratings have been changed to reflect "poor" or "needs improvement" performance planning and review ratings.

Amend Rule 7.9(a)2(a)

7.9 Promotional Examinations

(a) ...

1. ...

2. (a) Admission... announced. An employee having a current official overall Performance Planning and Review rating of "poor" or "needs improvement" shall not be admitted to any competitive examination.

Explanation: In order to be consistent with wording in Chapter 10, the references to unsatisfactory service ratings have been changed to reflect "poor" or "needs improvement" performance planning and review ratings.

Amend Rule 8.20(d)

8.20 Promotion

(d) The director... having a current official overall performance planning and review rating of "poor" or "needs improvement"...

Explanation: In order to be consistent with wording in Chapter 10, the references to unsatisfactory service ratings have been changed to reflect "poor" or "needs improvement" performance planning and review ratings.

Amend Rule 17.16.1 and

17.16.1(a), (b), (c), (d), (e), and (f)

17.16.1 Employees with "Poor" Performance Planning and Review Ratings

(a) Within the affected class... whose two most recent official overall performance planning and review ratings were

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, State Plans

§903. Teacher Certification Standards

A. Bulletin 746

B. - H. ...

I. Noncertified Personnel

1. Full-time/part-time noncertified school personnel, excluding speech, language, and hearing specialists, may be employed by local public education agencies experiencing extreme difficulty in employing certified teachers for the classroom, provided that the following documentation is submitted to the Department of Education:

a. a signed affidavit by the local superintendent that the position could not be filled by a certified teacher;

b. submission of names, educational background, subject matter and grade level being taught as an addendum to the Annual School Report.

2. Individuals employed under this policy must:

a. hold a minimum of a baccalaureate degree from a regionally accredited institution;

b. take all appropriate areas of the NTE at the earliest date that it is offered during the first year of employment and all appropriate areas at least once each year during subsequent years of employment; and

c. earn six semester hours of college course work each year as indicated below:

i. Teachers who have not completed a teacher education program must:

(a). within the first year of employment and prior to consideration for re-employment the second year, achieve the required scores on the Communication Skills and General Knowledge portions of the NTE; be officially admitted to a teacher education program; and obtain a prescription or outline of course work required for certification;

(b). prior to consideration for re-employment each year, complete at least six semester hours of college course work as prescribed by the college or university to complete a teacher education program.

ii. Teachers who have completed a teacher education program but who have not achieved the required scores on all parts of the NTE, prior to consideration for re-employment each year, must earn six semester hours appropriate to the area of the NTE (General Knowledge, Professional Knowledge, Communication Skills, Specialty Area) in which the score was not achieved.

A university sponsored seminar, workshop or course specially designed for preparing for the NTE may be used once to substitute for three semester hours of the required course work. Documentation from the university must be provided to verify participation.

3. The following documentation, as appropriate, shall be kept on file in the LEA's superintendent's/personnel office:

a. official transcripts showing a minimum of a baccalaureate degree from a regionally accredited institution;

b. documentation that the teacher has been officially admitted to a teacher education program, if applicable;

"poor" shall be laid off...

(b) In the event... whose two most recent official overall performance planning and review ratings were "poor"..., the least senior employees with such official overall "poor" performance planning and review ratings shall be laid off first.

(c) Within each class,... permanent employees whose two most recent official overall performance planning and review ratings were "poor" shall be displaced...

(d) In the event... whose two most recent official overall performance planning and review ratings were "poor"..., the least senior employees with such official overall "poor" performance planning and review ratings shall be displaced first.

(e) Subject... permanent employees whose two most recent official overall performance planning and review ratings were "poor" may only displace employees who do not have permanent status.

(f) For purposes of this rule,... having two official overall "poor" performance planning and review ratings when the delays for appealing both ratings...

Explanation: In order to be consistent with wording in Chapter 10, the references to unsatisfactory service ratings have been changed to reflect "poor" performance planning and review ratings.

Amend Rule 17.24

17.24 Department Preferred Reemployment Lists

A person should apply in writing... Rule 17.16.1(f), eligibility for the department preferred reemployment list does not extend to an employee whose two most recent official overall performance planning and review ratings were "poor"...

Explanation: In order to be consistent with wording in Chapter 10, the references to unsatisfactory service ratings have been changed to reflect "poor" performance planning and review ratings.

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

If any accommodations are needed, notify this office prior to the meeting.

Allen H. Reynolds
Director

9705#068

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Noncertified
School Personnel (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement, a revision to the interim emergency policy for hiring full-time/part-time noncertified school personnel. LAC 28:I.903.I is amended in its entirety as follows:

c. an outline by the college or university of the course work required for certification, or an outline of courses to help achieve the appropriate NTE scores for persons who have completed a teacher education program;

d. official transcripts showing successful completion of the six semester hours as prescribed by the college or university since the last employment under this policy;

e. documentation to verify one-time participation in a university sponsored or state approved seminar/workshop/course for NTE preparation for teachers who have completed a teacher education program;

f. an original NTE score card showing the NTE has been taken in all appropriate areas since the last employment under this policy; and

g. documentation that efforts for recruitment of certified teachers have been made (e.g., newspaper advertisements, letters, contacts with colleges, and so forth).

4. These individuals shall be employed at a salary that is based on the effective state salary schedule for a beginning teacher with a baccalaureate degree and a certificate with zero years of experience. Local salary supplements are optional.

5. The total number of years a person may be employed according to the provisions of this policy is five years.

6. To be eligible for re-employment under this policy, a teacher who has not met the requirement of earning six semester hours of college credit or who has not taken the NTE must meet one or more of the following conditions:

a. Medical Excuse. When serious medical problems of the teacher or immediate family in the same household exist, a doctor's statement is required with a letter of assurance from the teacher that six semester hours will be earned prior to the beginning of the next school year.

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

c. Change of School, Parish, or School System. Re-employment is permitted only if the change is not part of a continuous pattern.

d. Change of Certification Areas. Re-employment is permitted with assurance that the requirements for continued employment under this policy will be met.

(These are the only conditions that may be used. Documentation which supports the above condition must be maintained in the teacher's personnel file.)

7. This policy does not apply to university laboratory schools.

J. - L. ...

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:

Interested persons may submit comments on the proposed revisions until 4:30 p.m., July 9, 1997, to Jeannie Stokes, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746—Noncertified School Personnel**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately \$600 (printing and postage) to disseminate the policy.

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$160. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

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

The extension of this policy will allow noncertified school personnel to be employed by local school systems when there is no certified teacher available.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The extension of this policy allows school systems to fill vacancies which exist due to the unavailability of certified teachers.

Marilyn Langley
Deputy Superintendent
9705#031

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Mammography Physicist Certification and
Radiographer Trainee Requirements
(LAC 33:XV.Chapters 5 and 6)(NE019)**

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 Radiation Protection Division regulations, LAC 33:XV.Chapters 5 and 6 (NE019).

This proposed rule will amend the Radiation Protection Division's regulations concerning requirements for radiographer trainees in Chapter 5 and mammography physicists' certification in Chapter 6. Amendments to Chapter 5 will allow individuals who have not passed the State Radiography Certification exam to continue working as radiographers under specific conditions and limitations. Amendments to Chapter 6 will require that all mammography physicists be certified to perform mammography equipment surveys for quality control in Louisiana. Chapter 6 also allows for individuals presently working as mammography physicists to be certified under their on-the-job experience.

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 XV. Radiation Protection

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

§503. Definitions

As used in this Chapter, the following definitions apply:

[See Prior Text]

Radiographer—any individual who has successfully completed the training, testing, and documentation requirements contained in LAC 33:XV.575.A.

Radiographer Assistant—any individual who:

a. has five years of documented experience as a radiographer who previously qualified under these regulations prior to January 1, 1995;

b. has a documented record of safely performing industrial radiography; and

c. has received confirmation from the division that such individual is acceptable to be a radiographer's assistant.

Radiographer Trainee—any individual who has successfully completed the training, testing, and documentation requirements contained in LAC 33:XV.575.A, including the following conditions:

a. may have not completed the on-the-job training requirement consisting of 40 hours completed as part of a three-person crew composed of an instructor, a radiographer, and the trainee;

b. has not completed the radiation safety examination required by LAC 33:XV.575.A.6; and

c. has received written confirmation from the division that the individual is acceptable to be a radiographer trainee. Trainee status will be granted only once for each individual and is valid for no longer than 12 consecutive months.

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 23:

Subchapter A. Equipment Control §543. Radiation Survey Instruments

[See Prior Text in A - C]

D. Each radiation survey instrument shall be checked with a radiation source at the beginning of each day of use and at the beginning of each work shift to ensure it is operating properly. Records of the checks shall be maintained for two years.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation

Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 23:

§550. Performance Requirements for Radiography Equipment

[See Prior Text in A - A.1]

2. In addition to the requirements specified in Subsection A.1 of this Section, the following requirements apply to radiographic exposure devices and associated equipment:

[See Prior Text in A.2.a - c]

3. In addition to the requirements specified in Subsection A.1 and 2 of this Section, the following requirements apply to radiographic exposure devices and associated equipment that allow the source to be moved out of the device for routine operation:

[See Prior Text in A.3.a - 5]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended LR 21:554 (June 1995), LR 23:

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§575. Training and Testing

[See Prior Text in A - C]

D. At temporary job sites each licensee or registrant shall provide, as a minimum, two-person crews. Such crews shall consist of at least two qualified radiographers, an approved instructor directly supervising a qualified radiographer trainee, or an approved instructor supervising a radiographer assistant.

E. A radiation safety officer (RSO) shall be designated for every industrial radiography license and certificate of registration, or license condition specifying such, issued by the department. The RSO's qualifications shall include:

1. possession of a high school diploma or certificate of high school equivalency based on the GED test;

2. completion of the training and testing requirements of this Section; and

3. two years of documented radiation protection experience, including knowledge of industrial radiographic operations, with at least 40 hours of active participation in industrial radiographic operations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 20:999 (September 1994), LR 23:

Subchapter C. Precautionary Procedures in Radiographic Operations

§590. Specific Requirements for Radiographic Personnel

Performing Industrial Radiography

[See Prior Text in A - C]

D. No individual other than a radiographer, a radiographer assistant, or a radiographer trainee who is under the personal supervision of a radiographer instructor shall manipulate controls or operate equipment used in industrial radiographic operations.

* * *

[See Prior Text in E - F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended LR 23:

Chapter 6. X-rays in the Healing Arts

§602. Definitions

As used in this Chapter, the following definitions apply. Other definitions applicable to this Chapter may be found in LAC 33:XV.Chapters 1 and 2.

* * *

[See Prior Text]

Mammography Physicist—an individual who has submitted credentials to the division and who satisfies one or more of the following criteria:

1. is certified in radiological physics by the American Board of Radiology or the American Board of Medical Physics and who continues to meet the Mammography Quality Standards Act (MQSA) requirement of 15 hours of continuing mammography education every three years;
2. has a masters or doctoral degree from an accredited college or university in physics, engineering, chemistry, or environmental science, has at least one year of radiation survey experience that includes performing instrument surveys on at least 20 mammography units, and continues to meet the MQSA requirement of 15 hours of continuing mammography education every three years;
3. has a bachelors degree from an accredited college or university in physics, engineering, chemistry, environmental science, or any biological science that included at least 10 semester hours of college-level physics, has had at least five years of experience with making radiation measurements that includes performing instrument surveys on at least 20 mammography units, and continues to meet the MQSA requirement of 15 hours of continuing mammography education every three years; and
4. has been approved by the division.

* * *

[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 Air Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421(November 1993), LR 23:

§603. General and Administrative Requirements

* * *

[See Prior Text in A - A.11]

12. Any person proposing to conduct a diagnostic or screening mammography program shall not initiate such a program without having a complete mammography facility

survey performed by a mammography physicist initially and at least annually thereafter.

* * *

[See Prior Text in B - C.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:976 (October 1996), LR 23:

A public hearing will be held on June 26, 1997, 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, 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 NE019. Such comments should be submitted no later than July 3, 1997, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or by FAX to (504)765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Mammography Physicist Certification and
Radiographer Trainee Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on implementation costs to state or local governmental units is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No significant estimated costs and/or economic benefits to directly affected persons or nongovernmental groups is anticipated. The additions to Chapters 5 and 6 allow radiographers who have not passed the radiography certification exam to continue working under specific conditions and allow mammography physicists to be certified under their on-the-job experience.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant impact of this proposed rule on competition and employment in the public and private sectors is anticipated. The additions to Chapters 5 and 6 allow radiographers who have not passed the radiography certification exam to continue working under specific conditions and allow mammography physicists to be certified under their on-the-job experience.

L. Hall Bohlinger
Deputy Secretary
9705#063

Richard W. England
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Radioactive Material and Waste
(LAC 33:IV.325, 1302 and 1307)(NE018)

Under the authority of the 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 Radiation Protection Division regulations, LAC 33:XV.Chapters 3 and 13 (NE018).

Minor changes are being made by this proposed rule to Chapters 3 and 13, primarily to clarify the regulations. These changes were suggested by the Nuclear Regulatory Commission (NRC) for the state of Louisiana to maintain compatibility with federal regulations and to remain fully compatible as an NRC Agreement State.

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 XV. Radiation Protection

Chapter 3. Licensing of Radioactive Material

Subchapter C. General Licenses

§325. General Requirements for the Issuance of Specific Licenses

[See Prior Text in A - D.7.c]

d. Except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after any leakage has occurred) or byproduct materials having only half-lives of less than 65 days, a list contained in a single document and updated every two years that shall be kept on the following:

- i. all areas designated and formerly designated restricted areas as defined in LAC 33:XV.102;
- ii. all areas outside of restricted areas that require documentation under LAC 33:XV.325.D.7.a;
- iii. all areas outside of restricted areas where current and previous wastes have been buried, as documented under LAC 33:XV.478; and

iv. all areas outside of restricted areas that contain material such that, if the license expired, the licensee would be required to either decontaminate the area to unrestricted release levels or apply for approval for disposal under LAC 33.XV.461.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 23:

Chapter 13. Licensing Requirements for Land Disposal of Radioactive Waste

Subchapter A. General Provisions

§1302. Definitions

A. As used in this Chapter, the following definitions apply:

[See Prior Text]

Geologic Repository—a system that is intended to be used, or may be used, for the disposal of radioactive waste in excavated geologic media. A geologic repository includes the geologic repository operations area and the portion of the geologic setting that provides isolation of the radioactive waste.

[See Prior Text]

Land Disposal Facility—the land, buildings, structures, and equipment that are intended to be used for the disposal of radioactive wastes. For purposes of this Chapter, a "geologic repository" is not considered a "land disposal facility."

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 23:

§1307. Specific Technical Information

The specific technical information shall include the following information needed for demonstration that the performance objectives and the applicable technical requirements of this Chapter will be met:

[See Prior Text in A - I]

J. A description of the quality assurance program, tailored to low-level radioactive waste disposal, developed and applied by the applicant for the determination of natural disposal characteristics and for quality assurance during the design, construction, operation, and closure of the land disposal facility and for the receipt, handling, and emplacement of waste.

[See Prior Text in K - M]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 23:

A public hearing will be held on June 26, 1997, 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, 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 NE018. Such comments should be submitted no later than July 3, 1997, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Radioactive Material and Waste

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on implementation costs to state or local governmental units is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
From the changes to Chapters 3 and 13, no implementation cost or economic benefit to directly affected persons is anticipated. These changes are required to remain compatible with the Nuclear Regulatory Commission in the regulation of radioactive materials.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect of this proposed rule on competition and employment is anticipated.

L. Hall Bohlinger
Deputy Secretary
9705#062

Richard W. England
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary**

Declaratory Rulings (LAC 33:I.Chapter 11)(OS022)

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 Office of the Secretary regulations, LAC 33:I.Chapter 11 (OS022).

This proposed rule establishes procedures for issuance of declaratory rulings by the Department of Environmental Quality on significant matters when a request for a declaratory ruling has been received by the department. Promulgation of this rule is required by R.S. 30:2050.10.

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 I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 11. Declaratory Rulings

§1101. Purpose

This Chapter establishes procedures for issuance of declaratory rulings by the Department of Environmental Quality on significant matters when a request for a declaratory ruling has been received by the administrative authority. All requests for declaratory rulings shall be governed by the Louisiana Environmental Quality Act (in particular, R.S. 30:2050.10), the Administrative Procedure Act (in particular, R.S. 49:963), and this Chapter. This Chapter also establishes procedures for related matters such as, but not limited to, appeals related to declaratory rulings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1103. Definitions

The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular section:

Administrative Authority—the secretary of the Department of Environmental Quality, or his or her designee.

Administrative Record—any and all documents, testimony, records, files, or materials submitted to the administrative authority or compiled by the administrative authority concerning a request for a declaratory ruling or a declaratory ruling.

Aggrieved Person—person who has a real and actual interest that is or might be adversely affected by the agency action upon which a declaratory ruling is sought.

Declaratory Ruling—a final agency action in writing, identified as a declaratory ruling, and issued by the department with respect to one or more of the following:

a. the validity of a rule; or

b. the applicability of any rule, order, or statute to any person, property, or existing state of facts or facts certain to arise.

Declaratory Rulings Clerk—the person who, directly or through his/her designee(s), maintains custody of and receives filings to the records of declaratory rulings.

Declaratory Rulings Officer—the secretary or a delegated assistant secretary responsible for issuing a declaratory ruling.

Department—the Louisiana Department of Environmental Quality.

Intervener—an aggrieved person to whom intervener status is granted by the declaratory rulings officer under LAC 33:I.1133.

Party—the department, a petitioner, or an intervener.

Petitioner—any person who formally requests a declaratory ruling in accordance with this Chapter.

Pleading—a petition, motion, response, request, or any statement of position filed with the declaratory rulings clerk in connection with a request for a declaratory ruling or a declaratory ruling.

Secretary—the secretary of the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1105. Severability

If any provision of these rules, or the application thereof, is held to be invalid, the remaining provisions of these rules and regulations shall not be affected, so long as they can be given effect without the invalid provision. To this end, the provisions of these rules are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1107. Conflicts

Except as otherwise required by statutory law, this Chapter shall exclusively govern procedures for the department's issuance of declaratory rulings on significant matters, and this Chapter supersedes all rules in conflict herewith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1109. Declaratory Rulings Officer

A. Unless otherwise provided by the secretary in writing, all declaratory rulings shall be issued by the secretary. The secretary may delegate the authority to issue declaratory rulings to the various assistant secretaries.

B. The secretary or designated assistant secretary, when issuing a declaratory ruling, shall be referred to as the declaratory rulings officer.

C. The declaratory rulings officer shall have the authority to regulate all matters concerning a request for declaratory ruling and to issue the declaratory ruling after concurrence as to legal sufficiency by the assistant secretary for the Office of Legal Affairs and Enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1111. Duty To Maintain List

The secretary shall maintain, in a place accessible to the public in the Office of Legal Affairs and Enforcement, a list of all petitions for declaratory rulings and declaratory rulings and an index to the list. The list shall identify the petitioner, the matter to be decided, and when applicable, the location of the activity or facility that is the subject of the petition. The

list shall also include the date on which the petition is received, the date the secretary decides whether a declaratory ruling will be issued, the date the secretary sets for issuance of the ruling, the date the ruling issues, and the date of any request for modification or appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1113. Declaratory Rulings Clerk

A. The administrative authority shall designate a person in the Office of Legal Affairs and Enforcement to serve as the declaratory rulings clerk, who shall be the official custodian of declaratory rulings records. The clerk shall maintain these records separately from other records of the department.

B. The declaratory rulings clerk, or his/her designee, is authorized to:

1. certify copies of official documents in his/her custody;
2. ensure distribution of all decisions and notices issued by the declaratory rulings officer;
3. receive all filings of petitions, rulings, and other pleadings or documents;
4. maintain a list of petitions for declaratory rulings and declaratory rulings and an index to the list in a place accessible to the public; and
5. perform other duties as assigned by the declaratory rulings officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1115. Requests for Declaratory Rulings in Accordance with R.S. 30:2050.10

A valid request for issuance of a declaratory ruling is made by filing a written petition in accordance with LAC 33:I.1117 and 1137.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1117. Petition Contents and Form

A. A petition requesting issuance of a declaratory ruling shall be in writing and shall contain the following information:

1. the name, address, and telephone number of the petitioner and whether the petitioner is a permittee;
2. identification of the specific rule or statute in question;
3. the exact question presented to the department for ruling;
4. a concise statement of all particular facts necessary and sufficient to accomplish the following:
 - a. to show the nature of the controversy or uncertainty and the manner in which the rule or statute on which the declaratory ruling is sought applies or potentially applies to petitioner; and
 - b. to answer the question presented to the department for ruling;
5. a statement identifying all other rules, statutes,

orders, or statements (formal or informal) from officials, employees, or agents of any local, state, or federal government agency that are relevant to the question presented by the petitioner;

6. a statement of the reasons for submitting the petition, including a full disclosure of the petitioner's interest in obtaining the declaratory ruling;

7. a statement as to whether the question presented by the petitioner is presently pending before or under consideration by the department or any other administrative, legislative, or adjudicative body;

8. a statement as to whether the petitioner has some other adequate legal remedy, which will terminate the controversy or remove any uncertainty as to the applicability to petitioner or the circumstances cited of the rule, order, or statute in question; and

9. an affidavit that verifies the facts stated in the petition are true and correctly stated, and the verification is based upon the documents attached to or identified in the petition or based upon the affiant's personal knowledge.

B. A petition for declaratory ruling shall be filed with the Office of Legal Affairs and Enforcement by either of the following methods:

1. personal delivery to the assistant secretary for the Office of Legal Affairs and Enforcement or the declaratory rulings clerk at department headquarters, Fourth Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810; or

2. United States Mail as certified mail, return receipt requested to Declaratory Rulings Clerk, Office of Legal Affairs and Enforcement, Box 82282, Baton Rouge, LA 70884-2282.

C. A petition for declaratory ruling may be accompanied by a memorandum that urges the department to issue a declaratory ruling of specified content. Such memorandum should contain the arguments therefor and any relevant authorities in support thereof. No memorandum shall exceed 25 pages in length.

D. In addition to these requirements, a petition must meet the requirements of LAC 33:I.1137.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1119. Disposition of Petition

A. After determining whether any circumstances exist that preclude the issuance of a declaratory ruling under LAC 33:I.1121, the department shall, not later than 60 days after receipt of the petition, either:

1. issue a declaratory ruling;
2. deny the request for a declaratory ruling;
3. grant the request for a declaratory ruling and set a time within which the ruling will be issued; or
4. fail to respond to the petition, in which case the department's failure to respond shall be deemed to be a denial of the request for a ruling as well as a denial of the merits of the request.

B. All declaratory rulings and written denials of the requests for declaratory rulings issued by the department shall contain an explanation of the relevant facts and conclusions that served as the basis for the ruling or the denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1121. Circumstances in Which Declaratory Rulings May Not Be Issued

Circumstances in which declaratory rulings may not be issued include, but are not necessarily limited to:

1. lack of jurisdiction;
2. lack of clarity concerning the question presented;
3. the existence of pending or imminent litigation or administrative action or adjudication that may either answer the question presented by the petition or otherwise make an answer unnecessary;
4. the petition involves a subject, question, or issue that is the subject of a formal or informal matter or investigation currently pending before the department, a court, or other government agency;
5. the statute, rule, or order on which a declaratory ruling is sought is clear and not in need of interpretation to answer the question presented by the petition;
6. the facts presented in the petition are not sufficient to answer the question presented;
7. the petition fails to contain any of the information required by LAC 33:I.1117 or 1137;
8. the petitioner is not aggrieved by the rule or statute on which a declaratory ruling is sought;
9. the petition seeks a ruling on a moot or hypothetical question or will result in an advisory ruling or opinion; or
10. the question presented by the petition concerns the validity or constitutionality of a statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1123. Stay of Action

The filing of a request for declaratory ruling shall not stay any other department action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1125. Declaratory Rulings Initiated by the Secretary and Modification of Rulings

A. The secretary may issue a declaratory ruling setting forth the department's position with respect to any matter within its jurisdiction or authority or describing proposed agency action.

B. The declaratory rulings clerk shall give the petitioner whose declaratory ruling is being reversed or modified notice by certified mail return receipt of the reversal or modification.

C. The declaratory rulings clerk shall mail or hand deliver to any intervener a copy of the reversal or modification when issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1127. Effect of Declaratory Rulings

A. A declaratory ruling is not binding on the department except as to the parties and does not constitute a rule as

defined in R.S. 49:951 nor does its issuance require "rulemaking" as defined in R.S. 49:951.

B. A declaratory ruling may be used by the petitioner as a defense in any enforcement proceeding brought by the department after the issuance of the ruling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1129. Docket Number

At the time a request for issuance of a declaratory ruling is filed, it shall be assigned a docket number by the declaratory rulings clerk. The docket number shall be used on all subsequent documents filed in the matter. The fact that a request for declaratory ruling is docketed does not constitute a determination as to whether the request is granted nor as to its sufficiency or validity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1131. Parties

A. Parties in declaratory ruling proceedings may include:

1. the petitioner; and
2. an intervener.

B. Parties shall have the right to retain counsel to represent them, but shall not be required to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1133. Intervention

A. An aggrieved person has the right to intervene as a party in a declaratory ruling, provided the proper petition for intervention is filed at least 15 days prior to the declaratory ruling and such intervention is not likely to create an undue broadening of the issues or otherwise unduly impede the resolution of the matter.

B. If more than one person or entity with the same or similar interests seeks to intervene, the declaratory rulings officer may limit participation to designated representatives.

C. A petition for intervention shall comply with the requirements of LAC 33:I.1137 and shall also state all facts necessary to demonstrate that the intervener is an aggrieved person, including but not limited to, all facts necessary to demonstrate its position, and the manner in which the rule, statute, or order in question does or does not apply to the intervener.

D. A petition for intervention must be accompanied by an affidavit that verifies the facts stated in the petition are true and correctly stated and the verification is based upon the affiant's personal knowledge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1135. Consolidation and Separation of Petitions

A. When two or more petitions for declaratory ruling involve a common issue or issues of law or fact, they may be consolidated and considered as a single petition. In such cases all petitions shall be docketed under the lowest docket

number.

B. Petitions may be separated to simplify the proceedings or to permit a more orderly disposition of the matters consolidated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1137. Pleadings: Form and Content

A. Pleadings shall:

1. state the name, mailing address, and telephone number of the person causing the pleading to be filed. In instances where the person filing a pleading is represented by another person, that person's name, address, and telephone number shall be included in the pleading;

2. be legibly written in ink, typewritten, or printed with one-inch top, bottom, and side margins, and shall be on strong durable white paper, no larger than 8½ by 11 inches;

3. be double-spaced, have its pages numbered, and if customary, be divided into separate numbered paragraphs;

4. state clearly, concisely, and particularly all relevant facts that give rise to and support the relief sought;

5. when appropriate, identify any statute, rule, written statement of law or policy, decision, order, permit, license, or any other regulatory mechanism and the particular aspect of each upon which the pleading relies;

6. state clearly and concisely the relief or action sought;

7. be signed in ink by the party filing same or by his/her duly authorized agent or attorney. The signature of the person signing the document constitutes a certification that he or she has read the document and that, to the best of his/her knowledge, information, and belief, every statement contained in the document is true; and

8. certify that a copy of the pleading or document has been mailed or hand delivered, on or before the date it is filed with the declaratory rulings clerk, to all parties.

B. The heading shall be similar in format to and shall include the information contained in LAC 33:I.331.B.

C. Failure to comply with this Section shall not invalidate the pleadings, but may be grounds for denial of the request for issuance of a declaratory ruling. The declaratory rulings officer shall have discretion to rule whether pleadings are in substantial compliance with this Section, to require the amendment or supplementation of any pleading, or to take such other action as may be appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1139. Filing of Pleadings and Documents

A. Any pleading, document, or other item that is being filed into the record maintained by the declaratory rulings clerk shall be filed by mail or hand delivery to the clerk.

B. All pleadings, documents, or other items shall be deemed filed on the date received by the declaratory rulings clerk.

C. An original and one copy of all pleadings and documents shall be filed unless otherwise specifically provided by a particular regulation or by order of the declaratory rulings officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1141. Computation of Time

In computing any period of time prescribed or allowed in this Chapter or the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the day on which the designated period begins shall not be included. The last day of the designated period shall be included unless it is a Saturday, Sunday, or a legal holiday as provided in R.S. 1:55, in which event the designated period shall run until the end of the next day that is not a Saturday, Sunday, or a legal holiday.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1143. Discovery

No discovery is allowed by or between the parties to proceedings concerning a petition for declaratory ruling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1145. Judicial Review

A party seeking judicial review of a declaratory ruling shall comply with R.S. 30:2050.21.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10, 2050.21.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1147. Termination of Proceedings

Issuance of a ruling or unconditional withdrawal of the request for a ruling terminates the proceedings related to a request or petition for declaratory ruling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§1149. Entry and Notice of Rulings

A. Entry. The original of any declaratory ruling or order issued shall be filed with the declaratory rulings clerk who shall notify all parties of the decision or order.

B. Notice

1. When a declaratory rulings officer issues, reverses, or modifies a declaratory ruling, a copy shall be served by certified mail return receipt requested upon the petitioner.

2. The declaratory rulings clerk shall also mail or deliver a copy of the ruling to any intervener and to any person who has on file with the declaratory rulings clerk a written request for notice that includes the information necessary to receive notice (including requester's name and address and the matter(s) about which requester desires notice).

3. Declaratory rulings or a summary of rulings shall be published in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

A public hearing will be held on June 26, 1997, 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, 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 OS022. Such comments should be submitted no later than July 3, 1997, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX number (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Herman Robinson
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Declaratory Rulings

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Promulgation of the rule will not cause state or local governmental units to incur any implementation costs or savings.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Promulgation of the proposed rule will not affect revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Persons who choose to seek declaratory rulings from the Department of Environmental Quality may incur an economic cost or a benefit. Any cost is attributable to a desire for paid assistance from consultants, attorneys, and/or notaries in preparing the petition and affidavit required by the rule. A savings is possible because the rule will specify in detail the types of information and the form of the petition, allowing some persons seeking a ruling to dispense with assistance. Consultants, attorneys, and notaries may experience an increase in economic benefit when consulted for assistance with compliance with the proposed rule.
The costs and benefits cannot be quantified because there is no accurate way to estimate the number of declaratory rulings petitions that will be filed, the assistance needed, or the fees charged.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Promulgation of the proposed rule will have no measurable effect on competition and employment.

Herman Robinson, CPM
Assistant Secretary
9705#065

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Firefighters' Pension and Relief Fund City of New Orleans and Vicinity

Deferred Retirement Option Plan (DROP)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity (the "fund"), pursuant to R.S. 11:3363(F), proposes to amend rules and regulations for participation in the Deferred Retirement Option Plan, in accordance with the provisions of R.S. 11:3385.1.

Participation in the Deferred Retirement Option Plan

* * *

A. - C.10. ...

11. A member may terminate his participation in the DROP to be effective as of the last day of any calendar month prior to the end of the maximum three-year period by filing with the Board of Trustees of the Fund a DROP withdrawal application, providing the DROP withdrawal application is submitted to the board no later than the last day of the previous calendar month. Nevertheless, in the event the board determines based on all facts and circumstances at issue that justice so requires and equity so warrants, the board shall be fully authorized, entirely in its discretion, to approve termination of a firefighter's participation in the DROP effective upon a date earlier or later than would otherwise apply.

12. - 21(c) ...

D. - F.3. ...

A public hearing will be conducted by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity at 10 a.m. on June 26, 1997 at 329 South Dorgenois Street, New Orleans, LA 70119.

Any interested party may submit data, views or arguments orally or in writing concerning these rules or may make inquiries concerning the adoption of these rules to Richard J. Hampton, Jr., secretary-treasurer of the Board of Trustees, 329 South Dorgenois Street, New Orleans, LA 70119.

William M. Carrouché
President

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: *Deferred Retirement Option Plan (DROP)*

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The only established, anticipated implementation cost is the cost of printing and distributing copies of the amended rules and regulations to persons requesting a copy of the same. Copying costs, assuming every participant requests one copy, are estimated to be \$528.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption and implementation of the amended rules and regulations for participation in the Deferred Retirement Option Plan should not have any effect on revenue collection of state or local government units.

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

Adoption and implementation of the amended rules and regulations should not have a cost impact or provide an economic benefit to any person or nongovernmental group other than costs and benefits already incurred pursuant to the statutory requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption and implementation of the amended rules and regulations for participation in the Deferred Retirement Option Plan should not have any effect on competition and employment.

Marie Healey
Fund Counsel
9705#002

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Medications Used in the Treatment of Obesity (LAC 46:XLV.6903 and 6907)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270(A)(1), (B)(6) and 37:1285(B), and the provisions of the Administrative Procedure Act, intends to amend its rules governing the prescription, dispensation and administration of medications used in the treatment of obesity, LAC 46:XLV.6903 and 6907, to eliminate application of the durational limits on prescribing Schedule IV anorectic medications. The proposed rule amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Profession Subpart III. Practice

Chapter 69. Prescription, Dispensation and Administration of Medications

Subchapter A. Medications Used in the Treatment of Obesity

§6903. Definitions

As used in this Subchapter, the following terms shall have the meanings specified:

* * *

Schedule IV Anorectic—fenfluramine, dexfenfluramine, phentermine, diethylpropion, mazindol and any other substance now or hereafter classified as a Schedule IV controlled substance under and pursuant to federal DEA regulations, 21 C.F.R. §1308.14 and which is indicated for use in the treatment of exogenous obesity by express approval of the FDA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:744 (July 1992), amended LR 23:.

§6907. Use of Schedule III-IV Anorectics; Conditions; Limitations

A. General Conditions. A physician shall not prescribe, dispense, or administer a Schedule III or Schedule IV anorectic for the purpose of weight reduction or control in the treatment of obesity except as an adjunct to a therapeutic regimen of weight reduction based on prescribed sound nutrition, caloric restriction, exercise, and behavior modification and otherwise in accordance with the FDA-approved indications for the medication and contraindications for unapproved combinations of anorectic agents. Schedule III-IV anorectics may be prescribed, dispensed, or administered only to an adult patient who is obese under recognized generally accepted criteria for determining obesity, whose obesity is exogenous and not primarily metabolic, who is not pregnant, who does not suffer from or have any disease or condition constituting a recognized contraindication for use of the substance, and who otherwise satisfies the conditions requisite to treatment with anorectics as prescribed by this Section.

* * *

E. Limitations on Use. A physician shall not prescribe or dispense Schedule III or IV anorectics to any patient:

1. in dosage greater than the maximum dosage indicated by the anorectic manufacturer's FDA-approved dosage recommendation;
2. in number or dosage units greater than an amount sufficient for use of the anorectic for a period of 30 days; or
3. for an aggregate period in excess of 12 weeks during any 12-month period; provided, however, that this limitation shall not be applicable with respect to Schedule IV anorectics.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:744 (July 1992), amended LR 23:

Inquiries concerning the proposed amendments may be directed in writing to Delmar Rorison, Executive Director, Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed amendments, in writing, to the State Board of Medical Examiners, Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA 70130). Written comments must be submitted to and received by the board within 60 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Delmar Rorison
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Medications Used in the Treatment of Obesity

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that implementation of the proposed rule amendments will result in any costs to any state or local governmental unit, including the Board of Medical Examiners, other than the cost of publication of the proposed rule amendments in the *Louisiana Register*, which is anticipated to be \$80. Licensees will be notified of the amendment through publication in the board's existing newsletter.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Because the proposed rule amendments affect only the scope of application of substantive regulations which do not affect board revenues, it is not anticipated that the proposed rule amendments will have any effect on the revenue collections of the board or of any other state or local governmental unit.

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

Physicians who use anorectic medications in the medical treatment of obesity will be permitted to exercise their professional judgment with respect to the length of time that such medications may be effectively and safely continued. Such physicians, and their patients who may desire to receive and continue such therapy on their physician's advice, will be directly affected by the proposed rule amendments. It is not anticipated that the amendments will have any material effect on costs of such groups attributable to changes in workload or additional paperwork.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendments will have any impact on competition or employment in either the public or private sector.

Delmar Rorison
Executive Director
9705#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

**Certified Animal Euthanasia Technicians
(LAC 46:LXXXV.1201)**

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.1201 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1558 et seq.

The proposed amendment allows the board to require applicants for certification as an animal euthanasia technician to furnish to the board certified scores on any previous examinations in animal euthanasia and/or proof of successful completion of a board-approved course in animal euthanasia within a three-year period.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

**Chapter 12. Certified Animal Euthanasia Technicians
§1201. Applications for Certificates of Approval**

- A. ...
 B. In addition to the application form, the board may require that the applicant furnish all of the following:
 1. - 3. ...
 4. certified scores on any previous examinations in animal euthanasia and/or proof of successful completion of a board-approved course in animal euthanasia within a three-year period;
 5. - 9. ...
 C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 23:

Interested parties may submit written comments to Charles B. Mann, Executive Director, Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203. Comments will be accepted through the close of business on June 26, 1997.

A public hearing on the proposed changes will be held on June 25, 1997, at 9 a.m. at the office of the Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Charles B. Mann
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Certified Animal Euthanasia Technicians**

- 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, except for those associated with publishing the amendments (estimated \$80). Licensees will be informed of this rule change via the board's regular newsletter, which is already a budgeted cost of the board.
- 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. There will be no revenue impact as no increase in fees will result from these amendments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
 There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on employment and competition.

Charles B. Mann
Executive Director
9705#059

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

Fees (LAC 46:LXXXV.501 and 503)

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.Chapter 5 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and the Veterinary Practice Act, R.S. 37:1518 et seq.

The proposed amendments to Chapter 5 include the removal of a combined fee when taking the NBE and CCT exam at the same time, and elimination of the rule that allows persons who have obtained the age of 65 to be exempt from the renewal fee.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LXXXV. Veterinarians**

Chapter 5. Fees

§501. Fees

The board hereby adopts and establishes the following fees:

| Licenses | |
|----------------------------------|-------|
| Annual renewal-active license | \$125 |
| Annual renewal-inactive license | \$ 75 |
| Duplicate license | \$ 25 |
| Original license fee | \$100 |
| Temporary license | \$100 |
| Exams: | |
| Clinical Competency Test (CCT) | \$190 |
| National Board Examination (NBE) | \$215 |
| State Board Examination | \$175 |

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 and 1520.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980), amended LR 18:380 (April 1992), LR 19:1326 (October 1993), LR 23:

§503. Exemption of Fee

A. The board may exempt a veterinarian licensed in the state of Louisiana from the annual license renewal fee if:

1. - 2. ...
 3. Repeal.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 and 1520.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 10:208 (March 1984), amended LR 23:

Interested parties may submit written comments to Charles B. Mann, Executive Director, Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203. Comments will be accepted through the close of business on June 26, 1997.

A public hearing on the proposed changes will be held on June 25, 1997, at 9 a.m. at the office of the Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Charles B. Mann
Executive Director

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

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, except for those associated with publishing the amendments (estimated \$80). The veterinary profession will be informed of this rule change via the board's regular newsletter, which is already a budgeted cost of the board. The fee schedule for examinations is also included with application materials.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a slight impact on revenue collections of the state. Approximately 80 persons per year have taken the NBE and CCT exams at the same time and paid the combination fee of \$355 (total revenue=\$28,400); therefore, assuming 80 persons per year take the NBE and CCT exams at the same time in the future and pay the separate fees of \$215 and \$190, respectively, or a total of \$405, the Board of Veterinary Medicine will collect \$32,400, an increase of \$4,000 per year. The renewal fee exemption for persons over 65 years of age is discretionary under the current rule, and the board does not provide the exemption; therefore, no revenue increase or decrease will result in eliminating the fee exemption option.

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

Persons who take the NBE and CCT exams at the same time will no longer have the option of paying a combination fee. These persons will pay an additional \$50.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on employment and competition.

Charles B. Mann
Executive Director
9705#056

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

**Licensure Procedures
(LAC 46:LXXXV.301-307)**

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.Chapter 3 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq.

The proposed amendments to Chapter 3 relate to licensure procedures. They include specifying the number of letters of reference required and prohibiting family members and fellow students from being referees; clarifying requirements for foreign veterinary school graduates; allowing the board to take action against a licensee who submits false or misleading information during the licensure process; providing for the annual adoption of the national examination to be taken by the applicants; specifying other requirements that must be met before taking examinations and licensure; revising language related to the state exam to reflect current board practice; and adding the Board of Pharmacy as an agency to receive lists of suspended and revoked licenses.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 3. Licensure Procedures

§301. Applications for Licensure

A. ...

B. In addition to the above requirements, the board may also require that any applicant furnish the following information:

1. - 6. ...

7. three letters of recommendation from licensed veterinarians or other professionals, none of whom may be members of the applicant's family or currently enrolled in the same veterinary school curriculum as the applicant. Said references are to be furnished for the purpose of determining the applicant's professional capabilities and ethical standards;

8. prior to licensure in Louisiana, a foreign veterinary school graduate must provide a copy of the "Educational Commission for Foreign Veterinary Graduates" or "ECFVG" certificate to the board.

C. ...

D. The board may reject any applications which do not contain full and complete answers and/or information as requested, and may reject any application, or take action against the license of any licensee, if any of the information furnished in the application is fabricated, false, misleading or incorrect.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982), amended LR 10:464 (June 1984), amended by the

§302. Renewals

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:343 (March 1993), repealed LR 23:

§303. Examinations

A. Examinations Required for Licensure

1. The board requires that all applicants for licensure to practice veterinary medicine in the state of Louisiana shall pass the national examination in addition to any and all state examinations (herein defined as such written examination, oral interviews and/or practical demonstrations as the board may request or require).

2. The Board of Veterinary Medicine shall annually adopt national examination(s) as the board deems appropriate. Said examinations are hereafter referred to as the "national examination(s)."

3. All applications, correspondence, and examinations shall be in the English language.

4. All candidates for examination must be:

- a. a graduate of an AVMA accredited school or college of veterinary medicine; or
- b. currently enrolled in the ECFVG program or certified by the ECFVG program; or
- c. currently enrolled in the fourth year of veterinary school.

B. National Examinations

1. All applicants for licensure must take and successfully pass the national examinations as a condition for licensure in Louisiana.

2. The board hereby adopts the passing scores on the national examinations set by the NBEC and adopted or endorsed by the AAVSB.

3. Scores shall be valid for a period of five years from the date of the examination administration.

4. The requirement for taking the national examinations may be waived when an applicant:

- a. holds a currently valid license in good standing in another state, district, or territory of the United States; and
- b. has been employed as a licensed veterinarian in a full-time private practice or its equivalent as determined by a majority vote of the board for the five years immediately preceding his application.

5. An applicant who cannot demonstrate eligibility for a waiver of the national examinations will be required to provide official copies of his scores to the board. Said scores shall be no more than five years old.

6. An applicant whose scores are greater than five years old and who cannot demonstrate eligibility for a waiver of the national examinations must satisfy one of the following options:

- a. applicant may retake and successfully pass the national examinations; or
- b. applicant may apply to the board for a determination of experience and education deemed to be equivalent to the requirements for eligibility of waiver of

these examinations.

C. State Examination

1. A state board examination shall be required of all applicants for licensure in Louisiana. No person shall obtain any license to practice veterinary medicine without successfully passing the Louisiana state board examination. No waivers of the state board examination shall be granted.

2. The state board examination shall consist of no fewer than 25 questions taken from the veterinary practice act statutes and rules promulgated by the board. This test may also contain items taken from statutes and/or regulations promulgated by the other state and federal agencies deemed by the board to be pertinent to the practice of veterinary medicine.

3. Prior to taking the examination, applicants will be provided with copies of all rules, regulations, and statutes from which items on the RPC examination may be taken.

4. The state board examination may be prepared, administered and graded by the members of the Board of Veterinary Medicine or may be prepared, administered and/or graded, in whole or in part, by any person, firm, corporation or other entity selected, requested or designated to do so by the Board of Veterinary Medicine.

5. The state board examination shall be administered monthly or as often as is practicable and necessary. To be eligible to sit for the state board, an applicant shall demonstrate that he is a graduate of an accredited school of veterinary medicine or eligible for graduation within not less than 60 days of the date that the examination is administered.

6. Scores shall be valid for a period of five years from the date of the examination administration.

D. Any applicant who fails to take and/or pass all required examinations in a continuous five-year period shall be required to retake all examinations whose scores are greater than five years old, unless the applicant can demonstrate eligibility for a waiver as described in this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982) amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:344 (March 1993), LR 19:1327 (October, 1993), LR 23:

§305. Renewals

A. Pursuant to R.S. 37:1524 and 37:1525, all licenses must be renewed annually. Failure to renew a license shall be considered a violation of the rules of professional conduct. Licenses which are not renewed within 60 days of the deadline for renewal will be suspended or revoked by majority vote of the board at the next available board meeting.

B. Persons failing to renew their license by more than 60 days after the annual deadline will receive one notification via certified mail prior to a suspension of the license. Such notice will advise of actions to be taken by the board in conjunction with the failure to renew. These actions may include the imposition of a late fee and/or a fine for reinstatement of the license. The board may also elect to publish, in its own newsletter and/or publications of the LVMA, and distribute to other parties, the names of such persons holding suspended or revoked licenses. The distribution of this list may include, but

is not limited to, the Office of State Narcotics, the federal Drug Enforcement Administration, and Food and Drug Administration, drug supply wholesalers, veterinary supply wholesalers, Board of Pharmacy, and the LVMA.

C. It is the duty of the licensee to maintain a current address with the office of the Board of Veterinary Medicine and to notify the board's office if an annual re-registration form is not received.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:343 (March 1993), amended LR 23:

§307. Temporary Permits

A. The board may issue temporary licenses when the following conditions are satisfied:

1. Applicant must make full application for licensure; such application is to include:

a. payment of fee to enroll in the next available state board examination; and

b. transfer of scores on the national examinations which meet or exceed the passing score for Louisiana for the specific examination date and payment of fee for those transfers, except where applicant meets the criteria for eligibility of waiver as found in §302.B; and

c. payment of fee for temporary licensure.

2. - 5. ...

B. - D. ...

E. No person who has failed the state board examination may receive a temporary license.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:48 (January 1993), LR 23:

Interested parties may submit written comments to Charles B. Mann, Executive Director, Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203. Comments will be accepted through the close of business on June 26, 1997.

A public hearing on the proposed changes will be held on June 25, 1997, at 9 a.m. at the office of the Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Charles B. Mann
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Licensure Procedures

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, except for those associated with publishing the amendments (estimated \$200). The veterinary profession

will be informed of this rule change via the board's regular newsletter, which is already a budgeted cost of the board.

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. There will be no revenue impact as no increase in fees will result from these amendments. The requirement to pass national and state examinations, for which there is a fee, already exists under current rules.

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

There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on employment and competition.

Charles B. Mann
Executive Director
9705#058

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Veterinary Medicine

Operations of the Board of Veterinary Medicine
(LAC 46:LXXXV.Chapter 1)

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.Chapter 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq.

The proposed amendments to Chapter 1 provide for the handling of public record requests; make technical changes relative to meetings of the board; make changes to the appeals and review process; specify a procedure for complaint resolution and disciplinary actions; clarify and revise the complaint resolution and disciplinary action procedures for nonveterinarians; provide for a regular report of board activities to be disseminated to licensees and other interested parties; make technical changes related to examination vendors and other matters; and add headings to some sections to make this Chapter more accessible to the public and licensees.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 1. Operations of the Board of Veterinary Medicine

§101. Information, Agency Office, Request for Rules or Action

A. Principal Office. The board shall maintain its principal office in Baton Rouge, Louisiana, where the records of the board shall be maintained for public inspection by any interested parties during regular office hours.

B. Requests for Copies of Public Records. Persons who wish to receive notices of meetings, copies of meeting

minutes, copies of the notice of intent for a rule change, or any other public information from the board office must submit a written request. The board shall charge the fee set by the Division of Administration for providing copies and mailing documents so requested. Payment may be requested in advance of mailing or otherwise providing documents. Any person indebted to the board may be denied further services until such time as the indebtedness has been cleared. The board may provide copies free of charge to other governmental agencies or when the total charges are less than \$1.

C. **Requests to Review Public Records.** Persons who wish to obtain information concerning board activities or to review any public documents on file at the offices of the board, may do so at the principal office of the board during regular business hours. Notices of board meetings, proposed rules, and all other information concerning the activities, functions and actions of the board which are public records shall be available for public inspection at the principal office of the board during regular business hours.

D. **Submitting Information to the Board.** Persons who wish to request adoption, amendment or repeal of rules, who seek to institute disciplinary proceedings, or who have other business of whatever kind or character before the board may do so at the principal office of the board during regular business hours.

E. **Filing a Complaint.** Persons who wish to file a complaint against a licensee of the board or against other persons over whom the board has jurisdiction shall submit a written complaint which is signed and notarized. Complaints must be filed in accordance with all time limitations established by R.S. 37:21.

F. **Reports to Licensees.** The board shall provide a regular report, which shall include but not be limited to: notices of changes in policy, procedure, regulations, and/or statutes by the board or other governmental entities and dispositions of disciplinary cases. Other information deemed by the board to be pertinent in its mission of protecting the public health, safety, and welfare in the practice of veterinary medicine shall be printed and mailed to all licensees and other interested parties who have requested in writing to receive this report. The report shall be published not less than one time per fiscal year and may be published more frequently as the president of the board shall order.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:1328 (October 1993), LR 23:

§103. Meetings

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

B. Additional meetings of the board may be called by the

president or by any three members of the board and may be announced by posting notice of the date, time and place of such meeting at least 24 hours in advance thereof, at the principal office of the board located in Baton Rouge, Louisiana.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:65 (February 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:222 (March 1990), LR 19:345 (March 1993), LR 20:1380 (December 1994), LR 23:

§105. Appeals and Review

A. **Applicants for Licensure or Examination.** Any applicant desiring to review his or her (hereinafter in this title, the masculine pronouns "he," "him," and "his" shall be deemed to include the feminine pronouns "she," "her," and "hers") national examination and/or the master answer sheet and/or the examination questions shall make arrangements with the national examination service vendor and/or any person, firm, corporation or entity charged by the Board of Veterinary Medicine with the preparation, grading and/or administration of the national examination(s). The Board of Veterinary Medicine shall not provide reviews to applicants of the questions contained on the national examination, the answers to the questions contained on the national examination, or any applicant's score on the national examination.

B. **Persons Aggrieved by a Decision of the Board**

1. Any person aggrieved by a decision of the board, other than a person against whom disciplinary proceedings have been brought pursuant to R.S. 37:1526 and/or 37:1531, may, within 30 days of notification of the board's action or decision, petition the board for a review of the board's actions.

2. Such petition shall be in the form of a letter, signed by the person aggrieved, and mailed to the board at its principal office.

3. Upon receipt of such petition, the board then may proceed to take such action as it deems expedient or hold such hearings as may be necessary, and may review such action as it deems expedient, and may review such testimony and/or documents and/or records as it deems necessary to dispose of the matter, but the board shall not, in any event, be required to conduct any hearings or investigations, or consider any offerings, testimony or evidence unless so required by statute or other rules or regulations of the board.

C. **Licensee Against Whom Disciplinary Proceedings Have Been Brought.** Any person against whom disciplinary proceedings have been instituted and against whom disciplinary action has been taken by the board pursuant to R.S. 37:1526 and/or 37:1531, shall have rights of review and/or rehearing and/or appeal in accordance with the terms and provisions of the Administrative Procedure Act and §106.D below.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:65 (February 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:345 (March 1993), LR 23:

§106. Complaint Resolution and Disciplinary Procedures

A. Hearings and Informal Dispositions

1. The board may call an administrative public hearing for the purpose of determining whether a respondent has violated any portion of the Veterinary Practice Act (R.S. 37:1511 et seq.) or rules pursuant to R.S. 37:1526. Notice of such hearing and subpoenas issued by the board pursuant to such hearing may be delivered by certified, return-receipt-requested mail or by hand-delivery.

2. As provided by the Administrative Procedure Act, R.S. 49:956, the respondent may waive his right to a public hearing and resolve any complaint case by means of informal disposition. The board will offer, via certified return-receipt-requested mail, this option to a respondent against whom it has been determined that a valid complaint has been received and where, in the opinion of the board, a public hearing is not necessary to effectively and judiciously render a disciplinary action.

3. The respondent may be required to appear before the board, or a duly authorized committee appointed by the board, to discuss the charges and accept or decline disciplinary measures and fines which the committee recommends to the board. Such appearance may be required as part of an informal disposition and/or at an administrative public hearing.

B. Appointing a Complaint Review Committee

1. As provided by R.S. 37:1518, the board may appoint a committee of persons to conduct investigations for the purpose of discovering violations of the statutes and rules governing the practice of veterinary medicine. Any committee so appointed shall be chaired by a member of the board who will select two other practicing veterinarians to serve as committee members.

2. The functions of the complaint review committee shall be to:

a. review all complaints to determine whether or not the board has jurisdiction over the actions described in the complaint, and, upon finding that jurisdiction exists, to

b. conduct investigations into the matters described in the complaint, and

c. to determine the specific statute(s) and/or regulation(s) which appear to have been violated, and

d. to assess the severity of the violation(s) and to make a recommendation for disciplinary action(s) to be imposed by the board.

3. The appointed members of the complaint review committee shall remain anonymous.

C. Presenting the Findings and Recommendations to the Board

1. The findings and recommendations of the complaint review committee shall be presented to the respondent in an informal disposition meeting offered as an alternative to an administrative public hearing. The informal disposition may be accomplished by certified, return-receipt-requested mailings or by teleconference at the discretion of the committee chairperson.

2. Any respondent who wishes to accept the findings and recommendations of the complaint review committee and allow the board to ratify those actions without benefit of an

administrative public hearing must verify this decision in writing. The respondent shall agree that the board may review the findings and recommendations of the complaint review committee. The respondent shall agree that the board shall not become tainted or prejudiced by its review of the complaint committee's findings and recommendations in the event an administrative hearing is held or in the event an appeal is taken.

3. Upon hearing the findings and recommendations of the complaint review committee, the members of the board may choose to:

a. accept and ratify the findings, in which case the matter will be considered resolved and a consent order will be drawn up for execution by all parties; or

b. amend the findings and recommendations of the complaint review committee, in which case the matter shall be returned to the informal disposition process; or

c. reject the findings and recommendations of the complaint review committee, in which case the board shall indicate the areas in which additional investigation and/or information is required to be able to render a decision as to the merits of the case.

4. At least three members of the board must reach a consensus to render discipline or close a matter brought before it.

5. The member of the board serving as the chairperson of the complaint review committee shall not vote in the matters described in Paragraph 3 above and the board president shall vote. However, in the event the vote is tied, the chairperson may vote.

D. The Appeal Process

1. Except in situations in which the respondent has waived his right to a public hearing and/or to an appeal, the respondent has the right to appeal the decision of the board in accordance with §105.C above, whether such decision is rendered by judgment via an administrative public hearing or by decision at an informal disposition meeting. In the aforementioned cases, the 30-day period for making an appeal shall begin on the date recorded on the return-receipt card for the certified mailing of the final judgment or consent order. In the case of refusal to accept a certified letter, the 30-day appeal period shall begin on the date of the mailing of the document.

2. Any other person aggrieved by the decision of the board in a complaint proceeding may appeal that decision in accordance with §105.B above.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:345 (March 1993), amended LR 23:

Interested parties may submit written comments to Charles B. Mann, Executive Director, Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203. Comments will be accepted through the close of business on June 26, 1997.

A public hearing on the proposed changes will be held on June 25, 1997, at 9 a.m. at the office of the Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA. All interested persons will be afforded an

opportunity to submit data, views or arguments, orally or in writing at said hearing.

Charles B. Mann
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Operations of the Board of
Veterinary Medicine**

- 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, except for those associated with publishing the amendments (estimated \$280). The veterinary profession will be informed of this rule change via the board's regular newsletter, which is already a budgeted cost of the board.
- 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. There will be no revenue impact as no increase in fees will result from these amendments. The board currently charges for public document requests in accordance with Division of Administration policy. The change in the rule makes clear that this charge exists.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups. The proposed amendments reflect the current practices of the board, and are intended to clarify board procedures for the public. The board currently charges for public documents requests in accordance with Division of Administration policy. The change in the rule makes clear that this charge exists.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on employment and competition.

Charles B. Mann
Executive Director
9705#057

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

Preceptorship Program (LAC 46:LXXXV.Chapter 11)

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.Chapter 11 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

The proposed amendments to Chapter 11 change the title of the Chapter from "Intern Program" to "Preceptorship Program"; lengthen the preceptorship program from five to eight weeks; specify when the preceptorship may be taken within the third or fourth year of study; define third and fourth year of study; define a "week in training"; revise attendance log requirements; and clarify the requirements for submitting evaluation forms.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 11. Preceptorship Program

§1103. Definitions

Fourth Year—the final year of study for a Doctor of Veterinary Medicine degree, or equivalent, at an accredited school of veterinary medicine.

Preceptorship Program—a preceptorship program approved by the Louisiana Board of Veterinary Medicine which involves no less than five nor more than 10 weeks.

Until April 30, 1998, the program shall consist of not less than five weeks in training in an approved private clinical practice situation under the direct supervision of a practicing licensed veterinarian. On or after May 1, 1998, the program shall consist of not less than eight calendar weeks in training in an approved private clinical practice situation under the direct supervision of a practicing licensed veterinarian. For students graduating in calendar year 1999 and 2000, the program must be performed after May of the third year of study. For students graduating in 2001 and thereafter, the program must be performed after January of the fourth year of study.

Third Year—the year preceding the final year of study for a Doctor of Veterinary Medicine degree, or equivalent, at an accredited school of veterinary medicine.

Week in Training—a week in training shall consist of no more than 40 hours earned during no more than six days within a calendar week.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 19:208 (February 1993), LR 23:

§1119. Preceptorship Attendance Log

Each preceptee shall be required to keep a daily log of his attendance for the duration of the program and the form shall be reviewed and signed by the preceptor.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:234 (March 1990), amended LR 23:

§1121. Evaluations

At the conclusion of the preceptorship program, the preceptor and preceptee shall complete an evaluation form provided by the board and return the completed form to the board office within 10 days of completion of the preceptorship program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:234 (March 1990), amended LR 23:

Interested parties may submit written comments to Charles B. Mann, Executive Director, Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203. Comments will be accepted through the close

of business on June 26, 1997.

A public hearing on the proposed changes will be held on June 25, 1997, at 9 a.m. at the office of the Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Charles B. Mann
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Preceptorship Program**

- 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, except for those associated with publishing the amendments (estimated \$80). The veterinary profession will be informed of this rule change via the board's regular newsletter, which is already a budgeted cost of the board.
- 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. There will be no revenue impact as no increase in fees will result from these amendments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Applicants who must meet the preceptorship requirements to be licensed by the Board of Veterinary Medicine will be affected by these rule changes, as will veterinarians who act as preceptors. Lengthening the preceptorship from five to eight weeks should increase costs for both preceptees and preceptors. However, the board leaves financial arrangements to be arranged between the preceptor and preceptee (see §1117 of this Chapter). The change in attendance log requirements reduces paperwork for preceptees and preceptors.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on employment and competition.

Charles B. Mann
Executive Director
9705#060

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

**Professional Conduct—Specialty
List (LAC 46:LXXXV.1063)**

(Editor's Note: The following notice of intent, published on page 494 of the April, 1997 Louisiana Register, is being republished to include information on public comments and a public hearing, which was inadvertently omitted by the Office of the State Register. The Board of Veterinary Medicine intends to continue with rulemaking, as provided for in R.S. 49:950 et seq.,

using April 20, 1997 as the rule proposal date. PLEASE NOTE: The board adopted an identical emergency rule, effective March 10, 1997 for 120 days, published on page 269 of the March, 1997 Louisiana Register. Further, in order to accommodate individuals desiring to comment on this proposed rule, the board has extended the public comment period to May 30, 1997.)

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.1063 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq. The effective date of this amendment will be August 1, 1997.

This proposed rule is intended to promote the public health, safety, and welfare by safeguarding the people of this state from veterinarians who may state or imply that they are certified or recognized specialists without appropriate board certification in such specialty. The rule will insure that veterinarians who claim to be "specialists" have the appropriate credentials as recognized by the American Veterinary Medical Association (AVMA); that diplomates of the American Board of Veterinary Practitioners claim only a specialty for the class of animals in which they specialize; and that veterinary hospitals only use the term "specialty" or "specialists" when all veterinary staff are board-certified specialists.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 10. Professional Conduct

§1063. Specialty List

- A. ...
- B. A veterinarian may not use the term *specialist* for an area of practice for which there is not AVMA recognized certification.
- C. A diplomate of the American Board of Veterinary Practitioners can claim only a specialty for the class of animals in which he specializes, not for medical specialties unless he is board-certified in those medical specialties.
- D. The term *specialty* or *specialists* is not permitted to be used in the name of a veterinary hospital unless all veterinary staff are board-certified specialists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518(A)(9).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 23:

Interested parties may submit written comments to Charles B. Mann, Executive Director, Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203. Comments will be accepted through the close of business on May 30, 1997.

A public hearing on the proposed changes will be held on May 27, 1997 at 9 a.m. at the office of the Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

James R. Corley, D.V.M.
President

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Professional Conduct—Specialty List

- 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, except for those associated with publishing the rule (estimated \$80). The veterinary profession will be informed of this rule change via the board's regular newsletter, which is already a budgeted cost of the board.
- 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. There will be no revenue impact as no increase in fees will result from this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups. License renewal forms already include space to indicate specialties held.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on employment, nor is any effect on competition expected.

Charles B. Mann
Executive Director
9705#009

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

Veterinary Practice (LAC 46:LXXXV.Chapter 7)

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.Chapter 7 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq. The board proposes to adopt a rule relative to alternative medicine, §712.

The proposed amendments to Chapter 7 include specifying that the record keeping rules are for the purpose of producing a record such that a veterinary peer can gain a full understanding of the findings, diagnostic process, reasons for treatment protocol, and applicability of surgical procedures. The proposed amendments further specify that records shall be legible; require veterinarians to provide any and all records as requested by the board to the board; establish minimum standards for a synopsis record; provide that failure to comply with record keeping requirements shall be considered a violation of the Rules of Professional Conduct; extend the list of accepted livestock management practices; make a rule related to alternative therapies; provide that a hospital as defined in §700 must have access to a diagnostic x-ray machine and development equipment area kept in compliance

with state and federal regulations; and clarify the need for hot and cold running water to be accessible to the surgery room.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§701. Record Keeping

A. It shall be considered unprofessional conduct within the meaning of R.S. 37:1526(14) for a licensed veterinarian to keep improper records. The purpose of these regulations is to produce a record such that a veterinary peer can, by using said records, gain a full understanding of the findings, diagnostic process, reasons for treatment protocol, and applicability of surgical procedures. Records shall be legible, and established and maintained as follows:

1. - 2. ...

B. Patient records record keeping requirements shall be maintained for a period of five years and are the responsibility and property of the veterinarian. The veterinarian shall maintain such records and shall not release the records to any person other than the client or a person authorized to receive the records for the client. The veterinarian shall provide any and all records as requested by the board to the board. Failure to do so shall be considered unprofessional conduct.

C. Copies or synopsis of patient records shall be provided to the client or the client's authorized representative upon request of the client. A reasonable charge for copying and providing patient records may be required by the veterinarian. Refusal to provide such records upon written request by the client shall be considered a violation of the rules of professional conduct within the meaning of R.S. 37:1526. A synopsis record shall include at a minimum the following information: name or identification of animal or herd, name of owner, all dates of treatment, and the complaint, any abnormal findings, diagnosis, and therapy, including the amount administered and the method of administration of all drugs, chemicals and medications, and surgical procedures performed for each date of treatment.

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 6:71 (February 1980) amended LR 16:225 (March 1990), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1329 (October 1993), LR 20:1381 (December 1994), LR 23:

§707. Accepted Livestock Management Practices

The following are hereby declared to be accepted livestock management practices as provided by 37:1514(3):

1. the practice of artificial insemination (A.I.) and the nonsurgical impregnation (with frozen embryo) of farm animals to include that performed for a customer service fee or that on individually-owned animals;

2. the procedure involving the collection, processing, and freezing of semen from privately owned animals carried out by NAAB-CSS approved artificial insemination business organizations;

3. the carrying out of schools and short courses, teaching A.I. Techniques to cattlemen, prospective A.I.

technicians, and university agricultural students by qualified university faculty, cooperative extension service specialists, and qualified employees of NAAB-CSS approved A.I. organizations;

4. performing the operation of male castration, docking, or earmarking of animals raised for human consumption;
5. performing the operation of dehorning cattle;
6. aiding in the nonsurgical birth process in livestock management;
7. treating animals for disease prevention with a nonprescription medicine or vaccine;
8. branding for identification of animals;
9. reciprocal aid of neighbors in performing accepted livestock management practices without compensation;
10. shoeing horses.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 9:213 (April 1983), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 23:

§709. Surgical Services

A. - B. ...

C. Hot and cold running water should be readily accessible to the surgery room.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1330 (October 1993), amended LR 23:

§711. Definitions for Classification of Practice Facilities

A. In order to be classified as, advertised as, or use the word "hospital" as defined in §700 in the name of a veterinary facility, all of the following minimum standards and requirements shall be met:

1. - 4. ...

5. Facility shall have access to a diagnostic x-ray machine and development equipment area kept in compliance with state and federal regulations.

6. - 8. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1331 (October 1993), amended LR 23:

§712. Alternative Medicine

Alternative therapies, including, but not limited to, ultrasonography, magnetic field therapy, holistic medicine, homeopathy, chiropractic treatment, acupuncture, and laser therapy shall be performed only by a licensed veterinarian or under the direct supervision of a licensed veterinarian, except that no unlicensed person may perform surgery, diagnosis, prognosis, or prescribe drugs, medicines, or appliances as stated in §702.A.2 of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 23:

Interested parties may submit written comments to Charles B. Mann, Executive Director, Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA

70801-1203. Comments will be accepted through the close of business on June 26, 1997.

A public hearing on the proposed changes will be held on June 25, 1997, at 9 a.m. at the office of the Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Charles B. Mann
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Veterinary Practice

- 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, except for those associated with publishing the amendments (estimated \$240). The veterinary profession will be informed of this rule change via the board's regular newsletter, which is already a budgeted cost of the board.
- 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. There will be no revenue impact as no increase in fees will result from these amendments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on employment and competition.

Charles B. Mann
Executive Director
9705#055

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office for Citizens with Developmental Disabilities

Certification of Medication Attendants (LAC 48:IX.915 and 917)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities proposes to adopt the following revision to LAC 48:IX.Chapter 9, Certification of Medication Attendants.

This notice proposes to amend current regulations by establishing a uniform certification period of October of one calendar year to October of the next calendar year for all certified medication attendants (CMAs). Currently, there are over 2,600 CMAs with certificates that have varying expiration dates. Some certificates expire in every month of the year. This notice will establish a uniform certification

period for efficient and effective program management. Additionally, this notice clarifies requirements for in-service hours necessary for annual recertification.

Title 48

PUBLIC HEALTH—GENERAL

Part IX. Mental Retardation/Developmental Services

Chapter 9. Certification of Medication Attendants

§915. Certification Requirements and Process

Effective October 1, 1997, all CMA certificates will be issued for a certification period of October of one calendar year to October of the next calendar year. All certificates issued after October 1, 1997, will expire October 31, 1998. Recertification requirements outlined in §917.A will be required for the CMA to be recertified for each subsequent certification period of October to October. All initial certification issued after October 1998 will expire in October of the certification period in effect. Recertification requirements outlined in §917.A will be required for the CMA to be recertified for each subsequent certification period of October to October.

1. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:696 (July 1995), LR 23:

§917. Recertification Requirements and Process

A.

1. completion of a total of nine hours of in service training. Two of the nine hours have to directly relate to the agency's medication administration policy and procedure. The remaining seven hours of in-service have to relate to medication administration. A CMA working in multiple agencies may combine training to meet these requirements with the exception that the two-hour training on agency medication administration policy and procedure is REQUIRED PER AGENCY EMPLOYED AS A CMA. Each agency must have documentation of each CMA(s) required nine hours of in service training;

A.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:697 (July 1995), LR 23:

Interested persons may submit written comments to Bruce C. Blaney, Assistant Secretary of the Office for Citizens with Developmental Disabilities, Box 3117, Bin Number 21, Baton Rouge, LA 70821-3117. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing will be held, Wednesday, June 25, 1997, at 1 p.m., in the Fourth Floor Conference Room of the Office for Citizens with Developmental Disabilities at 1201 Capital 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 receipt of all comments is 4 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Certification of Medication Attendants

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Increased state costs of approximately \$150 for the printing of this proposed rule are included under the increased/reduced costs for the first year of implementing this proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this proposed rule will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups because this proposed rule changes procedures but does not affect eligibility for services or the level of services provided by OCDD or the payment for any services reimbursed by OCDD.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Bruce C. Blaney
Assistant Secretary
9705#067

H. Gordon Monk
Staff Director
Legislative Fiscal Office

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 amend 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 Department of Health and Hospitals, Bureau of Health Services Financing adopted medical eligibility criteria and standards for participation for the Neurological Rehabilitation Treatment Program in nursing facilities (*Louisiana Register*, Volume 19, Number 3). The department adopted revised standards for payment for nursing facility services effective January 20, 1996 (*Louisiana Register*, Volume 22, Number 1). The January 20, 1996 rule was amended to include inadvertently omitted provisions and provide additional clarification in a notice of intent published in April of 1996 (*Louisiana Register*, Volume 22, Number 4). As a result of the public hearing, it was discovered that certain provisions of the standards for payment had been inadvertently omitted from the April 20, 1996 notice of intent.

Therefore, the department proposes to amend the following rule to incorporate those provisions that were inadvertently omitted from either the January 20, 1996 rule or the April 20,

1996 notice of intent. Revised criteria for the Neurological Rehabilitation Treatment Program is also incorporated into the proposed rule to establish a new maximum certification period with provisions for extensions and to clarify the standards for participation in regard to staffing requirements and documentation of records.

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 23:

§10121. Nursing Services

A. - B.6. ...

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).

D. - K. ...

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 23:

§10155. Standards for Levels of Care

A. - N.3.d. ...

O. Rehabilitation and Complex Levels of Care

1. These levels of care were developed to provide services and care to residents who have sustained severe neurological injury or who have conditions which have caused significant impairment in their ability to independently carry out activities of daily living. Residents shall have, based upon a physician's assessment, the potential for regaining a level of functioning which is feasible. Significant practical improvement must be expected in a prescribed or predetermined period of time. An expectation of complete independence in the activities of daily living is not necessary, but there must be a reasonable expectation of improvement that will be of practical value to the resident measured against his/her condition at the start of care.

2. The health condition of the individuals who qualify for either of these levels of care are too medically complex or demanding for a typical skilled nursing facility, but no longer warrant care in an acute setting. Reimbursement is available under the Title XIX program for a period not to exceed 90 days if medical eligibility criteria established by the department have been met. Extensions may be requested in

30-day increments up to a maximum of three extensions based on documentation contained in progress reports. Level of care certification can not exceed a total of six months. The Health Standards Section shall review the documentation submitted by the facility and determine if the applicant meets the criteria for admission certification and continued stay at these levels of care.

3. The rehabilitation and complex levels of care shall utilize the *Consumer Price Index for All Urban Consumers—Southern Region, All Items Economic Adjustment Factors* as published by the United States Department of Labor to give yearly inflation adjustments. This economic adjustment factor is computed by dividing the value of All Items index for December of the year preceding the rate year (July 1 through June 30) by the value of the All Items index one year earlier (December of the second preceding year). This factor, All Items, will be applied to the total base which excludes fixed cost. Rebasings and interim adjustments to rates shall be calculated in the same manner as for regular nursing facilities.

4. Annual financial and compliance audits are required from the providers of these services. Additional cost reporting documents as requested by the department may also be required. Providers are required to segregate these costs from all other nursing facility costs and submit a separate annual cost report for each level of care (rehabilitation and complex care services). Medicare cost principles found in the Provider Reimbursement Manual (HIM-15) shall be used to determine allowable costs.

P. Criteria for Certification of SN Rehabilitation and SN-Complex Level of Care, and Provision of Services

1. Medical Eligibility Criteria for Certification of SN Rehabilitation Level of Care. Residents seeking skilled services at the SN Rehabilitation level of care shall meet all of the following criteria:

a. require an intense, individualized rehabilitation program designed to address severe neurological deficits (not due to a psychiatric disorder) caused from an injury or neurological condition which shall have occurred within 6 months from the date of admission;

b. have a severe loss of function (not secondary to behavioral deficits) in activities of daily living, mobility, and communication with the potential for significant practical improvement as measured against his/her condition prior to rehabilitation;

c. shall be capable of participating in a minimum of two hours of active (not passive) rehabilitation (OT, PT, ST) per day;

d. require a minimum of 5.5 hours of nursing care per day. Monitoring of behaviors by attendants cannot be considered as meeting the required nursing hours;

e. require aggressive medical support and a coordinated program of care delivered through a multidisciplinary team approach;

f. demonstrate documented, measurable progress toward the reduction of physical, cognitive and/or behavioral deficits to qualify for continued funding at this level of care.

2. Exclusionary Criteria for SN-Rehabilitation Services. Residents meeting any one of the following criteria do not

qualify for this level of care:

a. the resident has already participated in a comprehensive rehabilitation effort on an inpatient basis either in an acute care setting or other type of rehabilitation facility;

b. the resident has a neurological condition which is considered to be progressive in nature and where no practical improvement can be expected (e.g. Huntington's Chorea);

c. the resident requires medication adjustment or attention to psychological problems related to a neurological condition or injury but has the ability to carry out the basic activities of daily living;

d. the resident lives out of state and has access to rehabilitation services in their state of residence;

e. the resident does not have sufficient mental alertness to actively participate in the program;

f. the resident has a major psychiatric disorder (schizophrenia, manic-depression, etc.) which precludes active participation;

g. the resident with an uncomplicated CVA whose needs can be met at the skilled level of care.

3. Medical Eligibility Criteria for Certification of SN-Complex Level of Care. Residents seeking skilled services at the complex level of care shall meet all of the following criteria:

a. have a neurological injury/condition resulting in severe functional, cognitive and/or physical deficits which shall have occurred within six months from the date of admission;

b. require a level of care and services which are not able to be provided in a typical skilled nursing facility or on an outpatient basis. Facility documentation must specify why an alternative setting is inappropriate or inadequate to meet the needs of the resident;

c. require a minimum of 4.5 hours of nursing care per day;

d. shall be capable of participating in a minimum of two hours of active (not passive) rehabilitation per day.

4. Provision of Therapy Services for SN Rehabilitation and Complex Level of Care. Therapy services must be rendered on a per resident basis by a licensed therapist. Skilled therapy services must meet all of the following conditions:

a. the services must be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with a multidisciplinary team including a licensed therapist(s);

b. therapies shall be available and provided at least five days per week. If the resident is unable to participate or refuses to participate, the facility shall document the reason for nonparticipation and shall promptly notify Health Standards;

c. the services must be of a level of complexity and sophistication, or the condition of the resident must be of a nature that requires the judgment, knowledge, and skills of a licensed therapist(s);

d. the services must be provided with the expectation, based on the assessment made by the physician of the resident's restoration potential, that the condition of the

resident will improve materially in a reasonable and generally predictable period of time, not to exceed 90 days, or the services must be necessary for the establishment of a safe and effective maintenance program which can be continued after discharge;

e. the services must be considered under accepted standards of medical practice to be specific and effective treatment for the resident's condition;

f. the services must be reasonable and necessary for the treatment of the resident's condition; this includes the requirement that the amount, frequency, and duration of the services must be reasonable and not able to be provided in a less restrictive setting such as outpatient. Documentation by the facility must support that rehabilitation services are actually needed on an inpatient basis. When the resident has behavior or physical limitations that cannot be modified any further, the level of care shall be discontinued. There must be significant practical improvement as measured against the condition or injury prior to the episode which resulted in admission—significant improvement being the ability to self-perform activities of daily living;

g. therapy cannot be provided at the skilled level of care. The medical record shall document why the therapy cannot be provided at a lower level of care;

h. recreational therapies shall not be included when determining compliance with the required number of hours of therapy a day.

5. Criteria for Discharge from the Rehabilitation and Complex Levels of Care

a. there is evidence in the medical record that the resident has achieved stated goals;

b. medical complications preclude an intensive rehabilitation effort. Any regression or deterioration in the resident's medical condition shall immediately be reported to Health Standards;

c. multidisciplinary therapy is no longer needed;

d. no additional practical improvement in function is anticipated;

e. the resident's functional status has remained unchanged for 14 days;

f. the resident has received services for 90 days;

g. if the resident exhibits an inability or refuses to participate in therapy, this shall constitute termination of rehabilitation services and/or recertification for level of care. Discharge shall be initiated when the resident fails to participate in five consecutive therapy sessions during a two-week period;

h. the resident has an established behavior management plan.

Q. Documentation Requirements for Vendor Payment

1. Documentation Requirements for the Determination of Medical Eligibility for Vendor Payment. The following documentation requirements shall be submitted to the Health Standards Section for consideration of medical certification at either the rehabilitation or complex levels of care:

a. Form 148 (Notification of Admission/Change);

b. Form 90-L (Request for Level of Care Determination);

c. Level I PAS/RAS (Pre-admission Screening/

Re-admission Screening);

- d. history of current condition;
- e. presenting problems and current needs;
- f. if transferring from an acute care hospital, all therapy evaluations, therapy progress reports, physician's orders and physician progress notes;
- g. assessments done by facility field evaluators;
- h. evaluations done by all facility therapists participating in the individual treatment plan;
- i. preliminary plan of care including services to be rendered; plan should specify frequency, responsible discipline, and projected time frame for completion of each goal.

2. Documentation of Progress

a. The facility shall document progress in meeting goals in detail.

i. Progress reports shall be submitted to the Health Standards office every 30 days. Progress reports shall address the resident's ability to self-perform activities of daily living. If there is no progress in this area, it shall be so stated.

ii. Active discharge planning shall be addressed in all progress reports. If the established goal is to return home, involvement by family members or significant other shall be noted in progress reports.

iii. It is not necessary that progress reports recapitulate events resulting in admission.

iv. It is the responsibility of the facility to promptly notify Health Standards when goals have been achieved or the resident is not making progress toward meeting established goals regardless of the amount of time in the program.

R. Facility Responsibilities for Participation. The facility seeking to provide services under the rehabilitation and complex level of care must meet all of the following requirements:

1. be licensed to provide nursing facility services and shall admit and maintain residents requiring any nursing facility level of care designation;

2. have a valid Medicaid Program provider agreement for provision of nursing facility services;

3. have entered into a contractual agreement with the Bureau of Health Services Financing to provide rehabilitation and complex care services;

4. be accredited by the Joint Commission on Accreditation on Health Care Organizations (JCAHO) and by the Commission on Accreditation of Rehabilitation Facilities (CARF);

5. have appropriate rehabilitation services to manage the complex functional and psychosocial needs of the residents and appropriate medical services to evaluate and treat the pathophysiologic process. The staff shall have intensive specialized training and skills in rehabilitation;

6. provide an interdisciplinary team of professionals to direct the clinical course of treatment. This team shall include, but is not limited to a physician, a registered nurse, physical therapist, occupational therapist, speech/language therapist, respiratory therapist, psychologist, social worker, recreational therapist, and case manager;

7. ensure that the health and rehabilitation needs of every resident in certified for rehabilitation/complex level of

care shall be under the supervision of a licensed physiatrist, board certified or board eligible in physical medicine and rehabilitation;

8. have policies and procedures to ensure that a licensed physician visits and assesses each resident's care frequently but no less than weekly;

9. have formalized policies and procedures to furnish necessary medical care in cases of emergency and provide 24-hour a day access to services in an acute care hospital;

10. have established policies to screen residents who are not appropriate for the program according to the Medicaid medical eligibility criteria or whose needs the facility cannot meet;

11. have each resident assigned to a facility case manager to monitor, measure, and document goal attainment and functional improvement. The case manager shall be responsible for cost containment and appropriate utilization of services. Coverage should stop when further progress toward the established rehabilitation goals are unlikely or they can be achieved in a less intensive setting;

12. assure that discharge planning is an integral part of the rehabilitation program and should begin upon the resident's admittance to the facility. Plans of care must be individualized and aggressive with regard to the projected time frame for discharge. When progress notes show that the resident has not made significant, measurable progress from one review period to the next or that the condition cannot be modified any further, Medicaid will not authorize further reimbursement for rehabilitation. Significant progress should be the ability to self-perform or require only minimal to moderate assistance to perform activities of daily living;

13. provide private rooms for residents demonstrating extraordinary medical and/or behavioral needs. Dedicated treatment space shall be provided for all treating disciplines including the availability of distraction-free individual treatment rooms and areas;

14. provide 24-hour nursing services to meet the medical and behavioral needs with registered nurse coverage 24 hours per day, seven days a week. Management of the resident's daily activities shall be under the direct supervision of a registered nurse;

15. provide appropriate methods and procedures for dispensing and administering medications and biologicals that are in accordance with the organizations issuing the facility's accreditations;

16. have formalized policies and procedures for ongoing staff education in rehabilitation, respiratory, specialized medical services, and other related clinical and nonclinical issues. Staff education shall be provided on a regular basis;

17. provide dietary services to meet the comprehensive nutritional needs of the residents. These services shall be provided under the direction of a registered dietician who shall consult a minimum of two hours per month;

18. provide families/significant others the opportunity to participate in the coordination and facilitation of service delivery and individual treatment plan;

19. provide nonmedical and nonemergency medical transportation services and arrange for medical transportation services to meet the medical/social needs of the residents;

20. provide initial and ongoing integrated, interdisciplinary assessments to develop treatment plans which should address medical/neurological issues such as sensorimotor, cognitive and perceptual deficits, communicative capacity, affect/mood, interpersonal and social skills, behaviors, ADLs, recreation/leisure skills, education/vocational capacities, sexuality, family, legal competency, adjustment to disability, post-discharge services environmental modifications, and all other areas deemed relevant for the individual;

21. assure that the interdisciplinary team meets in conference at least every 14 days to update the individual treatment plan but as often as necessary to address the changing needs of the client;

22. provide appropriate consultation services to meet the needs of clients including but not limited to audiology, orthotics, prosthetics, or any other specialized services;

23. establish a protocol for ongoing contact with professionals in vocational rehabilitation education, mental health, developmental disabilities, Social Security, medical assistance, head injury advocacy groups and any other relevant community agencies;

24. establish protocols to provide for a close working relationship with acute care hospitals capable of caring for persons with brain and upper spinal cord injuries to provide post discharge follow-up, in-service education and on-going training of treatment protocols to meet the needs of residents;

25. establish written policies and procedures to address referrals coming from out of state. The facility must provide written explanation as to what steps were taken to obtain services within the state of residence and why the services were not available or inadequate to meet the needs of the resident. The facility shall seek reimbursement for all level of care services from the state of residence or referral prior to making application for Louisiana Medicaid.

S. - T. ...

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 23:

Subchapter I. Resident Rights

§10161. General Provisions

A. - E. ...

F. Notice of Rights and Services

F.1 - F.3. ...

4. rules for conduct at the time of their admission and subsequent changes during their stay in the facility:

4.a. ...

b. the resident or legal representative has the right to access all records pertaining to the resident, including clinical records. Photocopies of the entire record or portions of the record shall be made available to the resident within 48 hours from time of oral or written request at a cost comparable to community standards.

5. - 6.c. ...

7. the facility shall inform Medicaid eligible and potential Medicaid eligible residents in writing at time of admission and periodically during the resident's stay of the following information:

a. those items and services included in nursing facility services covered under the Medicaid Program for which the resident may not be charged;

b. those items and services that are offered by the facility, but are not covered under the Medicaid Program, the Medicare Program or the facility's per diem rate. The facility may charge the resident if he/she chooses to have these services. The itemized charges for these services shall be made available to the resident;

c. changes made to the items and services that are available in the facility;

d. inform each resident before or at the time of admission and periodically during the resident's stay, of services available in the facility and of charges for those services, including any charges for services not covered under Medicare/Medicaid or by the facility's per diem rate;

8. furnish a written description of legal rights which includes:

a. a description of the manner of protecting personal funds as outlined in §10161.J, K, and L;

b. a description of the requirements and procedures for establishing eligibility for Medicaid;

c. a posting of names, addresses, and telephone numbers of all pertinent state client advocacy groups such as the Bureau of Health Services Financing, Health Standards Section, the State Ombudsman Program, the Protection and Advocacy Network, and the Medicaid Fraud Control Unit;

d. a statement that the resident may file a complaint with the Bureau of Health Services Financing, Health Standards Section concerning resident abuse, neglect, and misappropriation of resident property in the facility;

e. inform each resident of the name, specialty, and way of contacting the physician responsible for his/her care;

f. prominently display in the facility written information and provide to residents and applicants on admission oral and written information about how to apply for and use Medicare and Medicaid benefits and how to receive refunds for previous payments covered by such benefits.

G. - M.2.h.ii. ...

i. Access and Visitation Rights. The resident has visitation rights and the facility must provide immediate access to any resident by the following individual or agencies:

M.2.i.i. - M.2.i.viii. ...

ix. the resident may visit 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.

M.2.i.ix.(a). ...

(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.

M.2.i.ix.(c). - M.2.n. ...

o. Smoking. Residents have the right to use tobacco at their own expense under the facility's safety rules and the state's applicable laws and rules. Residents shall be informed

of any medical contraindications.

M.2.p. - P.5. ...

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/or any physical or 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:

Q.1. - Q.2. ...

3. physical restraint may only be applied in a case of emergency by a qualified licensed nurse who shall document in the medical record the circumstances that necessitated the use of restraints and shall notify the physician immediately thereafter.

Q.4. - Q.4.a.i. ...

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.

Q.6. - U.7. ...

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 23:

Subchapter J. Transfer and Discharge Procedure

§10163. General Provisions

A. - D.1.e. ...

E. For health facilities the written notice as described in §10163 must include the following:

E.1. - E.3. ...

4. a statement regarding appeal rights that reads, "You or someone acting on your behalf has 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 the facility notifies the Bureau of Appeals of the witnesses who shall testify at the discharge hearing as well as the documents that will be submitted as evidence. You will not be transferred from the facility until a final appeal decision has been reached or until the Bureau of Appeals gives permission for an interim transfer at a prehearing conference held at the request of the facility. The only exception to the above would be that a physician has certified that your being in the facility would present a threat to the health or safety of other individuals in the facility. 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";

5. the name of the director, and the address, telephone number, and hours of operation of the Bureau of Appeals of the Louisiana Department of Health and Hospitals;

6. the name, address, and telephone number of the state long-term care ombudsman;

7. for health facility residents with developmental disabilities or who are mentally ill, the mailing address and

telephone number of the protection advocacy services commission.

F. Appeal of Transfer or Discharge

1. If the resident appeals the transfer or discharge, a statement regarding appeal rights that reads, "You or someone acting on your behalf has 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 the facility notifies the Bureau of Appeals of the witnesses who shall testify at the discharge hearing as well as the documents that will be submitted as evidence. You will not be transferred from the facility until a final appeal decision has been reached or until the Bureau of Appeals gives permission for an interim transfer at a prehearing conference held at the request of the facility. The only exception to the above would be that a physician has certified that your being in the facility would present a threat to the health or safety of other individuals in the facility. 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.2. - I.3.b.ii.(b). ...

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 23:

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. Friday, June 27, 1997, in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. of the day of the public hearing.

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 decrease state costs by approximately \$650,879 for SFY 1997-98; \$670,405 for SFY 1998-99; and \$690,518 for SFY 1999-2000. An expenditure of \$613 for promulgation of this rule is not included in the costs for SFY 1997-98.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The decrease in federal revenue collections expected from this proposed rule is approximately \$530,206 for SFY 1997-98;

\$471,697 for SFY 1998-99; and \$485,848 for SFY 1999-2000.

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

Medicaid recipients qualifying for rehabilitation and complex level of care shall experience a decrease in the maximum certification period for these services with provisions for extension if medically necessary. Nursing facilities providing rehabilitation and complex level of care services will experience reimbursement reductions of approximately \$650,879 for SFY 1997-98; \$670,405 for SFY 1998-99; and \$690,518 for SFY 1999-2000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Thomas D. Collins
Director
9705#070

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Designated Gaming Area (LAC 42:XIII.1701)

The Gaming Control Board hereby gives notice that it intends to amend the definition of *designated gaming area* provided in LAC 42:XIII.1701, in accordance with R.S. 27:1 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming Division

§1701. Definitions

* * *

Designated Gaming Area—those portions of a riverboat in which gaming activities may be conducted, which shall be determined by measuring the area (in square feet) inside the interior walls of the riverboats, excluding any space therein in which gaming activities may not be conducted, such as bathrooms, stairwells, cage and beverage areas. Such designated gaming area shall not exceed 60 percent of the total square footage of the passenger access area of the vessel or 30,000 square feet, whichever is lesser.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:705 (July 1995), amended by the Gaming Control Board, LR 23:

All interested persons may contact Tom Warner, Deputy Director, Attorney General's Gaming Division, (504) 342-2645, and may submit written comments relative to these proposed rules through June 9, 1997, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Designated Gaming Area

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local governmental units.

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

No costs and/or economic benefits to directly affected persons or nongovernmental groups is estimated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
9705#064

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission**

Liquefied Petroleum Gas as a
Refrigerant (LAC 55:IX.183)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases, notice is hereby given that the commission proposes to adopt a new rule.

The proposed rule is necessary to avoid imminent peril to public health, safety or welfare by using, selling or distributing a refrigerant containing liquefied petroleum gas for use in mobile air conditioning systems. Failure to adopt the rule can result in a great exposure to the public health, safety or welfare should a leak develop in a mobile air conditioning system in which liquefied petroleum gas has been used as a refrigerant.

The proposed rule complies with the statutory authority granted the commission under LRS 40:1846.

Title 55

PUBLIC SAFETY

PART IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

§183. Use of Liquefied Petroleum Gas as a Refrigerant Prohibited

No person, firm, or corporation shall use, sell, or distribute a refrigerant containing liquefied petroleum gas for use in mobile air conditioning systems. Mobile air conditioning system means mechanical vapor compression equipment

which is used to cool the driver's or passengers compartment of any motor vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 23:

The commission will hold a public hearing June 26, 1997, 1723 Dallas Drive, Baton Rouge, LA, at 8:30 a.m. in regard to this rule.

Written comments will be accepted through June 20, 1997 and should be sent to Charles M. Fuller at P. O. Box 66209, Baton Rouge, LA 70896. All interested persons will be afforded an opportunity to be heard at the public hearing. A preamble has not been prepared for the intended action.

Charles M. Fuller
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Liquefied Petroleum Gas as a Refrigerant Prohibited

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There may be an impact on economic benefits to directly affected persons or nongovernmental groups; however, this cannot be determined at this time. If there is a loss of profit by those affected, that loss could be made up by using or selling an alternative to the product which is the subject of this action..
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment.

Thomas H. Normile
Undersecretary
9705#024

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of Motor Vehicles

Privacy of Records (LAC 55:III.Chapter 5)

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, hereby gives notice of intent to adopt rules establishing procedures for persons and business entities to follow in seeking access to personal information contained in the records of the Office of Motor Vehicles. This information is obtained from individuals who apply for or renew driver's licenses, identification cards, motor vehicle titles, and motor vehicle registrations. The rules are intended to implement the requirements of the

Federal Driver's Privacy Protection Act of 1994, 18 U.S.C. §2721 et seq. The federal law is intended to limit the access that persons and business entities have to the personal information contained in the records of the Office of Motor Vehicles. These rules provide the procedures that persons and business entities are to follow in seeking access to the personal information.

These rules are being adopted pursuant to the authority contained in R.S. 32:401 et seq., and R.S. 32:853.

Title 55 PUBLIC SAFETY Part III. Motor Vehicles

Chapter 5. Records

Subchapter B. Privacy

§551. Statement of Intent and Purpose

The purpose of this Chapter is to implement the federal Driver's Privacy Protection Act of 1994 (DPPA) (Title XXX of P.L. 103-322). It is the stated purpose of the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, to substantially comply with the DPPA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:401 et seq., and R.S. 32:853.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:

§553. Definitions

As used in this Chapter, the following terms have the meanings described below:

Assistant Secretary—the assistant secretary of the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles.

Authorized Recipient—a person, corporation, partnership, limited liability company, or other business entity who has received all or part of the personal information contained in the records of an individual from the department pursuant to a written request authorized by this Chapter, and includes any requester who is subsequently approved to receive records or personal information on individuals pursuant to a contract as provided in this Chapter.

Consented Disclosure—personal information disclosed to a requester who has demonstrated that he has obtained the written consent of the person who is the subject of the personal information.

Department—the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles.

Disclose, Disclosure—when used in the context of describing the release of personal information, means the process to make known or make available personal information. The release of information through this process shall be limited to the three categories as defined in this Section as follows:

- a. a consented disclosure;
- b. a permitted disclosure; or
- c. a required disclosure.

Motor Vehicle Record—any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by the department which contains personal information.

Permitted Disclosure—personal information that may be disclosed as follows:

a. for use by any government agency in carrying out its functions, or any private person or entity acting on behalf of a federal, state, or local agency in carrying out its functions;

b. for use in connection with motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles motor vehicle parts, and dealers; motor vehicle research activities, including survey research; and removal of nonowner records from the original owner records of motor vehicle manufacturers;

c. for use in the normal course of business by a legitimate business or its agents, employees, or contractors but only to verify the accuracy of personal information submitted by the individual to the business, its agents, employees, or contractors, and if such information as so submitted is not correct or is no longer correct, to obtain correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against the individual;

d. for use in connection with any civil, criminal, administrative, or arbitral proceeding in any federal, state or local court or agency or before any self regulatory body, including the service of process, investigations in anticipation of litigation, and the execution or enforcement of judgments or orders, or pursuant to an order of a federal, state, or local court;

e. for use in research activities and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to recontact individuals;

f. for use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting;

g. for use in providing notice to the owners of towed or impounded vehicles;

h. for use by licensed private investigation agency, or licensed security service for any purpose permitted under this Section;

i. for use by an employer or its agents or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986;

j. for use in connection with the operation of private toll transportation facilities;

k. for bulk distribution for surveys, marketing or solicitation if the individual has not prohibited the disclosure of the individual's personal information;

l. for use by a requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains;

m. for any other use specifically authorized by state law related to the operation of a motor vehicle or public safety.

Person—an individual or natural person, and does not include a corporation, partnership, limited liability company or other business entity.

Personal Information—all information contained in the records of the Office of Motor Vehicles that identifies a person including an individual's photograph or computerized image, Social Security Number, driver's license number, name, address (but not the five digit zip code), telephone number, and medical or disability information. Personal information does not include information on vehicular accidents, driving or equipment related violations, and driver's license or registration status.

Record—all books, papers, photographs, photostats, cards, films, tapes, recordings, electronic data, computer tapes, computer disks, printouts, other documentary materials regardless of physical form or characteristics.

Redisclose, Redisclosure—when used in the context of describing the release of personal information, means the disclosure by an authorized recipient of records or personal information, but only for purposes authorized by this Chapter.

Requester—the person, corporation, partnership, limited liability company or other business entity, or any federal or state agency submitting a written or other authorized request to the department for an individual's personal information.

Required Disclosures—personal information that shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of nonowner records from original owner records of motor vehicle manufacturers to carry out the purposes of the Automobile Information Disclosure Act, the Motor Vehicle Information and Cost Saving Act, the National Traffic and Motor Safety Act of 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:401 et seq., and R.S. 32:853.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:

§555. Prohibition on Disclosure and Use of Personal Information from Department Records

A. Pursuant to the DPPA, no records of the department containing personal information, nor the personal information contained in those records shall be disclosed by the department or any officer, employee, agent or contractor to any person except as provided in this Chapter.

B. An authorized recipient shall resell or redisclose records or personal information contained in an individual's motor vehicle record only for purposes defined as permitted disclosures in this Chapter. Any authorized recipient reselling or redisclosing records or personal information shall maintain records of such resale or redisclosure for a period of five years from the date of such resale or redisclosure. Such records shall be made available to an authorized representative of the department promptly upon request if the records are not currently in use, but no later than one business day after the receipt of a request from the department's representative. The records required to be maintained by the authorized recipient pursuant to this Section shall be stored in Louisiana and shall contain the following information on the person to whom the personal information was resold or redisclosed and on the personal information that was so sold or disclosed:

1. the full name of the person including any trade names

or aliases;

2. the complete physical and mailing addresses of the person;

3. the name of an individual as a contact person if the person to whom the resale or redisclosure was made is a business entity;

4. the telephone number including area code of the person;

5. a description of the records or personal information resold or redisclosed of sufficient detail as to allow the identification of those individuals whose records or personal information was resold or redisclosed; and

6. the permitted purpose for which the information will be used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:401 et seq., and R.S. 32:853.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:

§557. Procedure for Requesting Personal Information

A. All requests seeking disclosure of personal information shall be in writing, except electronic requests submitted to the department pursuant to a contract authorized by this Chapter. All written requests shall be mailed to the assistant secretary, or his designee at Box 64886, Baton Rouge, Louisiana, 70896-4886. At his option, the requester may hand deliver the written request to the Office of Motor Vehicles Headquarters in Baton Rouge, Louisiana. The requester shall provide such information as may be required by the department to establish the requester's identity and to establish the requester's status as a person who may receive the requested personal information including the requester's full name, any aliases or trade names, the requester's complete mailing and physical addresses, telephone number including area code, and the name of a contact person if the requester is a business entity. In order to facilitate a request, the requester should provide sufficient information in his request to establish his status as a person who may receive personal information under DPPA.

B. All requests seeking disclosure of personal information shall be processed on a first come, first service basis, unless the assistant secretary or his designee determines that there is good cause for a request to be handled in a different order.

C. The assistant secretary or his designee shall determine the requester is a person, corporation, partnership, limited liability company, or other business entity who may receive personal information pursuant to DPPA. A requester seeking personal information through a permitted disclosure or a required disclosure shall, upon establishing to the satisfaction of the assistant secretary or his designee, that the requester may receive the requested personal information, and upon the payment of all fees and costs, be provided the requested personal information.

D. In the case of a consented disclosure, the requester shall notify the person about whom personal information is sought of the request and that the information will not be released unless the individual waives his right to privacy under DPPA. The notice of the request to the person about whom personal information is requested shall specifically state all personal information that is being sought. The notice of the request shall also give full information about the requester including but not limited to the requester's full name as well as any

aliases or trade names, the requester's complete mailing and physical addresses, the requester's telephone number including area code, the name of a contact person if the requester is a business entity, and purpose for requesting the personal information. No request will be processed by the department until the requester has obtained the waiver from the person about whom the personal information is sought. The original waiver together with a copy of the notice sent to the person about whom the personal information was sought shall accompany the original request for disclosure.

E. The failure of a requester to comply with the requirements contained in this rule shall be grounds to deny the request to disclose personal information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:401 et seq., and R.S. 32:853.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:

§559. Administrative Actions

A. Any authorized recipient who has access to motor vehicle records through a contract, permit, license, or other authorization issued by the department or any other agency that is a part of the Department of Public Safety and Corrections, shall be governed by the rules contained in this Chapter.

B. The violation of any rule contained in this Chapter, or the violation of any provision of the DPPA, by an authorized recipient of motor vehicle records through a contract, permit, license or other authorization issued by the department, may serve as grounds for the initiation of an administrative action to revoke, suspend or cancel any contract, permit, license or other authorization issued by the department. Such violation may also serve as grounds for the initiation of an administrative action to impose a fine or other penalty against such person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:401 et seq., and R.S. 32:853.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:

§561. Contracts

A. The department may enter into contracts for the sale of personal information if the requested disclosure is a permitted disclosure or a required disclosure. All contracts for individuals' records or the personal information contained in the individuals' records shall contain all of the requirements contained in this Section. Any contract not meeting the requirements of this Section shall be of no effect and shall establish no obligation on the department to comply with the terms of such contract.

B. Such contracts may include the sale and disclosure of such information through electronic or online means. Such contracts shall allow the requester continual access to the department's records during the period of the contract condition upon the requester making timely payment of all fees and costs due under the contract as well as all fees and costs required by state law or these rules.

C. All contracts shall contain the following requirements:

1. all contracts shall be for a specified term not exceeding one year, except that a contract may provide for a renewal term on the anniversary date of the contract. The anniversary date shall be one year from the commencement

date of the contract as required in this Section, and thereafter annually on that date for the life of the contract. There shall be no more than five renewal terms. The contract shall provide that in the case of automatic renewal terms, the department shall be given the option of canceling the contract upon 30 days written notice to all parties to the contract. The contract shall specify the commencing date for the initial term and the ending date for the initial term;

2. the failure to make a payment when due may be grounds to terminate the contract upon 30 days written notice to all parties to the contract;

3. the contract shall be subject to termination if any part of the contract is contingent on the appropriation of funds to fulfill any part of the contract, and if the legislature fails to appropriate sufficient funds for the continuation of the contract or if the appropriation is reduced by the veto of the governor, or if the appropriation is reduced by any other means authorized by law;

4. the records or personal information obtained pursuant to a contract shall not be resold or redisclosed by the requester except as expressly authorized in the contract. A violation of this Paragraph may serve as grounds for the immediate termination of the contract. Any person whose contract is terminated pursuant to this Paragraph shall not be eligible to enter into any subsequent contract pursuant to this Paragraph for a period of five years except upon a waiver by the assistant secretary after a showing of good cause by the person so disqualified;

5. any resale or redisclosure authorized pursuant to a contract shall be only be for the purposes defined as permitted disclosures in this Chapter. Any authorized recipient who resells or rediscloses records or personal information shall keep records of such resale or redisclosure for a five-year period from the date of the resale or redisclosure. Such records shall include the following information on persons to whom a resale or redisclosure is made and the records or information that was resold or redisclosed:

a. the full name of the person including any trade names or aliases;

b. the complete physical and mailing addresses of the person;

c. the name of an individual as a contact person if the person to whom the resale or redisclosure was made is a business entity;

d. the telephone number including area code of the person;

e. a description of the records or personal information resold or redisclosed of sufficient detailed as to allow the identification of those individuals whose records or personal information was resold or redisclosed; and

f. the permitted purpose for which the information will be used;

6. in the case of records or personal information disclosed electronically or through an online service, the authorized recipient shall only use equipment approved by the department and in locations approved by the department. The authorized recipient shall submit a written plan to the department which shall provide for the security and the integrity of the records and personal information received

pursuant to the contract. The authorized recipient shall implement the plan as approved by the department with any amendments prior to receiving any records or personal information from the department;

7. the authorized recipient shall develop and implement a plan to insure that the employees, agents, and representatives of the authorized recipient are familiar with the requirements of the DPPA and the rules in this Chapter;

8. the authorized recipient shall not acquire title, ownership, or any other interest in the records and personal information received pursuant to the contract except that the authorized agent may use, resale, or redisclose the information as authorized in the contract, the DPPA, and this Chapter;

9. the authorized recipient shall promptly notify the assistant secretary or his designee of any possible violation of the DPPA, this Chapter, or the contract entered into pursuant to this Section. The authorized recipient shall cooperate with the department in any legal action to stop or prevent any violation of the DPPA or this Chapter;

10. no authorized recipient shall be granted a right of exclusive use of any record or personal information, nor shall an authorized recipient be granted an exclusive right to resell or redisclose records for any permitted purpose;

11. the applicable law for the contract shall be the law of Louisiana;

12. the authorized recipient shall keep its records regarding the contract in Louisiana in a location approved by the assistant secretary, and upon the request of any authorized representative of the department shall promptly make the records available if the records are not currently in use. In no event shall the records be produced later than one business day after receipt of the request. An authorized representative of the department may conduct an audit of the authorized recipient records at least once a year. An authorized representative of the department shall be authorized to conduct an inspection of any premises of the authorized recipient used in connection with the contract or where the authorized recipient's records are stored. Such an inspection will be during the normal business hours of the department unless the parties agree otherwise;

13. the contract shall include any other provisions required by the assistant secretary, and such provision shall be enforceable in the same manner as if such provision were included in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:401 et seq., and R.S. 32:853.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:

§563. Representations Regarding Records and Personal Information

No authorized recipient shall represent the records or personal information which the authorized recipient may use, resell, or redisclose as official records of the department. The authorized recipient may represent that the records or personal information have been obtained from the department and that the records or personal information accurately reflects what was contained in the department's records on the date the records or information were obtained. Any permitted resale or redisclosure shall contain or be accompanied with a statement that the records or personal information contained therein are

not the official records of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:401 et seq., and R.S. 32:853.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:

§565. Official Use of Personal Information

A. Nothing in this Chapter shall be construed as limiting or prohibiting the use of personal information by an employee of the Department of Public Safety and Corrections for official purposes as authorized by the DPPA and state law.

B. The department may enter into cooperative endeavors with other state and federal agencies providing for the access, use and release of personal information as authorized by the DPPA and state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:401 et seq., and R.S. 32:853.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:

Persons having comments or inquiries may contact Stephen A. Quidd, Attorney, Office of Motor Vehicles, Box 66614, Baton Rouge, LA 70896, telephone (504)925-4068, or FAX (504)925-3974. These comments and inquiries should be received by June 9, 1997.

A public hearing on these rules is currently scheduled for Monday, June 16, 1997, at 9 a.m. in the Middle Management Conference Room at the Office of Motor Vehicle Headquarters at 109 South Foster Drive, Baton Rouge, LA 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing.

Thomas H. Normile
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Privacy of Records**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no additional cost to implement these rules as the records which are the subject of this rule are presently public records. The department currently receives requests for these records from the individuals who will be requesting these records after the effective date of these rules. These rules will simply require these individuals to submit additional information which will be used to establish the individual's eligibility to receive the record. There should be a slight reduction in the number of individuals requesting records as the Federal Driver's License Privacy Protection Act, 18 U.S.C. §§2721-2725 will prohibit some individuals who currently have access to the records from continuing to have access.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Federal Driver's License Privacy Protection Act as implemented in these proposed rules may cause a reduction on the revenue collection of the state as some individuals may not be eligible to obtain the motor vehicle records after September 14, 1997, the effective date of the federal law. The eligibility of these individuals will have to be determined at the time they submit their requests for disclosure of the records based on the information they give to the department.

These rules should have no effect on the revenue collections of local governments as the federal law and these rules apply

only to state records.

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

There may be increased cost in submitting requests for information to the department as businesses will have to supply additional information to determine if they are eligible to receive the personal information. Additionally, there may be businesses which will no longer be eligible to receive the personal information after September 14, 1997.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition because all similarly situated individuals will have to meet the same eligibility requirements to gain access to the motor vehicle records.

There may be an adverse impact on employment to those individuals who are employed by businesses which are no longer eligible to obtain access to motor vehicle records.

Thomas H. Normile
Undersecretary
9705#061

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Rehabilitation Services**

**Vocational Rehabilitation Policy
Manual (LAC 67:VII.101)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Social Services, Louisiana Rehabilitation Services proposes to amend the following rule in the Vocational Rehabilitation Services Policy Manual, Sections: Eligibility and Conditions for Case Closure.

The rule governing Louisiana Rehabilitation Services' policy relative to the time frame for determining eligibility ensures that individuals will receive a timely decision regarding their eligibility for Vocational Rehabilitation Services.

The rule governing Louisiana Rehabilitation Services' policy relative to closure of an individual's case record after a successful employment outcome is achieved ensures that the individual's employment is stable, compatible with the individual's abilities and capabilities, and the individual is satisfied with the job placement.

The LRS policy manuals are referenced in LAC 67:VII. Specific amendments to the Vocational Rehabilitation Policy Manual are as follows:

XI. Conditions for Case Closure

A. Options for Closure

* * *

B. Closure as Successfully Rehabilitated. An individual is determined to have achieved an employment outcome if the following requirements are met:

1. the provision of services under the individual's IWRP has contributed to the achievement of the employment outcome;

2. the employment outcome is consistent with the individual's strengths, resources, priorities, concerns, abilities,

capabilities, interests, and informed choice;

3. the employment outcome is in the most integrated setting possible, consistent with the individual's informed choice;

4. the individual has maintained the employment outcome for a period of at least 90 days;

5. the individual and the rehabilitation counselor consider the employment outcome to be satisfactory and agree that the individual is performing well on the job.

V. Eligibility and Ineligibility Decisions

D. Compliance Provisions Relating to Eligibility, Extended Evaluation, and/or Ineligibility Decisions

5. Time frame for Determining Eligibility. Eligibility must be determined within a reasonable period of time, not to exceed 60 days after the individual has signed an application for vocational rehabilitation services. Exceptions to this 60-day time frame can occur if:

a. the determination is made that an extended evaluation is necessary to determine the individual's eligibility for vocational rehabilitation services and the nature and scope of services needed; or

b. the client agrees to an extension of time because exceptional and unforeseen circumstances, beyond the agency's control, have made it impossible for the rehabilitation counselor to make an eligibility determination within this time frame.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. General Provisions

§101. Vocational Rehabilitation Policy Manual

A. LRS Vocational Rehabilitation Policy Manual provides opportunities for employment outcomes through vocational and other rehabilitation services. Its policy manual guides its functions and governs its actions within the parameters of federal law.

B. Copies of the policy manual can be viewed at Louisiana Rehabilitation Services Office, 8225 Florida Boulevard, Baton Rouge, LA and at each of its nine Louisiana Rehabilitation Services Regional Offices (statewide), or at the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802.

AUTHORITY NOTE: Promulgated in accordance with R.S.49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 21:189 (February 1995), LR 21:191 (February 1995), LR 21:473 (May 1995), LR 21:837 (August 1995), LR 22:993 (October 1996), LR 23:292 (March 1997).

Interested persons may submit written comments for 40 days from the date of this publication to May Nelson, Louisiana Rehabilitation Services, 8225 Florida Boulevard, Baton Rouge, LA 70806. She is responsible for responding to inquiries.

Madlyn B. Bagneris
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Vocational Rehabilitation Policy Manual

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated implementation cost.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Louisiana Rehabilitation Services has sufficient funds to provide client services and administer the program as Act 17 of 1996, as approved by the Louisiana legislature.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is no change in the estimated cost and/or economic benefits to directly effect persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no proposed change in competition and employment in the public and private sectors.

May Nelson
Director
9705#072

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury Board of Trustees of the State Employees' Retirement System

Election of Trustees (LAC 58:I.Chapters 3 and 5)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System (LASERS) advertises its intent to amend LAC 58:I.Chapters 3 and 5. The proposed rules set forth the procedures for the election of trustees to the LASERS Board of Trustees.

These rules comply with statutory law administered by LASERS and are enabled by LSA-R.S. 11:515.

The text of this rule may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may also submit written opinions, suggestions or data to Steve Stark, the Louisiana State Employees' Retirement System, 8401 United Plaza Boulevard, First Floor, Baton Rouge, LA 70809 through June 29, 1997. No preamble regarding these proposed rules is available.

James O. Wood
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Election of Trustees

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant costs or savings to state or local governmental units are anticipated to result from the proposed rules. The

proposed rules change the dates and the methodology involved in the process for electing members of the Board of Trustees of the Louisiana State Employees' Retirement System. The Louisiana State Employees' Retirement System may achieve some savings from changing to less expensive and more accurate methods for submitting and counting member votes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections of state or local governmental units is anticipated to result from implementation of the proposed rules.

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

No costs or economic benefits to directly affected persons are anticipated to result from the proposed rule implementation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not significantly effect competition and employment. The Louisiana State Employee's Retirement System may select an outside vendor to provide election services that are currently performed in-house.

James O. Wood
Executive Director
9705#043

H. Gordon Monk
Staff Director
Legislative Fiscal Office

a. Size Limit: 14 inch - 17 inch slot. A 14- 17 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive.

b. Daily Take: eight fish of which no more than four fish may exceed 17 inches maximum total length.*

c. Possession limit:

i. On water - Same as daily take.

ii. Off water - Twice the daily take.

*Maximum total length—the distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325 (C), 326.3

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), amended LR 17:278 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:

Interested persons may comment on the proposed rule in writing to Bennie Fontenot, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 until 4:30 p.m., July 3, 1997.

Daniel J. Babin
Chairman

NOTICE OF INTENT

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

**Black Bass—Daily Take and
Size Limits (LAC 76:VII.149)**

The Wildlife and Fisheries Commission hereby advertises its intent to amend a rule for black bass in the John K. Kelly-Grand Bayou Reservoir.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 1. Freshwater Sport and Commercial Fishing
§149. Black Bass—Daily Take and Size Limits**

*** * ***

B. In addition, the commission establishes special size and daily take regulations for black bass on the following water bodies:

*** * ***

2. Lake Bartholomew (Morehouse and Ouachita Parishes), Black Bayou Lake (Bossier Parish), Chicot Lake (Evangeline Parish), Cross Lake (Caddo Parish), John K. Kelly-Grand Bayou Reservoir (Red River Parish), Lake Rodemacher (Rapides Parish) and Vernon Lake (Vernon Parish):

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Black Bass-Daily Take and Size Limits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using existing staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of state or local governmental units.

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

The goal of the proposed harvest regulations is to increase the quality of black bass in the reservoir, while at the same time allowing the harvest of smaller individuals. It should provide, over time, additional economic benefits to area businesses and persons who benefit directly and indirectly from increased recreational fishing and related activities. No cost increases, workload adjustment or additional paperwork is anticipated to occur as a result of the proposed action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule may result in a slight increase in competition and employment in the private sector due to the anticipated increased fishing effort in the reservoir over time.

Ronald G. Couvillion
Undersecretary
9705#018

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

**Nonresident Duck Stamp
Fee Increase (LAC 76:V.317)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate a rule increasing the fee for nonresident waterfowl stamps.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the notice of intent and final rule, and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

§317. Nonresident Duck Stamp Fee Increase

Beginning in the 1997-98 license year, the fee for purchasing a nonresident duck stamp will be increased from \$7.50 to \$13.50. This change will remain in effect until additional changes are warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(28).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 23:

Interested persons may comment on the proposed rule in writing to Hugh Bateman, Administrator, Wildlife Division,

Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 until 4:30 p.m., July 25, 1997.

Daniel J. Babin
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Nonresident Duck Stamp Fee Increase

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Increasing the nonresident (NR) waterfowl stamp fees from \$7.50 to \$13.50 will not have any implementation costs to the department provided that this change is made immediately. Should changes occur after the stamps are printed, cost to reprint the stamps with the new fees would result; however, we do not anticipate that reprinting will be necessary.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Most recent figures indicate that 7,819 NR waterfowl stamps were sold to duck hunters. An additional 2,511 NR waterfowl stamps were sold with art prints and to stamp collectors. An increase of \$6 for the NR stamp would result in a revenue increase of \$54,943 to the department.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Persons directly affected by this increase (10,330 individuals) would be required to spend an additional \$6 to acquire the stamps for hunting or collecting.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Increase of fees for NR waterfowl stamp would have no impact on competition or employment.

Ronald G. Couvillion
Undersecretary
9705#017

Richard W. England
Assistant to the
Legislative Fiscal Officer

Committee Reports

COMMITTEE REPORT

House of Representatives
Committee on Administration of Criminal Justice
April 23, 1997

Progressive Mega Jackpot Bingo (LAC 42:I.1791)

(Editor's Note: The full text of this emergency rule was published in the Emergency Rule Section, pages 393-399, of the April 1997 *Louisiana Register*.)

In accordance with R.S. 49:953(B)(4)(a) an oversight subcommittee for the Administration of Criminal Justice Committee met on April 23, 1997, in house committee room 6 at 11:30 a.m.

The purpose of the meeting was to conduct legislative oversight on emergency rules proposed and adopted by the Louisiana State Police, Charitable Gaming Division on March 20, 1997.

The following members of the House were present:

Representative Stephen J. Windhorst, Chairman
Representative Audrey A. McCain, Vice Chairman
Representative Beverly G. Bruce
Representative Donald Ray Kennard
Representative Robert Marionneaux
Representative Errol Romero

Pursuant to R.S. 49:968(B), the Office of State Police, Division of Charitable Gaming Control submitted a report to the Administration of Criminal Justice Committee indicating that the division was proposing the promulgation and amendment of LAC 42:I.1791 which provides for the play of progressive mega jackpot bingo. LAC 42:I.1791 was adopted

as an emergency rule on March 20, 1997 and the division was seeking its promulgation as a permanent rule.

The amendments to LAC 42:I.1791 were found unacceptable by unanimous vote of the committee.

In accordance with R.S. 49:953(B)(4)(a) and 968(F)(b) the following determinations were made and are submitted for review regarding the unacceptable proposed rule changes.

1. R.S. 49:953(B)(1) provides that an agency may enact emergency rules only if there is "imminent peril to the public health, safety, or welfare" which requires immediate action which can't wait for the ordinary promulgation and notice provisions. The agency offered *no showing whatsoever* tending to show the existence of such an emergency.

2. R.S. 49:953(B)(4) mandates that at the legislative oversight committee hearing the oversight committee must make a determination of whether the rule meets the above criteria to be considered an emergency rule. The committee found nothing close to an emergency exists, and further, that the situation which the agency *pretended* to seek to remedy had existed for years.

3. Various members of the oversight committee noticed that although the agency presented the rules as effecting a single purpose, i.e., facilitating a change in the mega progressive jackpot rule, in truth and in fact, the proposed "emergency" rules were voluminous and effected very many other matters. The committee found the agency's testimony to be misleading and intentionally deceptive.

Accordingly, the committee unanimously rejected the proposed "emergency" rules.

Stephen J. Windhorst
Chairman

9705#003

Potpourri

POTPOURRI

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Horticulture Commission

Retail Floristry Examination

The next retail floristry examination will be given July 21-25, 1997, at 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is June 20, 1997. No applications will be accepted after June 20, 1997.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, telephone (504)925-7772.

Any individual requesting special accommodations due to a disability should notify our office prior to June 20, 1997. Please refer questions to (504)925-7772.

Bob Odom
Commissioner

9705#006

POTPOURRI

Department of Environmental Quality
Office of Air Quality and Radiation Protection

Request for MSW Landfill Annual Report

Municipal Solid Waste (MSW) Landfills subject to the provisions of 40 CFR 60, Subparts WWW and Cc (LAC 33:III.3003) are required to submit an annual emission report except as provided for in 40 CFR 60.757(b)(1)(ii). The Air Quality Division will accept a duplicate of the report required by Solid Waste regulations, LAC 33:VII.715.C.1.a. The same due date, August 1, is also applicable.

Reports should be mailed to Air Quality Division, Engineering Section, Box 82135, Baton Rouge, LA 70884-2135. Questions concerning this announcement should be directed to Annette Sharp at (504) 765-0914.

Gustave Von Bodungen, P.E.
Assistant Secretary

9705#066

POTPOURRI

Office of the Governor
Oil Spills Coordinator's Office

Restoration Planning—Myette Point Oil Spill
(on Attakapas WMA)

The Facts of the Incident

1. On 26 November 1996, Parker and Parsley (P&P) production personnel discovered a leaking flange on the Louisiana State Lease 5706 No. 2 in Saint Mary Parish, Louisiana. P&P commenced repairs to the wellhead; but on 1 December the well blew out, spraying and spilling condensate oil and produced water into the adjacent canal and surrounding freshwater swamps. During a five-day interval, 4,762 barrels of condensate oil and produced water sprayed into the environment. The well was capped on 5 December 1997 and cleanup operations began. The well is located within the Attakapas Wildlife Management Area under the management of the Department of Wildlife and Fisheries.

2. The area is characterized by: cypress (*Taxodium distichum*) primarily in the flooded areas, sycamore (*Platanus occidentalis*), willow (*Salix nigra*), and Chinese tallow trees (*Sapium sebiferum*) on the spoil bank. The understory is dominated by wax myrtle (*Myrica serifera*), and also contains *Rubus spp.*, swamp dogwood (*Cornus drummondii*), various fern species, goldenrod (*Solidago spp.*).

3. The wildlife management area is used by hunters. As a result of the spill, a portion of the area was unavailable during between 26 November 1996 and 6 January 1997. The boat landing at Myette Point, popular with recreational users and commercial fishermen, was closed for three weeks.

4. Parker and Parsley responded rapidly and appropriately to the spill; they cooperated fully with the Coast Guard, the Oil Spill Coordinator's Office, the Department of Environmental Quality, and the Department of Wildlife and Fisheries in the cleanup efforts. Under Louisiana law, the trustees must consider the quality of the actions undertaken by the responsible party in response to the spill incident, including but not limited to containment and removal actions and protection and preservation of natural resources when conducting a natural resource damage assessment.

Trustee Authority

Pursuant to 33 U.S.C. §§2702 and 2706(c), the Oil Spill Coordinator's Office and the Natural Resource Trustees of the state of Louisiana, to wit, the Department of Wildlife and Fisheries and the Department of Environmental Quality have authority to pursue damages resulting from the incident.

The trustees have jurisdiction to pursue damages under 15 CFR §41:

An incident has occurred, as defined in 15 CFR §30; The discharge was not permitted under state, federal, or local law or from a public vessel or from an onshore facility subject to the Trans-Alaska Pipeline Authority Act 43 U.S.C. 1651 et seq.; and

Natural resources under the trusteeship of the trustees listed above may have been or may be injured as a result of the incident.

Natural Resource Injuries

Vegetation in a 29-acre area immediately surrounding the wellhead was heavily coated with oil-water emulsion including a pond adjacent to the production facility. Twenty-nine acres were moderately oiled; 106 acres were lightly oiled;

Animals using this area had high probability of some contamination from the oil through contact with the aerosol product as well as contact with the product coating the vegetation;

Animals depending on food sources in this area had high probability of contamination of food materials;

Dead fish were observed and reported in ponds and sloughs with oil on the surface;

The vicinity of the wellhead is a favored area for hunters and was unavailable during much of the hunting season as a result of this spill;

The boat landing at Myette Point is used by hunters, and recreational and commercial fishermen. The landing was closed between 3 December and 24 December 1996.

Potential Restoration Actions

Potential restoration actions relevant to the expected and observed injuries exist. Primary restoration options include natural recovery of oiled water bodies and forested wetlands, or bioremediation of oiled exposed substrate. Compensatory restoration options include:

1. planting desirable native plant species to enhance habitat for wildlife and recreational opportunities for users of this Wildlife Management Area; and
2. enhancing habitat for wildlife by cutting trees in some areas to allow growth of desirable forage for wildlife.

Public Involvement

Pursuant to 15 CFR §990.14(d), the trustees seek public involvement in restoration planning for this spill, through public review of and comment on the documents contained in the administrative record, as well as on the draft and final restoration plans when they have been prepared.

Comments should be sent to Heather Warner Finley, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000; telephone (504)765-2390.

The Oil Spill Coordinator's Office, as the Lead Administrative Trustee, on behalf of the Natural Resource Trustees of the state of Louisiana, hereby provides Parker and Parsley with this notice of intent to conduct restoration planning and invites their participation with the trustees in restoration planning.

Roland J. Guidry
Oil Spill Coordinator

9705#071

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, May 31, 1997 at Delgado Community College, 615 City Park Avenue, New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Executive Director

9705#001

POTPOURRI

Department of Natural Resources Office of Conservation Injection and Mining Division

Public Hearing—Oilfield Waste Facility

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 Statewide Order No. 29-B, notice is hereby given that the commissioner of Conservation will conduct a hearing at 6 p.m., Tuesday, June 24, 1997, at the Thibodaux Civic Center, Plantation Room, 310 N. Canal Boulevard, Thibodaux, LA.

At such hearing, the commissioner, or his designated representative, will hear testimony relative to the application of Newpark Environmental Services, Box 31480, Lafayette, LA 70593-1480. The applicant requests authorization to modify its existing commercial nonhazardous oilfield waste (NOW) transfer station to include on-site processing of NOW to reclaim reusable material from the waste stream. Newpark intends to process NOW to generate a liquid reusable material that shall be utilized in the manufacture of oilfield drilling fluids. This Newpark facility is located on E-slip in Port Fourchon, in Section 14, Township 23S, Range 22E.

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 Lafourche Parish Council Office in Thibodaux, LA. Verbal information may be received by calling Pierre 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 4:30 p.m., Tuesday, July 1, 1997, at the Baton Rouge office.

Comments should be directed to Office of Conservation, Injection and Mining Division, Box 94275, Baton Rouge, LA 70804 Re: Docket Number IMD 97-06, Commercial Facility Lafourche Parish.

George L. Carmouche
Commissioner

9705#038

POTPOURRI

**Department of Natural Resources
Office of Conservation
Injection and Mining Division**

Public Hearing—Oilfield Waste Facility

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., Wednesday, July 2, 1997, at the Vermilion Parish Courthouse, Courtroom Number 1, Second Floor, 100 Tivoli, Abbeville, LA.

At such hearing, the commissioner, or his designated representative, will hear testimony relative to the application of Energy Environmental, LLC, Box 82387, Lafayette, LA 70598-2387. The applicant requests authorization to operate a commercial nonhazardous oilfield waste (NOW) transfer station in Intracoastal City, at the existing dock of Broussard Brothers. The NOW shall be received and temporarily stored on-site in certified hopper barges until transported to the applicant's licensed facility in Texas. The proposed facility will be located in Vermilion Parish, northwest portion of irregular Section 91, Township 14S, Range 03E.

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 in Abbeville, LA. Verbal information may be received by calling Pierre 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 4:30 p.m., Wednesday, July 9, 1997, 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 Number IMD 97-07, Commercial Facility, Vermilion Parish.

George Carmouche
Commissioner

9705#037

POTPOURRI

**Department of Natural Resources
Office of Conservation
Injection and Mining Division**

Public Hearing—Oilfield Waste Facility

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 Statewide Order No. 29-B, notice is hereby given that the commissioner of Conservation will conduct a hearing at 6 p.m., Thursday, July 10, 1997, at the St. Mary Parish Council Meeting Room, 500 Main Street, Franklin, LA.

At such hearing, the commissioner, or his designated representative, will hear testimony relative to the application of Energy Environmental, LLC, Box 82387, Lafayette, LA 70598-2387. The applicant requests authorization to operate a commercial nonhazardous oilfield waste (NOW) transfer station in Berwick, at the existing dock of Berry Brothers, Inc. The NOW shall be received and temporarily stored on-site in certified hopper barges until transported to the applicant's licensed facility in Texas. The proposed facility will be located in St. Mary Parish, in Section 1, Township 16S, Range 12E.

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 St. Mary Parish Council Office in Franklin, LA. Verbal information may be received by calling Pierre 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 4:30 p.m., Thursday, July 17, 1997, 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 Number IMD 97-08, Commercial Facility, St. Mary Parish.

George L. Carmouche
Commissioner

9705#036

POTPOURRI

**Department of Transportation and Development
Sabine River Compact Administration**

Spring Meeting Notice

The spring meeting of the Sabine River Compact Administration will be held at The Hotel Acadiana, Lafayette, Friday, June 20, 1997, at 10 a.m.

The purpose of the meeting will be to conduct business as programmed in Article IV of the Bylaws of the Sabine River Compact Administration.

The fall meeting will be held at a site in Texas to be designated at the above described meeting.

Contact person concerning this meeting is Mary H. Gibson, secretary, Sabine River Compact Administration, 15091 Texas Highway, Many, LA 71449, (318) 256-4112.

Mary H. Gibson
Secretary

9705#023

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