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III. RULES

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Executive Orders

EXECUTIVE ORDER MJF 97-1

Scenic By-Way Program

WHEREAS: the unique natural beauty of the State of Louisiana is to be shared with and enjoyed by the traveling public to the fullest extent possible;

WHEREAS: the Federal Highway Administration (hereafter "FHA") administers the Intermodal Surface Transportation Efficiency Act of 1991 and Scenic By-Way Program Grant Funds;

WHEREAS: the FHA requires states participating in the Scenic By-Way Program (hereafter "Program") to designate an agency to be responsible for the administration of the state's Program;

WHEREAS: pursuant to Article VII, §27(A) of the Louisiana Constitution of 1974, as amended, all monies received from the FHA shall, upon receipt, be deposited in the Transportation Trust Fund; and

WHEREAS: the Louisiana Tourism Development Commission (hereafter "Commission") has successfully worked with the Departments of Transportation and Development and of Tourism to administer the state's Program;

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 Commission is designated as the agency within the State of Louisiana to work with the Departments of Tourism and of Transportation and Development, to administer and coordinate the state's Program.

SECTION 2: Pursuant to Article VII, §27(A) of the Louisiana Constitution of 1974, as amended, the Department of Transportation and Development shall receive, deposit in the Transportation Trust Fund, and administer, all grant funds obtained from the FHA for the administration of the state's Program.

SECTION 3: Pursuant to its designation in Section 1, the duties and functions of the commission include, but are not limited to, working with the Departments of Tourism and of Transportation and Development to submit a grant application on behalf of the state for participation in the Program; to assure that any and all grant monies received for the Program are disbursed in accordance with the terms and conditions of the grant and/or the FHA; and fulfilling all other duties and functions designated by the governor.

SECTION 4: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Commission, and the Departments of Tourism and of Transportation and Development, in implementing the provisions of this Order.

SECTION 5: Upon signature of the governor, the provisions of this Order shall be made retroactive to August 11, 1996, 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 22nd day of January, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9702#019

EXECUTIVE ORDER MJF 97-2

Bond Allocation—Housing Finance Agency

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "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 allocation; and

WHEREAS: the Louisiana Housing Finance Agency has requested an allocation from the 1997 Ceiling to be used in connection with an elderly assisted care facility, Malta Square at Sacred Heart Project, in accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended;

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
\$7,300,000	Louisiana Housing Finance Agency	Malta Square at Sacred Heart

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 for 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, provided that such bonds are delivered to the initial purchasers thereof on or before April 22, 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 22nd day of January, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9702#020

EXECUTIVE ORDER MJF 97-3

Bond Allocation—Calcasieu Parish Public Trust Authority

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order 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 allocation; and

WHEREAS: the Calcasieu Parish Public Trust has requested an additional allocation from the 1997 Ceiling, in addition to the allocation granted to it in Executive Order Number 96-78, to be used in connection with a program of financing mortgage loans for first time home buyers throughout the Parish of Calcasieu in accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended;

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
\$5,200,000	Calcasieu Parish Public Trust Authority	Single Family Mortgage Bonds or Mortgage Certificate Program

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 for 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, provided that such bonds are delivered to the initial purchasers thereof on or before April 22, 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 22nd day of January, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9702#021

EXECUTIVE ORDER MJF 97-4

Automobile Insurance Rate Deduction Task Force

WHEREAS: Executive Order MJF 96-15, signed on June 13, 1996, created The Louisiana Task Force for the Reduction of Automobile Insurance Rates (hereafter "Task Force"); and

WHEREAS: it is necessary to extend the date on which the Task Force shall submit a comprehensive, detailed and actuarially-sound plan to both houses of the Louisiana Legislature;

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

SECTION 1: The last sentence in Section 1 of Executive Order MJF 96-15, which refers to the date that a comprehensive, detailed and actuarially-sound plan shall be submitted to both houses of the Louisiana Legislature, is amended to provide as follows:

The Task Force shall prepare and submit a plan to both houses of the Louisiana Legislature, for their review, no later than March 10, 1997.

SECTION 2: All other Sections and Subsections of Executive Order MJF 96-15 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 28th day of January, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9702#022

EXECUTIVE ORDER MJF 97-5

Office of the First Lady

WHEREAS: the First Lady is the official hostess of the State of Louisiana and, as a result, the First Lady holds both private status and *de facto* state officer status;

WHEREAS: the First Lady of Louisiana, Mrs. Alice Foster travels throughout Louisiana to promote its beautification and historic preservation, the health and safety of its inhabitants, and other worthy projects and causes, such as the Louisiana Governor's Mansion Foundation, litter prevention and elimination, breast cancer awareness, and the protection of children's health, safety and welfare;

WHEREAS: First Lady, Mrs. Alice Foster welcomes visiting dignitaries, makes speeches and public service announcements, authors articles pertaining to her projects, holds press conferences and interviews, participates in charity events, and performs numerous other duties and activities at the governor's request; and

WHEREAS: the numerous duties and activities of the First Lady place significant administrative demands on the office of the First Lady which necessitate that it be given formal recognition;

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 Office of the First Lady is created and established within the Executive Department, Office of the Governor. The First Lady shall be an ambassador and a spokesperson for the State of Louisiana, and shall perform other duties as directed by the governor.

SECTION 2: Support staff, office facilities, and reasonable operating expenses shall be provided to the Office of the First Lady by the Executive Department, Office of the Governor.

SECTION 3: The First Lady shall not receive compensation or a per diem. Nonetheless, she may receive reimbursement for actual travel expenses incurred in the representation of the Office of the First Lady, in accordance with state guidelines and procedures, contingent upon the availability of funds, and the approval of the commissioner of administration.

SECTION 4: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Office of First Lady in implementing the provisions of this Order.

SECTION 5: Upon signature of the governor, the provisions of this Order shall be made retroactive to January 1, 1997, and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or until 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 28th day of January, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9702#023

EXECUTIVE ORDER MJF 97-6

Bond Allocation—Parish of Ouachita

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order 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 allocation; and

WHEREAS: the Industrial Development Board of the Parish of Ouachita, Louisiana, Inc., has requested an allocation from the 1997 Ceiling to be used in connection with

EXECUTIVE ORDER MJF 97-7

Removal of Abandoned Barges and Vessels

the expansion, furnishing and equipping of a manufacturing project for EPCO Carbon Dioxide Products, Inc., located in Sterlington, Ouachita Parish, Louisiana;

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
\$3,500,000	Industrial Development Board of the Parish of Ouachita, La., Inc.	EPCO Carbon Dioxide Products, Inc.

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 for 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, provided that such bonds are delivered to the initial purchasers thereof on or before April 29, 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 29th day of January, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9702#024

WHEREAS: a recent report entitled *Final Report of the Abandoned and Derelict Vessels Inventory in Fulfillment of Mandates of R.S. 30:2469* by the Office of the Governor, through the Office of the Oil Spill Coordinator, reveals that there are 160 abandoned barges in Louisiana which pose a substantial threat to the environment and to human health and safety;

WHEREAS: the United State Environmental Protection Agency and Coast Guard, acting pursuant to the federal Oil Pollution Act of 1990 and the Abandoned Barge Act of 1992, are willing to work with the Office of the Oil Spill Coordinator to abate and/or remove those 160 abandoned barges;

WHEREAS: by virtue of R.S. 30:2469, the Office of the Oil Spill Coordinator is presently authorized to remove only those vessels or structures that are in a wrecked, derelict, or substantially dismantled condition and which discharge or threaten to discharge oil in coastal waters, on public or private lands, or at a public or private port or dock;

WHEREAS: R.S. 34:843 provides broader removal authority than does R.S. 30:2469, in that it authorizes the federal, state, and local "governing authority" to remove abandoned barges and vessels;

WHEREAS: R.S. 34:843 does not name or limit which entities are a state governing authority; and

WHEREAS: to facilitate the joint federal and state abandoned barge abatement effort, it is necessary that the Office of the Oil Spill Coordinator be designated by the state as a state "governing authority" within the meaning and for purposes of R.S. 34:843;

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

SECTION 1: The Office of Oil Spill Coordinator is designated a state "governing authority" within the meaning and for the purposes of R.S. 34:843 and, therefore, possesses the jurisdiction and authority to remove abandoned barges and vessels.

SECTION 2: All departments, commissions, boards, agencies, and officers of the state, and any political subdivisions thereof, are authorized and directed to cooperate with the Office of Oil Spill Coordinator in implementing the provisions of this Order.

SECTION 3: This Order is effective upon signature of the Governor and shall continue 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 30th day of January, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9702#025

EXECUTIVE ORDER MJF 97-8

DWI/Vehicular Homicide Task Force

WHEREAS: Executive Order MJF 96-9, signed on April 15, 1996, establishes the Governor's DWI/Vehicular Homicide Task Force (hereafter "Task Force"); and

WHEREAS: it is necessary to expand the membership of that Task Force to include the commissioner of the Office of Alcohol Beverage Control, assistant secretary of the Department of Revenue and Taxation;

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 1 of Executive Order MJF 96-9, is amended to add Subsection N, which shall provide as follows:

N. The commissioner of the Office of Alcohol Beverage Control, assistant secretary of the Department of Revenue and Taxation, or the commissioner's designee.

SECTION 2: All other Sections and Subsections of Executive Order MJF 96-9 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 30th day of January, 1997.

M.J. "Mike" Foster Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9702#026

EXECUTIVE ORDER MJF 97-9

Individual Wastewater Treatment Systems Task Force

WHEREAS: the State of Louisiana has a duty to protect the health of its inhabitants and to prevent damage from occurring to the environment;

WHEREAS: serious environmental and health threats may exist due to the individual wastewater treatment systems in use in both urban and rural areas of the state which are inadequate or malfunctioning;

WHEREAS: epidemics, health risks, disease control problems, and environmental damage may be caused by and/or attributable to individual wastewater treatment systems which are discharging inadequately treated wastewater into the waters of the state; and

WHEREAS: it is in the best interest of the state for an in-depth study to be conducted on the health and environmental risks associated with individual wastewater treatment systems and on any corrective action which should be considered for uniform implementation throughout the State of Louisiana;

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 Governor's Task Force on Individual Wastewater Treatment Systems (hereafter "Task Force") is established within the Executive Department, Office of the Governor.

SECTION 2: The duties of the Task Force shall include, but are not limited to, the following:

A. preparing a preliminary report, due no later than March 24, 1997, which identifies potential health and environmental problems associated with individual wastewater treatment systems, which are those systems with a capacity of less than 1500 gallons per day, and the various concerns raised by those problems; and sets forth a review of the regulations concerning individual wastewater treatment systems in use in the region of the southern states, and a plan to study and address the identified potential health and environmental problems;

B. conducting in-depth studies of and compiling information on individual wastewater treatment systems;

C. preparing a comprehensive report based on the results of the in-depth studies and compiled information, due no later than July 1, 1997, which addresses all matters associated with individual wastewater treatment systems, including the impact such systems may have on the environment and public health and the need for uniform statewide regulation of such systems; and

D. recommending legislation and/or regulatory provisions.

SECTION 3: The Task Force shall consist of at least 16 members who shall be appointed by and serve at the pleasure of the governor. The membership of the Task Force shall be selected as follows:

Emergency Rules

DECLARATION OF EMERGENCY

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

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

In accordance with the Administrative Procedure Act, R.S. 49:953(B) and R.S. 3:3203(A), the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in adopting the following Emergency Rules for the implementation of regulations governing standard registrations of pesticides, certification of commercial applicators, licensing requirements of owner-operators, and special restrictions on pesticide applications in schools.

The Department has determined that these Emergency Rules are necessary in order that the Department can immediately put into place more stringent regulations governing the qualifications required for pesticide registrations, certification of commercial applicators, licensing requirements of owner-operators, and special restrictions on pesticide applications in, on, or around school buildings and grounds.

The Department has further deemed these regulations necessary to help ensure the safety and well-being of the citizens of Louisiana in general, as well as school children in Louisiana, in particular.

The effective date of this regulation is January 21, 1997 and it will remain in effect 120 days or until the final Rule takes effect through the normal promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 131. Louisiana Advisory Commission on Pesticides

Subchapter D. Registration of Pesticides

§13113. Standard Registrations

A. Application for registration shall consist of two types, namely initial registration and renewal registration. Initial registration application may be filed at any time of the year. Renewal registration application shall be filed by the first day of December each year. Application shall be made on forms or formats prescribed by the Commissioner, or on forms or formats which have the prior, written approval of the Commissioner.

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

- a. the brand of the pesticide;

A. the secretary of the Department of Health and Hospitals, or the secretary's designee;

B. the secretary of the Department of Environmental Quality, or the secretary's designee;

C. the secretary of the Department of Wildlife and Fisheries, or the secretary's designee;

D. the assistant secretary of the Department of Health and Hospitals, Office of Public Health, or the assistant secretary's designee;

E. two members of the Louisiana Senate, nominated by the President of the Senate;

F. two members of the Louisiana House of Representatives, nominated by the Speaker of the House;

G. a representative of the Louisiana Police Jury Association;

H. a representative of the Federation of Wastewater Treatment Specialists;

I. an expert in the field of Environmental Health Science;

J. an environmental or civil engineer with expertise in the area of wastewater;

K. an attorney with expertise in environmental law, particularly on wastewater issues;

L. a representative of environmental/conservation organizations;

M. a representative of the Lake Pontchartrain Basin Foundation; and

N. a representative of consumer organizations or groups.

SECTION 4: The secretary of the Department of Health and Hospitals shall chair the Task Force. The membership of the Task Force shall select its vice-chairs and/or other officers.

SECTION 5: Support staff for the Task Force and facilities for its meetings shall be provided by the Department of Health and Hospitals.

SECTION 6: Task Force members shall not receive compensation or a per diem. Nonetheless, contingent upon the availability of funds, members who are not an employee of the State of Louisiana or one of its political subdivisions, or an elected state-wide public official, may receive reimbursement from the Office of the Governor for actual travel expenses incurred, in accordance with state guidelines and procedures, and upon the approval of the commissioner of Administration.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Task Force in implementing the provisions of this Order.

SECTION 8: The provisions of this Order are effective upon signature and shall remain in effect until July 1, 1997.

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 31st day of January, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9702#027

b. the name, address and contact person of the manufacturer of the pesticide;

c. two complete copies of the labeling of the pesticide, containing:

i. the specific name of each active ingredient in the pesticide;

ii. the percentage of the active ingredients in the pesticide;

iii. the percentage of the inert ingredients in the pesticide;

iv. the net contents of each package in which the pesticide will be sold;

v. a statement of claims made for the pesticide;

vi. directions for the use of the pesticide, including warnings or caution statements.

d. the material safety data sheet prepared in accordance with the requirements of the Environmental Protection Agency;

e. such other information as the commissioner may require.

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

a. the brand of the pesticide;

b. the name, address and contact person of the manufacturer of the pesticide;

c. such other information as the commissioner may require.

3. The labeling requirements as described in LAC 7:XXIII.13113.A.1 shall be resubmitted for any pesticide for which the label has been changed within 60 days of the change.

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

1. the composition of the pesticide is not sufficient to support the claims made for the pesticide;

2. the label on the pesticide does not comply with state and federal requirements;

3. use of the pesticide may produce unreasonable adverse effects on the environment;

4. information required in LAC 7:13113.A has not been furnished to the Commissioner by the manufacturer.

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

1. Any pesticide sold or offered for sale or distribution must bear a label consistent with the label submitted in the registration application.

2. Each shipping container must bear the lot or batch number of the pesticide.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 15:76 (February 1989), LR 23:

Subchapter F. Certification

§13123. Certification of Commercial Applicators

A. ...

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

an examination in the category in which the applicant desires certification.

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

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

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

Category 1. - Category 6.

* * *

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

i. ...

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

iii. ...

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

F. The commissioner shall issue a certification card to each commercial applicator showing the categories or subcategories in which the applicator is certified. This certification card shall expire on December 31 of each year.

Each person wishing to renew a certification card shall do so by submitting an application form prescribed by the commissioner and by submitting the proper fee.

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 23:

Subchapter H. Licensing Requirements

§13131. Owner-Operators

A. - N. ...

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:194 (March 1984), LR 12:87 (February 1986), LR 23:

Subchapter I. Regulations Governing the Application of Pesticides

§13144. Special Restrictions on Pesticide Applications in Schools

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

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

C. The governing authority (including but not limited to superintendents, headmasters, school boards, board of directors, chief executive officer, or principals) shall prepare and submit in writing, for each school under its authority, to the director of Pesticide and Environmental Programs (PEP), an annual integrated pest management (IPM) plan for pest control for grass and weed control and rodent and general pest control (roaches, wasps, and ants) in, on, or around school

structures and grounds. The IPM plan shall include all pest control methods employed, including pesticide and nonpesticide methods and strongly recommends the least toxic methods of control. The first IPM plan shall be submitted prior to any application of pesticides beginning March 1, 1995 and shall be submitted on an annual year of August 1 through July 31. The plan shall be available for review, upon request, by the commissioner and the general public, during normal school hours, at each school, in the business office. The annual IPM plan shall include, but not be limited to the following:

1. school name and mailing address, physical address, telephone number and contact person;
2. name and license or place of business number of company(s) and certification numbers of applicators, if contracted;
3. name and certification number of certified commercial applicator(s) of school system;
4. brand name and EPA registration number of all pesticides to be used;
5. for each pesticide to be used list the following:
 - a. pest to be controlled;
 - b. type of application to be used;
 - c. location of application;
 - d. restricted use pesticide or general use pesticide.
6. proposed location and date for noncertified applicator training;
7. other methods of pest control.

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 21:928 (September 1995), amended LR 23:

Bob Odom
Commissioner

9702#010

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Boll Weevil Eradication Commission

Definitions; Red River Eradication Zone;
Cotton Acreage; and Program Participation
(LAC 7:XV.9903, 9914, 9919, and 9921)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:1609 and R.S. 3:1613, the Louisiana Boll Weevil Eradication Commission declares an emergency to exist and adopts by emergency process the following Rule setting forth definitions, creating a Red River Eradication Zone, reporting of cotton acreage, and fee payment in the Boll Weevil Eradication Program. This emergency adoption is necessary in order to prevent imminent peril to the health, safety or welfare of the citizens of Louisiana for the reasons set forth below:

The boll weevil is a pest which is destructive to the commercial crop of cotton and such destruction has persisted over decades despite use of control measures. The cost of destruction to the crop and the cost of efforts to control the boll weevil currently exceed \$30 per acre of cotton which is a cost sufficiently high to eliminate profit for some producers. Both the cost of destruction to the crop and cost of control efforts have risen and continue to do so. It is federal policy as well as the policy of the State of Louisiana to eradicate the boll weevil. The federal government has an eradication program which provides cost subsidies to participating states. The federal eradication program sets timelines for states to participate in the program. Failure of Louisiana to meet the federal timeline jeopardizes the much needed subsidy which could put at risk Louisiana's eradication program. Most cotton producing states are participating in the federal eradication program, in their own state eradication program, or in both eradication programs. Failure of Louisiana to achieve eradication of the boll weevil concurrently with other cotton producing states which do achieve eradication may cause Louisiana to be quarantined thus restricting the movement of cotton, equipment, and other regulated articles from the state.

Louisiana's eradication program is essential to the health, safety and welfare of the citizens of this state. Failure to adopt and amend these Rules on an emergency basis would jeopardize Louisiana's ability to meet the federal timeline and could result in a loss to Louisiana of the federal subsidy threatening the ability of Louisiana to conduct the eradication program. Failure to adopt these Rules on an emergency basis could also place Louisiana producers at an economic disadvantage when dealing with other cotton producing states which are participating in eradication programs and thus threaten Louisiana's ability to eradicate the Boll Weevil.

The effective date of this Emergency Rule is February 17, 1997, and it shall remain in effect for 120 days or until the final Rule takes effect through the normal promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 99. Boll Weevil

§9903. Definitions Applicable to Boll Weevil

ASCS—the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture, now known as FSA (Farm Service Agency).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 23:

§9914. Red River Eradication Zone: Creation

A. There is hereby created an eradication zone which shall hereafter be known as the Red River Eradication Zone.

B. The Red River Eradication Zone shall consist of all those territories within the boundaries of the following parishes: Acadia, Avoyelles, Bienville, Bossier, Caddo, Claiborne, DeSoto, East Baton Rouge, Evangeline, Grant, Natchitoches, Pointe Coupee, Rapides, Red River, St. Landry, St. Tammany, Webster, West Baton Rouge, West Feliciana.

C. The effective date of the establishment of the Red River Eradication Zone shall be effective immediately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 23:

§9919. Reporting of Cotton Acreage

C. Noncommercial cotton shall not be planted in an Eradication Zone unless an application for a written waiver has been submitted in writing to the Commissioner stating the conditions under which such written waiver is requested, and unless such written waiver is granted by the Commissioner. The Commissioner's decision to grant or deny a written waiver for noncommercial cotton shall include consideration of the location, size, pest conditions, accessibility of the growing area, any stipulations set forth in any compliance agreement between the applicant and the Commissioner, and any other factors deemed relevant to effectuate the boll weevil eradication program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1607 and R.S. 3:1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 23:

§9921. Program Participation, Fee Payment and Penalties

Upon passage of the referendum, all cotton producers growing cotton in an Eradication Zone shall be required to participate in the eradication program as follows:

1. Each year, during the first five years of the program, cotton producers shall submit to the ASCS Office the annual assessment as set by the Commission following the adjudicatory procedure of the Administrative Procedure Act, which assessment shall not exceed \$10 per acre the first year

and \$35 per acre for each of the remaining years, for each acre of certified cotton acreage on file with ASCS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, R.S. 3:1612, and R.S. 3:1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 21:669 (July 1995), LR 23:

Dan P. Logan, Jr.
Chairman

9702#003

DECLARATION OF EMERGENCY

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

**Diseases of Animals—Equine Infectious Anemia
Eradication Program (LAC 7:XXI.Chapter 117)**

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

The Livestock Sanitary Board has been advised of allegations that legal defects exist in the equine infectious anemia eradication program. The Board has concluded that in the event the alleged legal defects are found to exist, the equine infectious anemia eradication program would be interrupted. The Board has and does now find that the interruption to the equine infectious anemia eradication program will occur. The Board hereby concludes that 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 that a major disease eradication program would be compromised. In order to insure that the equine infectious anemia eradication program remains in place and uninterrupted pending final adoption of an appropriate final Rule through the normal promulgation process, the Board declares an emergency to exist and adopts by emergency process the following Rule setting forth the equine infectious anemia eradication program.

The effective date of this Emergency Rule is February 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.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter A. General Provisions

§11701. Definitions

Approved Livestock Auction Market—a place where livestock are assembled for sale, which is approved by the USDA to receive livestock restricted due to exposure to

certain diseases and has a permit to operate issued by the Louisiana Livestock Sanitary Board.

Direct to Slaughter—the shipment of livestock from the premises of origin directly to a slaughter establishment without diversion to assembly points, such as auctions, public stockyards and feedlots.

Equine Infectious Anemia—an infectious disease of equine caused by a lentivirus characterized by intermittent fever, depression, weakness, edema, anemia and sometimes death. The disease is also known as Swamp Fever and is referred to hereafter and sometimes as EIA.

Form VS 1-27—a form which must be secured from state or federal personnel before livestock may be moved from the premises. This document will be valid for 15 days from the date of issuance.

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 1980), LR 12:498 (August 1986), LR 14:219 (April 1988), LR 15:812 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 23:

§11709. Livestock Auction Market Requirements

E. Duties of an Auction Veterinarian and/or State-Federal Personnel

1. - 8. ...

9. To draw blood samples on all equine for testing for Equine Infectious Anemia unless the equine is presented for sale with a record of an official test for EIA conducted within six months.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:662, R.S. 3:665, R.S. 3:2221 and R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:233 (March 1985), amended LR 11:615 (June 1985), LR 23:

Subchapter C. Equine

§11759. General Requirements Governing the Admission of Equine

A. All equine imported into the state shall meet the general requirements of LAC 7:XXI. 11705 and the following specific requirements:

B. All equine moving into Louisiana shall be accompanied by a record of a negative official test for Equine Infectious Anemia (EIA) conducted within the past 12 months. Equine consigned direct to slaughter to an approved slaughter establishment for immediate slaughter or to an approved livestock auction market are exempt from the requirement. The official test shall be conducted by an approved laboratory. 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.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:242

(March 1985), amended LR 11:615 (June 1985), LR 14:222 (April 1988), LR 20:405 (April, 1994), LR 23:

§11761. Admission of Equine to Fairs, Livestock Shows, Breeders Association Sales, Rodeos and Racetracks

All equine consigned to fairgrounds, livestock show grounds, sale grounds, rodeos and racetracks must meet the general requirements of LAC 7:XXI.11707 and the following specific requirements:

1. It is recommended that all owners have their equine vaccinated against equine encephalomyelitis with bivalent (eastern and western type) vaccine within 12 months prior to entry.

2. Representatives of the Livestock Sanitary Board may inspect equine at the shows periodically, and any equine showing evidence of a contagious or infectious disease shall be isolated and/or removed from the show.

3. All equine moving into the state of Louisiana to fairs, livestock shows, breeder's association sales, rodeos, racetracks or any other concentration point, shall be accompanied by a record of a negative official test for EIA, conducted within the past 12 months. The official test shall be conducted at an approved laboratory and the name of the laboratory, the case number, and the date of the official test shall appear on the record.

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:242 (March 1985), amended LR 11:615 (June 1985), LR 14:222 (April 1988), LR 20:405 (April 1994), LR 23:

§11763. Movement of Equine in Louisiana by Livestock Dealers

A. All equine which are sold or offered for sale by livestock dealers, must meet the general requirements of LAC 7:XXI.11709 and the following specific requirements:

B. All equine sold or offered for sale by permitted Louisiana livestock dealers, must be accompanied by a record of a negative official test for Equine Infectious Anemia, conducted at an approved laboratory, within the past six months. The record shall include the name of the laboratory, the case number and the date of the official test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:502.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 14:223 (April 1988), LR 20:406 (April 1994), LR 23:

§11765. Equine Infectious Anemia and Livestock Auction Market Requirements

A. Identification. Prior to an official test for Equine Infectious Anemia (EIA), all equine 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. All equine moving into the state of Louisiana for any purpose other than direct to slaughter for immediate slaughter, shall be accompanied by a record of a negative official test for EIA, conducted within the past 12 months. The official test shall be conducted by an approved laboratory. 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. 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 a record of a negative official test for EIA, conducted within the past 12 months. 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 record of the official test.

3. 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. The official test shall be conducted at an approved laboratory. A record of the official test 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 record of the official test.

4.a. All equine offered for sale at Louisiana livestock auction markets must be accompanied by a 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.

Untested equine arriving at an approved livestock auction market shall have a blood sample drawn for official EIA testing. A fee of no more than \$18 shall be collected from the seller and paid to the testing veterinarian by the auction market. 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. 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. 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. 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.

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

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 current negative official test for Equine Infectious Anemia. A current negative 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. 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. Written proof of a current negative 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. 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. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian. 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 livestock auction market or to an approved slaughter establishment. 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. Exceptions are:

a. 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. The female equine shall be identified with a "72A" brand at least three inches in height on the left shoulder. 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. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian. 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 livestock auction market or to an approved slaughter establishment.

b. 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.

c. Any equine testing positive to the official EIA test prior to February 1, 1994, may be quarantined to the owner's premises and kept at least 200 yards away from any other equine. This equine shall be identified with a "72A" brand at

least 3 inches in height on the left shoulder. 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. 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.

d. 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 quarantined 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. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian. 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 livestock auction market or to an approved slaughter establishment.

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. Equine which are required to be officially tested for EIA as a result of being quarantined due to the circumstances described in §11765.C.3-4 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. In the event that the official testing for EIA is done by a state-employed veterinarian, the record will not be made available to the owner.

6. Equine positive to the official test for EIA shall be identified with a "72A" brand on the left shoulder at least 3 inches in height, by Louisiana Livestock Sanitary Board personnel. Equine positive to the official test for EIA 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. 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. The seller of any equine which sells at an approved 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. 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. 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, 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 Requirements

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 United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

3. The applicant must agree, in writing, to operate the laboratory in conformity with the requirements of the regulation and United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services 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 United States Department of Agriculture, Animal Plant Health Inspection Service, 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 United States Department of Agriculture, Animal Plant Health Inspection Service, 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, Livestock Sanitary Board, LR 14:698 (October 1988), amended LR 20:408 (April 1994), LR 23:

Bob Odom
Commissioner

9702#008

DECLARATION OF EMERGENCY

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

Sanitary Disposal of Dead Poultry
(LAC 7:XXI.11701 and 11771)

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 which took place 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 sanitary disposal of dead poultry remains in place and uninterrupted pending final adoption of this Emergency Rule through the normal promulgation process, the Board declares an emergency to exist and adopts by emergency process the following Emergency Rule setting forth the sanitary disposal of dead poultry.

The effective date of this Emergency Rule is February 17, 1997 and it shall be in effect for 120 days or until the final

Rule takes effect through the normal promulgation process, whichever occurs first.

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter A. General Provisions

§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 15:810 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 23:

Subchapter D. Poultry

§11771. Governing the 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. Dead poultry must be removed from the presence of 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. 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. Disposal pits that are currently in use will be allowed to operate until July 1, 1997.

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 four 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), amended LR 17:874 (September 1991), LR 18:1355 (December 1992), LR 20:550 (August 1994), LR 23:

Dr. Maxwell Lea, Jr.
Executive Secretary

9702#007

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1706—Exceptional Children

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and readopted as an Emergency Rule, Bulletin 1706, regulations for implementation of the Exceptional Children's Act. Re-adoption of the Emergency Rule is necessary in order to continue the federally required changes until they are finalized as a Rule. The effective date of this Emergency Rule is February 27, 1997. It will remain in effect for 120 days or until finalized as a Rule, whichever occurs first.

Emergency adoption is necessary because the Office of Special Education Programs in the U.S. Department of Education has been assured that these regulations would be in effect and enforceable by July 1, 1994. This is required in order for the Louisiana State Plan for Special Education to be approved and Part B dollars to be released to Louisiana.

**Part 100. Responsibilities of the Board
of Elementary and Secondary Education**

§101. Free Appropriate Public Education

A. The Louisiana State Board of Elementary and Secondary Education (the State Board) shall be responsible for the assurance of a free appropriate public education to all exceptional students, ages 3 through 21 years, and at the discretion of the local education agency (LEA) and with

parental approval to those students with disabilities who will turn 3 years old during the school year; and shall exercise supervision and control of public elementary and secondary education.

B. The State Board shall be directly responsible for the provision of a free appropriate public education to exceptional students, ages 3 through 21 years, who are within the jurisdiction of Special School District Number 1, or in the State Board special schools (Louisiana School for Visually Impaired, Louisiana School for the Deaf, or Louisiana Special Education Center).

§102. Issuance of Regulations

The State Board shall adopt, amend, or repeal Rules, regulations, standards, and policies necessary or proper for the provision of a free appropriate public education developed pursuant to R.S. 17:1944(c).

§103. Compliance with Federal Rules

The State Board has the responsibility of complying with Rules and Regulations governing grants for educational purposes from the federal government or from any other person or agency, which are not in contravention to the Constitution and laws, and the authority to take all action necessary to achieve compliance.

§104. Approval of Nonpublic Schools

The State Board shall approve each participating nonpublic school that provides special education in accordance with standards established by the State Board.

§105. Approval of IDEA - Part B State Plan

The State Board will review and approve the State Plan described in §330 of these Regulations before its submission to the U.S. Department of Education.

§106. Opportunity of Hearing

The State Board shall provide an opportunity for a hearing according to procedures set out in Education Division General Administrative Regulations (EDGAR) at 45 CFR 100b.401d before the department disapproves any school system application for federal entitlement funds for special education under Chapter 1 S.O.P. or IDEA - Part B.

§107-129. Reserved

§130. State Advisory Council

A. The State Board of Elementary and Secondary Education and the department shall appoint a state advisory council for the education of exceptional students. The membership shall be 11. Procedures shall follow existing State Board procedures for appointing such councils.

B. Membership of the council shall, at all times, include at least one person representing each of the following groups:

1. individuals with disabilities;
2. teachers of students with disabilities;
3. teachers of regular students;
4. parents of exceptional children;
5. state and local education officials;
6. special education program administrators;
7. representatives of recipients of special education and related services and their families;
8. representatives of advocate agencies for the disabled, for colleges and universities, and for vocational/technical schools.

C. The Advisory Council shall perform the following:

1. advise the State Board of unmet needs in the education of exceptional students, including needs identified through study and analysis of the findings and decisions of the hearings;

2. comment publicly on the state annual program plan and Rules or regulations proposed for issuance by the state regarding the education of exceptional students and the procedures for distribution of funds under IDEA - Part B;

3. assist the state in developing and reporting such information and evaluations as may assist the U.S. commissioner of Education in the performance of responsibilities under Section 618 of IDEA - Part B.

D. The Procedures of the Advisory Council

1. The advisory council shall meet as often as necessary to conduct its business.

2. By July 1 of each year, the advisory council shall submit an annual report of council activities and suggestions to the State Board. This report must be made available to the public in a manner consistent with other public reporting requirements under this Part.

3. Official minutes must be kept on all council meetings and shall be made available to the public on request.

4. All Advisory Council meetings and agenda items must be publicly announced prior to the meeting, and meetings must be open to the public.

5. Interpreting and other necessary services must be provided at council meetings for council members or participants.

6. The Advisory Council shall serve without compensation, but the State Department of Education must reimburse the council for reasonable and necessary expenses for attending meetings and performing duties.

§131-199. Reserved

Part 200. Responsibilities of the Superintendent of Public Elementary and Secondary Education and the Department of Education

§201. General Responsibilities and Authorities

The state superintendent of public Elementary and Secondary Education (the superintendent) and the State Department of Education (the department) shall administer those programs and policies necessary to implement R.S. 17:1941 et seq. Responsibilities of the state superintendent and the department include the following:

A. approving, in accordance with standards approved by the State Board, each public school program that delivers special education;

B. recommending to the State Board approval, in accordance with standards approved by the State Board, of each participating nonpublic school program that delivers special education;

C. receiving, administering, and directing distribution of federal funds for education of exceptional students, except those received directly by school systems;

D. recovering any funds made available under IDEA-B for services to any student who was determined to be erroneously classified as eligible to be counted.

§202-204. Reserved

§205. Preparation of Annual Budget

The department shall prepare and submit to the State Board for review and approval a comprehensive budget for the next fiscal year that at a minimum proposes the appropriations by the Louisiana Legislature of whatever state funds are needed by the department, Special School District Number 1, and city/parish school systems to comply fully with all of the requirements established by the Regulations for the Implementation of the Exceptional Children's Act (with due regard to federal maintenance of effort, nonsupplanting, comparability, and excess cost requirements).

§206-219. Reserved

§220. Certification of Personnel

The department must develop as needed, Louisiana standards for state certification of school and other program personnel, subject to approval by BESE, for all public and participating nonpublic program staff who provide special education, administrative, ancillary, pupil appraisal and related services to exceptional students (birth through age 21) under Part B and Part H of IDEA.

§221-229. Reserved

§230. Review of Enforcement Recommendations

The state superintendent, after review of the recommendations from the office, submits to the State Board at the next regularly scheduled meeting all recommendations of the department to withhold state or federal funds for special education or to take other necessary enforcement action in accordance with the procedures described in the *Louisiana Administrative Code*.

§231-239. Reserved

§240. Hearing Officers

The department and each local agency shall maintain a list of qualified hearing officers. The list will include a statement of the qualifications of each of those persons and, to the extent possible, include representation from all regions of the state. The department ensures that these hearing officers have successfully completed an inservice training program approved by the department and meet all other criteria established by the department. Additional inservice training shall be provided whenever warranted by changes in applicable legal standards or educational practices.

§241-250. Reserved

§251. Relationship Between Special Education and Competency-Based Education

§252. Competency-Based Assessment Program

A. No exceptional student shall be automatically excluded from participation in any educational assessment program. Individual exemption from any such assessment program requires formal parental approval and will be reflected in the student's IEP.

B. Individual exemption from any such assessment program will be appropriate for exceptional students who are not following a curriculum based on Louisiana's grade level

standards for and who are not pursuing a regular high school diploma.

C. Exceptional students who take part in the testing program shall have available to them certain procedural modifications in the administration of the tests when indicated on the student's IEP.

§253-259. Reserved

§260. Full Educational Opportunity

The department must ensure that all public education programs of the state strive to meet the goal of providing full service to all exceptional students, ages birth through 21 years, by the year 2010.

§261. Arts for Students with Disabilities

The department shall encourage the use of the arts as a teaching tool and the recognition of the importance of artistic and cultural activities in the education of students with disabilities.

§262-269. Reserved

§270. Interagency Agreements

The department is authorized to enter into any agreement developed with another public or private agency, or agencies, which is:

- A. consistent with Part 800 of these Regulations;
- B. essential to the achievement of full compliance with these Regulations;
- C. designed to achieve or accelerate the achievement of the full educational goal for all exceptional students;
- D. necessary to provide maximum benefits appropriate in service, quality, and cost to meet the full educational opportunity goal in the state;
- E. necessary to promote the successful transition of youths with disabilities into adult services and agencies.

§271. Approval of Out-of-District Placement

The department shall approve or disapprove each request made by a school system to place an exceptional student outside the geographic boundaries of that school system unless the placement is in an approved cooperative operated by the school system.

§272-274. Reserved

§275. Fiscal Agent

The department shall act as the fiscal agent in disbursing funds under Chapter 1, State Operated Programs (SOP) for Students with Disabilities, including transfers of such funds to city/parish school systems. No provision of the Louisiana competency-based education program shall be construed to interfere with the provision of a free appropriate public education to exceptional students under these Regulations [R.S. 17:24.4(D)]. from state-operated programs and state-supported programs.

§276-289. Reserved

§290. Nondiscrimination

The State Department shall comply with the following statutes and regulations:

Subject	Statute	Regulation
Discrimination on basis of race, color, or national origin	Title VI of the Civil Rights Act of 1964 (45 U.S.C. 2000d through 2000d-4)	45 CFR Part 80
Discrimination on basis of sex	Title IX of the Education Amendments of 1972 (20 U.S.C. 1681-1683)	45 CFR Part 86
Discrimination on basis of handicap	Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 974) Act 665 of the 1980 La. Legislature (R.S. 46:2251-2256)	45 CFR Part 84
Discrimination on basis of age	The Age Discrimination Act (42 U.S.C. 6101 et seq.)	45 CFR Part 90

§291-299. Reserved

Part 300. Responsibilities and Activities of the Office of Special Educational Services

§301. General Supervision

The Office of Special Educational Services is established within the department to provide general supervision of all education programs for exceptional students within the state, including all participating nonpublic school programs and all education programs administered by other state or local agencies. *General Supervision* is defined as the responsibility to perform the following:

A. ensure that all necessary state standards for implementation of the act are established;

Comment: Any state standard affecting other state agencies and established under the general supervision requirement shall be developed in cooperation with such agencies.

B. disseminate such standards and revisions to all public and nonpublic agencies bound by them and provide parents and all citizens with information requested regarding implementation of such state standards;

C. provide technical assistance to all public and nonpublic agencies bound by such standards in their proper implementation;

D. monitor according to written procedures the implementation of state standards in each public and each participating nonpublic agency. Such monitoring shall include child identification and programmatic, administrative, and fiscal issues;

E. institute a system for complaint management and investigation regarding the implementation of state standards.

§302. Monitoring, Complaint Management and Investigation

A. The office is authorized to implement the monitoring, complaint management and investigatory provisions of these Regulations.

B. The office must monitor in accordance with the procedures established in the *SDE Monitoring Procedures*, Bulletin 1922, all public and participating nonpublic schools and other education agencies for compliance with these and other applicable federal regulations, state statutes and standards.

C. The office, through its complaint management procedures, shall:

1. investigate allegations of failure to comply with any provision of these regulations and other applicable state or federal laws, regulations or state standards;
2. conduct hearings when necessary; and
3. issue subpoenas on behalf of the department to require attendance, testimony by witnesses and the production of documentary evidence.

D. The office, in carrying out its investigatory responsibilities, may require school systems and participating nonpublic education agencies to keep certain records, and submit to the office complete and accurate reports at such time and in such form and containing such information as is determined necessary to enable the office to fulfill its responsibilities of ensuring compliance.

§303-328. Reserved

§329. State Plan under the Individuals with Disabilities Education Act

The office shall prepare for submission to the State Board the state plans required under IDEA according to applicable federal requirements for such plans.

§330. The State Plan: Public Notice and Participation

A. In the preparation of the State Plan required under IDEA - Part B, the office must perform the following:

1. publish in newspapers of general circulation throughout the state, other media, or both, a summary of the proposed program plan indicating its purpose and scope, its public availability, the timetable for final approval, the procedures for submitting written comments, any policy changes from previous plans, and a list of the times and places of public meetings to be held. Such notice shall occur between 45 and 60 calendar days prior to submission of the program plan to the State Board;

2. distribute to any parent organization, child and youth advocacy organization, school board, approved nonpublic school program, public college or university, or affected state agency, operating in Louisiana, which has previously registered with the office, a copy of the proposed plan and a list of the times and places of public meetings to be held. This distribution must occur no less than 30 calendar days prior to submission of the proposed plan to the State Board;

3. publish on each of the three days preceding a public meeting a description of the time, place, and purpose of the meeting in newspaper(s) of general circulation in the area of the state in which the meeting will be held;

4. hold a series of open public meetings in which parents and other interested persons throughout the state are afforded a reasonable opportunity to comment on the proposed plan;

5. file in a publicly available location a written or electronic verbatim record of the public meetings and any written comments received;

6. review and consider all public comments which might warrant modification of the plan;

7. attach a summary of the comments made during the public meeting or received by the State Board to the proposed final plan submitted to the State Board;

8. publicize the approval by the State Board of a final plan and the location at which copies of the plan can be obtained by the public;

9. publicize the approval or disapproval by the U.S. Department of Education of the annual plan and the location at which copies of the plan can be obtained by the public.

B. The office must make all reasonable efforts to inform potentially interested parent and child advocacy organizations throughout the state, and all school boards, approved nonpublic school programs, public colleges and universities, and affected state agencies of the requirements of this Subpart and of §488.

C. The office shall maintain a list of each interested group identified as a result of Subsection B above.

§331-339. Reserved

§340. Review and Approval of Annual Applications of School Systems

A. The office must review each annual application for IDEA - Part B funds submitted by a school system, and:

1. provide written notice of whether an application is or is not in substantially approvable form (and if not, the reasons therefore) within 45 days from the receipt of the application;

2. provide formal written approval (or disapproval) within 10 operational days following receipt by the department of an approved grant award document for expenditure of IDEA - Part B funds from the U.S. Department of Education.

B. Applications for federal and/or state funds in periods during which they may be applied for shall be approved or disapproved by the office according to applicable federal or state procedures.

§341. Provisions for FAPE by the Department

When the department does not distribute IDEA - Part B funds to a school system in accordance with §230 and §373.B, the office shall use those funds to ensure the provision of a free appropriate public education to students with disabilities residing in the area served by the school system either directly, by contract, or through other arrangements. The department may provide special education and related services in the manner and at the location the department considers appropriate, consistent with the requirements of these Regulations.

§342-354. Reserved

§355. Confidentiality of Records

The office must comply with all of the requirements of §517 pertaining to confidentiality of personally identifiable education records.

§356. Notification of Child Identification Effort

Notice of the child identification effort regularly undertaken by the department and school systems must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the state.

§357-369. Reserved

§370. Comprehensive System of Personnel Development

In planning, coordinating, implementing, and evaluating the comprehensive system of personnel development (CSPD) required under IDEA, the Office of Special Educational Services is responsible for the following tasks:

A. conduct a comprehensive needs assessment at least once every three years in conjunction with the development of the Special Education Annual Plan to determine supply/demand personnel projections for the subsequent five-

year period for qualified special education instructional, leadership, pupil appraisal, related services, and support personnel required to assure a free appropriate public education for all exceptional students (birth through age 21). After the initial comprehensive needs assessment, follow-up assessment in targeted areas of need will be conducted during the ensuing two years to determine changes or corrections in the course of action for the three-year program plan. The comprehensive needs assessment may be conducted more often if deemed appropriate;

B. identify, on the basis of the comprehensive needs assessment, target populations for personnel preparation (preservice) and personnel development (continuing education), and describe procedures to ensure that activities are carried out and the program plan is on schedule;

C. coordinate and facilitate efforts among the department, LEAs, IHEs, professional associations, parent associations, and other support groups and councils, to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel with disabilities through support of CSPD statewide committee activities, regional CSPD activities, and multi-agency and interdisciplinary collaborative planning;

D. establish, with the approval of BESE, a system for dissemination, statewide, of information on effective practices for the delivery of special educational services, and procedures for replication and/or adoption of effective practices and/or programs.

§371. Preservice Training Agreements

The office of Special Educational Services shall develop, in concert with colleges and universities within the state, preservice training arrangements necessary to support approved local public and participating nonpublic school systems and service providers in complying with the requirements of IDEA in achieving the goal of full educational opportunity in the least restrictive environment for exceptional students in Louisiana.

§372. Training of Personnel in Participating Nonpublic Schools

The office, for the department, shall provide the opportunity for continuing education (inservice training) of personnel of participating nonpublic schools.

§373. Administration of Funds

A. The office shall ensure the proper receipt and disbursement of all state and federal funds administered by the department specifically for the provision of special education and related services for exceptional students.

B. The office shall not distribute funds to a school system in any fiscal year if the school system:

1. does not submit an annual application that meets the requirements of §487 of these Regulations;

2. is unable or unwilling to establish and maintain programs of free appropriate public education;

3. is unable or unwilling to enter into a cooperative agreement with other school systems in order to establish and maintain those programs;

4. has not implemented the provisions of a hearing officer's decision which was adverse to the school system; or

5. has failed to comply with a corrective action plan developed to eliminate compliance deficiencies found through state monitoring, a complaint investigation, or a due process hearing order.

C. An on-site fiscal review and compliance monitoring will be conducted in accordance with the *SDE Monitoring Procedures*, Bulletin 1922.

D. The BESE establishes the policy to seek to recover any funds made available under IDEA-B for services to any student who is determined to be erroneously classified as eligible to be counted.

E. Determination of misclassified students shall be accomplished through the verification procedures of the SDE regarding the child count as detailed in §491. In order to verify the accuracy of each count submitted, the office will conduct the following activities:

1. The current child count from each school system will be compared with the previous count. Discrepancies of ± 10 percent in any disability category will be noted.

2. The current child count incidence figures from each school system will be compared with incidence figures from the previous state child count. Discrepancies of ± 2 percent in any disability category will be noted.

3. An on-site child count review will be conducted in accordance with the *SDE Monitoring Procedures*, Bulletin 1922. If necessary, each system can be monitored for previous years to verify the accuracy of the child count. During fiscal monitoring of each school system, the monitors will randomly select at least 10, but not more than 20, cells from the child count report. For each cell, the school system must provide the student name, date of birth, evaluation report, IEP, class rolls, and any other information that may be necessary to verify the accuracy of the count.

4. Administrative on-site reviews are conducted in accordance with the *SDE Monitoring Procedures*, Bulletin 1922. Any multidisciplinary evaluation reviewed which are not in compliance with state guidelines, to the extent that it cannot be determined that the student is disabled, will result in the exclusion of that student from the child count.

5. If a student's IEP is monitored during the on-site administrative review process and it is determined that the student is not receiving all the special education and related services specified on the IEP, the student will be excluded from child count.

6. The school system will be afforded an opportunity to present supportive or explanatory documentation to refute OSES and must be formally accepted. If the evidence cannot justify the count, the count will be disallowed.

F. Recovery of Funds for a Misclassified Student. If the school system has received funds based on an erroneous count and the office has documented the extent of the error, the department will reduce the grant award if the error occurred in the current budget and all of the funds have not been expended or request that the school system return such funds. In the event the school system refuses to comply within 10 operational days, these procedures will be followed:

1. The Office of Special Educational Services will submit written documentation of the error in the count to the state superintendent of Education.

2. Within 10 days of this submission, the state superintendent will request the State Board of Elementary and Secondary Education (BESE) to require the school system to repay the funds.

3. BESE has the responsibility to offer an opportunity for a hearing to a school system prior to a determination to withhold funds.

4. Funds recovered by the department and BESE will be handled within the guidelines set forth by OSEP, U.S. of Education.

G. Comparison of State National Child Count Data. The office will compare the incidence figures for the state with national figures provided by Office of Special Education and Rehabilitative Services, U.S. Department of Education. Discrepancies of ± 2 percentage points will be analyzed to determine if changes are required in the statewide student evaluation procedures.

§374. Nonbias of Testing and Evaluation Materials

The office, on the behalf of the department, shall, with the approval of the State Board, establish procedures to ensure that testing and evaluation materials used for evaluation and placement are free of racial, cultural, and/or sexual bias.

§375-399. Reserved

Part 400. Responsibilities of City and Parish School Boards, Special School District Number 1 and State Board Special Schools

§401. Responsibilities of Public School Systems

A. Each school system shall identify, locate, and evaluate each student suspected to have disabilities (regardless of the severity of the disabilities), birth through 21 years of age, and each student suspected to be gifted or talented, 3 through 21 years of age, residing within its jurisdiction.

B. Each school system is responsible for providing, or causing to be provided, a free appropriate public education to each eligible exceptional student who resides within its jurisdiction except those voluntarily enrolled in a nonpublic school program.

§402. Definitions

A. Free Appropriate Public Education (FAPE)

1. *Appropriate Public Education*—all special education and related services provided each exceptional student which:

a. meet State Board standards, including these Regulations and all applicable bulletins approved by the State Board (e.g., Bulletin 741, Bulletin 746, Bulletin 1508); and

b. are provided in conformity with an IEP at public expense, under public supervision and direction, and without charge, including preschool, elementary school, or secondary school education.

2. *Free*—without charge, including the following:

a. costs for all room, board, and nonmedical care provided when residential educational placement is necessary;

b. transportation costs provided in order to assure access of persons to services necessary to implement a student's IEP. Exceptional students shall be provided, on a comparable basis with that of students who are nonexceptional, an opportunity to receive transportation services funded out of state or local resources;

c. The term *free* does not preclude incidental fees normally charged to nondisabled students or their parents/guardians) as a part of the regular educational program.

3. Nothing in these Regulations shall relieve in any way, an insurer, similar third party, or other public state or local agency from an otherwise valid obligation to provide or to pay for services to which an exceptional student is entitled as a client or beneficiary of such third party under state or federal entitlement or laws or under policies or contracts. This does not prohibit the use of insurance payments or private donations for use in the provision of a free appropriate public education.

4. Whatever state, local, federal, and private sources of support are available may be used to provide a free appropriate public education, including joint agreements between agencies for sharing the costs of those services.

B. Jurisdiction is the right of a school system to exercise authority over all students residing within its geographic area and over each student placed by the school system in an educational program within the geographic area of another school system or in an approved educational program out of the state.

1. For city/parish school systems, the geographic area is the boundary of the school board as defined in the Louisiana Revised Statutes.

2. For SSD#1, the geographic area is the boundary of the state-operated treatment and care residential facilities.

3. For a State Board special school, the geographic area is the boundary of the educational facility.

Comment:

1. If there is a transfer of jurisdiction from one system to another for the provision of a free appropriate public education initiated by a school system, this is indicated by using the word "referral." According to these Regulations, such a referral culminates in the establishment of responsibility for FAPE for the student by the receiving school system. All transfers of jurisdiction are considered significant changes in placement.

2. If there is a placement of a student in another school system or an approved nonpublic school, the student so placed remains within the jurisdiction of the placing school system. The responsibility for FAPE remains with the placing school system and, in the case of placement in an approved nonpublic facility, also with the State Board.

C. Eligible Students

1. Free appropriate public education must be available to all exceptional students reaching the age of 3 years, regardless of when the birthday occurs during the school year. At the discretion of the LEA and with parental approval, FAPE may be provided to an eligible student with disabilities whose third birthday occurs during the school year.

2. An exceptional student remains eligible until reaching age 22 unless such student was terminated to participate in elementary or secondary education as indicated by a state diploma or Certificate of Achievement. An exceptional student whose twenty-second birthday occurs during the course of the regular school year (as defined by the school system), shall be regarded as eligible for the entire school year.

§403. Reserved

§404. Day Care and Adult Services

A. School systems which operate a day care program or activity for nondisabled students may not exclude any person

with disabilities and must take into account the need(s) of these persons in determining services to be provided.

B. School systems which operate an adult education program or activity for nondisabled adults may not exclude disabled or other exceptional persons and must take into account the need(s) of these persons in determining services to be provided.

§405. Special Education and Early Intervention Services for Infants and Toddlers with Disabilities Less Than 3 Years of Age

School systems may provide special education and early intervention services to infants and toddlers with disabilities who are from birth to 3 years of age. The ratios established in Appendix I, Part B shall be used for those programs serving infants and toddlers with disabilities.

§406 - 409. Reserved

§410. Child Search Definitions

A. *Identified*—a student is suspected of being exceptional and in need of special education and related services as a result of:

1. child search activities as defined in §411;
2. school building level identification activities as defined in §413.

B. *Locate*—determining where an identified student is residing and whether the person with whom the student is residing is one of the following:

1. a natural parent,
2. the legal guardian of the student, or
3. a parent as defined in §959.

Comment: If neither a natural parent nor a legal guardian is located, the school system shall refer to §516.

§411. Child Search Activities

A. Each school system, in accordance with the requirements of this Subpart, shall document that the effort of ongoing identification activities are conducted to identify and locate each student who is under its jurisdiction, suspected of being exceptional, in need of special education and related services, and is one of the following:

1. enrolled in an educational program operated by a school system;
2. enrolled in a nonpublic school program;
3. enrolled in a public or nonpublic preschool or day care program;
4. is out of school, except for students who have graduated or otherwise successfully completed a program as documented by a state diploma or Certificate of Achievement.

B. If, in the process of implementing these Regulations, any school system locates a student who is suspected of being in need of treatment, care, or habilitation and rehabilitation, the school system should request that the agency designated by the state to provide such assistance explore this suspected need with the parents.

§412. Responsibilities of the Child Search Coordinator

Each school system shall designate a child search coordinator who shall be responsible for:

1. tracking the progress of referral and evaluation activities required by §411, §413-414, and §430-436 for each student suspected of being exceptional;
2. ensuring that the parent of each student initially identified as suspected of being exceptional and in need of

special educational services is provided a copy of all safeguards available to the parents on rights of parents and students at the time of referral for an individual evaluation;

3. activities assigned under IDEA - Part H.

§413. Students in A Regular Education Program

A. A school system shall identify a student as suspected of being exceptional by the School Building Level Committee (SBLC) conducting and documenting results of educational screening, sensory screening, speech and language screening, motor screening, and results of the intervention efforts as defined in the *Pupil Appraisal Handbook*, Bulletin 1508.

B. The SBLC referral to pupil appraisal for an evaluation which determines eligibility for services under IDEA shall be made through the principal or designee for pupil appraisal services and shall include documentation of all screening activities.

C. An immediate referral may be made to pupil appraisal services for an individual evaluation of any student suspected of a severe or low-incidence impairment, or who is of danger to himself or others. Screening activities, such as educational, sensory, and motor screenings, should be completed as part of the evaluation for these students.

D. Pre-evaluation activities as listed in Bulletin 1508, under "Initial Responsibilities" of the evaluation coordinator, must be conducted within 10 days after receipt of the referral by the pupil appraisal office for an individual evaluation.

§414. Students in Nonpublic School Programs

Students enrolled in nonpublic school programs shall be identified according to the procedures noted in §413.A and shall be referred to the school system's child search coordinator.

§415. Students Out of School

Students out of school, including students ages birth through 5 years and students who have left school without completing their public education by obtaining a state diploma or Certificate of Achievement shall be referred to the school system's child search coordinator, who shall locate and offer enrollment in the appropriate public school program and refer them for an individual evaluation, if needed. Students may be enrolled with the development of an interim IEP during the evaluation process if they meet the criteria in §416 below. If the Louisiana evaluation is current, students may be enrolled with the development of a review IEP within five operational days.

§416. Students with a Documented Severe or Low-Incidence Impairment; Students who may be Transferring from Out of State; and Infants and Toddlers with Disabilities

Students who possess a severe or low-incidence impairment documented by a qualified professional; and who may have been receiving special education in another state shall be initially enrolled special education program concurrent with the conduct of the evaluation according to the requirements of Bulletin 1508. Students with other documented impairments; and who may have been receiving special education in another state may be initially enrolled in a special education program concurrent with the conduct of the evaluation according to the requirements of Bulletin 1508. This enrollment process, from

the initial entry into the school system to placement, shall occur within 10 calendar days and will include the following steps:

1. approval by the city/parish school system's supervisor of special education;

2. a review of all available evaluation information by pupil appraisal personnel;

3. the development of an interim IEP in accordance with §440-446; and

4. obtaining formal parental approval for the temporary placement.

The duration of the completion of the evaluation and the interim placement shall not exceed the evaluation timelines specified in §436, with the initial IEP/Placement document developed within 30 calendar days from the date of dissemination of the written evaluation report to the city/parish school system's supervisor of special education.

Any infant or toddler moving to Louisiana who has an Individualized Family Service Plan (IFSP) will be referred to the child search coordinator who will assist the family in accessing family service coordination. The student will be evaluated to determine eligibility for Part H services in Louisiana.

§417. Exceptional Students Transferring from one LEA to Another LEA Within Louisiana

Students who have been receiving special education in one school system in Louisiana and transfers to another school system within Louisiana shall be enrolled in the appropriate special education program in the new school system with the current IEP or the development of a review IEP within five operational days.

Infants and toddlers with disabilities who have an Individualized Family Service Plan (IFSP) and who receive services from a LEA and transfer to another LEA must receive those services from the LEA in which the student resides.

§418. Formal Parental Approval

A. Initial Evaluation. For an initial evaluation the school system must obtain formal parental approval. If the parent denies or fails to give formal approval for the individual evaluation, the school system may seek appropriate legal action.

B. Re-evaluation. Formal parental approval is not required for the re-evaluation of a student currently enrolled in a special education program, but full and effective notice, including a copy of the parents' rights, must be provided to the parents prior to the re-evaluation.

§419-429. Reserved

§430. Pupil Appraisal Personnel

School systems shall regularly employ pupil appraisal personnel to conduct individual evaluations and may, when necessary:

A. use qualified examiners who are available from the Department of Health and Hospitals, the Department of Public Safety and Corrections, the State Board special schools, or other public agencies;

B. contract with individuals or organizations to provide specialized assessments needed to provide a comprehensive individual evaluation of an identified student;

C. use a combination of the approaches listed above;

D. regardless of the approach used for conducting individual evaluations, school systems retain full responsibility. Any failure by an employee or contractor to meet any requirements of this Part constitutes a failure by the school system to comply with these Regulations.

§431. Required Individual Evaluation

A. An initial evaluation shall be conducted whenever the student is not enrolled in special education and one of the following conditions exists:

1. formal parental approval for the initial evaluation has been requested and received by the school system;

2. a direct request for an individual evaluation of an enrolled student from sources other than the SBLC must be routed through the SBLC for the collection of the required screening information and the conduct of the pre-referral procedures. If the LEA suspects that the student is exceptional, an evaluation must be conducted. If the LEA disagrees with the referral source, and does not suspect that the student is exceptional, it may refuse to conduct an evaluation. When the LEA refuses to initiate an evaluation upon parental request, the parent must be provided a copy of all procedural safeguards which include the right to a due process hearing;

3. a final written decision has been issued by a court of competent jurisdiction requiring that an individual evaluation be conducted;

4. a written request for an individual evaluation has been issued by a hearing officer or the Office of Special Education appeals panel.

B. An individual re-evaluation shall be conducted every three years, or more frequently if conditions warrant, whenever the student is enrolled in special education and one of the following occurs:

1. it is requested in writing by the student's teacher or by the local school system's special education supervisor/director;

2. it is requested in writing by the student's parent(s);

3. a significant change in educational placement of a student is proposed by the school system, the parent, or both;

4. a final written decision has been issued by a court of jurisdiction requiring that an individual re-evaluation be conducted.

C. A school system is not required to conduct a re-evaluation of exceptional students who transfer with a current evaluation into its jurisdiction from another jurisdiction in Louisiana.

D. In the event a parent has privately obtained an individual evaluation, the school system must consider the individual evaluation in accordance with §504 of these Regulations.

E. Transitional needs must be addressed as part of all evaluations occurring after the fourteenth birthday of a student with disabilities.

§432. Reserved

§433. Evaluation Coordination

A. Upon identification of a student suspected of being exceptional, a qualified pupil appraisal staff member shall be designated as evaluation coordinator.

B. The evaluation coordinator shall ensure that the evaluation is conducted in accordance with all requirements in Bulletin 1508, including the following:

1. initial responsibilities following receipt of referral;
2. selection of participating disciplines;
3. procedural responsibilities; and
4. mandated timelines.

§434. Evaluation Process

A. Individual evaluations shall be conducted according to the "Procedures for Evaluation" for each exceptionality as listed in the *Pupil Appraisal Handbook*, Bulletin 1508.

B. The determination of an exceptionality must be based upon the "Criteria For Eligibility" established in Bulletin 1508.

C. All evaluations shall be conducted according to the following standards:

1. No single procedure may be used as the sole criterion for determining an appropriate educational program for the student. A variety of instruments, procedures, and sources of information shall be used.

2. Tests and other evaluation procedures and materials shall be administered by trained personnel in conformance with the instructions provided by their producer and are as follows:

a. tailored to assess specific areas of educational need;

b. recommended by their producer and validated adequately for the specific purpose(s) for which they are used;

c. appropriate for the age and stage of development of each person to whom they are administered;

d. free of racial, cultural, language, or sex bias. In no event shall IQ scores be reported or recorded in any individual student's evaluation report or cumulative folder;

e. written and administered in the native language or conducted in the mode of communication most familiar to the person being assessed (i.e., nonverbal intellectual assessment of deaf students) unless it can be demonstrated that it is infeasible to do so;

f. selected to ensure that when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the factor(s) the test purports to measure rather than reflecting the student's impaired sensory, manual, or speaking skills (except in those cases in which those skills are the factors the test purports to measure);

g. selected to ensure that intellectual assessment instruments were standardized using samples which included representatives of the socioeconomic and social heritage of the student being tested, when possible and not merely those which are designed to provide a single general intelligence quotient.

§435. Evaluation Report

A. The written report must be an integrated compilation of the data collected during the evaluation process and include all components stated in Bulletin 1508.

B. The final signed report must accurately represent the conclusion of the members of the multidisciplinary evaluation team. If a participating appraisal person disagrees with the conclusion(s) in the integrated report, that person may submit

a separate signed dissenting opinion stating the disagreement, giving supporting data and conclusions prior to the IEP meeting.

C. The report must be written in language that is clear to the individuals who will use it.

D. Any extensions of the individual evaluation timelines must be explained and documented in the evaluation report.

E. The written report must be disseminated to the student's parent with an opportunity for an oral interpretation prior to the initial IEP placement meeting.

§436. Timelines

A. There shall be no more than 10 operational days from the date of receipt of the referral for an individual evaluation of an identified student by pupil appraisal to the date when the request is made for parental approval to conduct the individual evaluation.

B. Each individual evaluation must be completed and the evaluation report disseminated, within 60 operational days of receipt of parental approval.

C. Extensions of evaluation timelines must be justified as defined in Bulletin 1508.

D. The required triennial re-evaluation must be completed on or before the third-year anniversary date and must include, at a minimum, the core elements as listed in Bulletin 1508.

§437 - 439. Reserved

Individualized Education Program

§440. Initial IEP/Placement Responsibilities

A. Each student initially determined to be exceptional and in need of special education and related services shall be provided these services in accordance with an IEP. Before any action is taken for each student initially determined to be exceptional and in need of special education and related services, school systems shall conduct a meeting or meetings to carefully consider the multisource data collected on the exceptional student in the individual evaluation process which included a full and individual evaluation of the student's educational needs; and must develop the initial written individualized education program (IEP) including the educational placement which meets all the requirements of this Subpart and Bulletin 1530, *The IEP Handbook* and Bulletin 1891, *The Gifted/Talented IEP Handbook*.

B. School systems shall include on each IEP all special educational and related services necessary to accomplish comparability of educational opportunity between exceptional students and students who are not exceptional.

C. Each initial IEP/Placement document must be completed within 30 calendar days from the date of dissemination of the written evaluation report to the special education supervisor.

D. Responsibility for the development and implementation of each initial IEP rests with the school system's special education supervisor.

E. School systems shall prepare a progress report related to the short-term objectives in the IEP for each exceptional student and must provide it to the parent at the same time as report cards are provided to all students.

F. The IEP shall be developed on the form issued or approved by the department.

G. The school system shall provide a copy of each completed IEP/Placement document to the student's parent(s) signed by the officially designated representative of the school system.

H. At the beginning of each school year, each school system shall have in effect an IEP for every exceptional student who is receiving special education in that school system.

§441. IEP Meeting Participants

For an exceptional student who has been evaluated for the first time, the school system shall ensure that each IEP/Placement meeting includes the following participants:

A. an officially designated representative of the school system, other than the student's teacher, who is qualified to provide or supervise the provision of special education. This person shall also be knowledgeable about the placement options and shall have the authority to commit the school system's resources to implement the IEP;

B. the student's teacher;

C. one or both of the student's parents, subject to §442 and §959;

D. the student, unless deemed otherwise by the parent. If the student does not attend a meeting involving transition planning, the school system shall take other steps to ensure that the student's preferences and interests are considered.

Comment: The school system, following prior notice guidelines in §504 of these Regulations, is required to invite each student to participate in his or her IEP meeting if the purpose of the meeting is the consideration of transition services. For all students who are 16 years of age or older, one of the purposes of the meeting will be the planning of transition services, since transition services are a required component of the IEP for these students.

For a student younger than age 16, if transition services are initially discussed at the meeting that does not include the student, the school system must ensure that before a decision about transition services for the student is made, another IEP meeting is conducted for that purpose, and the student is invited to attend, again following prior notice guidelines in §504 of these Regulations;

E. other individuals at the discretion of the parent or school system;

F. the evaluation coordinator, or a member of the evaluation team which evaluated the student, unless some other person is present at the meeting who is knowledgeable about the evaluation procedures used with that student and is familiar with the results of that particular evaluation;

G. for school systems planning transition services, a representative of any other agency that is likely to be responsible for providing or paying for transition services. If an agency invited to send a representative to a meeting does not do so, the school system shall take other steps to obtain the participation of the other agency in the planning of any transition services.

Comment:

1. In deciding which teacher will participate in meetings on a student's individualized education program, the school system may wish to consider the following possibilities:

a. For an exceptional student who is receiving special education, the "teacher" could be the student's special education teacher. If the student's exceptionality is a speech impairment, the "teacher" could be the speech-hearing/language specialist.

b. For an exceptional student who is being considered for placement in special education, the "teacher" could be the student's regular teacher, a teacher qualified to provide education in the type of program in which the student may be placed, or both.

c. If the student is not in school or has more than one teacher, the school system shall designate which teacher(s) will participate in the meeting.

2. Either the teacher or the school system's representative should be qualified in the area of the student's exceptionality.

§442. Parent Participation

A. School systems shall take steps to ensure that one or both of the parents of the exceptional student are present at each IEP meeting. School systems shall contact the parent(s) in writing regarding each meeting early enough to ensure that they will have an opportunity to attend and schedule the meeting at a mutually agreed upon time and place.

This written contact must indicate the purpose, time, and location of the meeting, and who will be in attendance.

Comment: If a purpose of the meeting is the consideration of transition services for a student the notice must also: 1) indicate this purpose; 2) indicate that the school system will invite the student; and 3) identify any other agency that will be invited to send a representative.

B. If parent(s) do not attend a scheduled IEP/Placement meeting for which arrangements have been made in accordance with these Regulations, other methods shall be used by the school system to ensure parental participation. These other methods include making individual or conference telephone calls, rescheduling the meeting, sending correspondence summarizing the meeting, and requesting parental suggestions.

C. When the parent does not attend the IEP/Placement meeting, the meeting may be conducted without the parent in attendance providing that:

1. another method for parental participation is used and documented;

2. the school system has documented attempts to arrange a mutually agreed on time and place, such as:

a. detailed records of telephone calls made or attempted and the results of those calls;

b. copies of correspondence sent to the parents and any responses received;

c. detailed records of visits to the parents' home or place of employment and the results of those visits.

D. The school system shall take whatever action is necessary to ensure that the parent(s) understand(s) the proceedings at a meeting, including arranging for an interpreter for parent(s) who are deaf or whose native language is other than English.

§443. Parental Approval of Placement

A. Each school system shall obtain formal parental approval of the educational placement decisions prior to providing initial special education and related services. The IEP will be considered in effect after the parent(s) indicate formal written approval by signing the IEP/Placement document.

B. Implementation of educational placement shall begin as soon as possible but no later than 10 calendar days following receipt by the school system of formal parental approval.

C. If the parent(s) withhold formal written approval of the educational placement, the school system parish supervisor shall within 10 calendar days either:

1. recommend a modified educational placement to which the parent(s) will provide approval; or

2. indicate to the parent(s) in writing that no placement modification will be made (in which case the student shall be maintained in the present placement or be offered placement in the school system with approval of parent(s) until the matter is resolved).

D. The parent(s) may request a hearing in accordance with §507 of these Regulations in order to resolve any disagreement over the proposed IEP/Placement of the student.

E. If the school system wishes to override the parental decision to withhold a formal written approval for the initial placement of the student in special education, the school system may appeal to the appropriate state court within the time prescribed by state law.

§444. IEP/Placement Content and Format

A. Each completed IEP shall contain the following instructional components:

1. a general overview of the student's needs; and specific current performance in the curriculum areas in which special education is recommended;

Comment: Beginning no later than age 16 (and at a younger age, if determined appropriate) the IEP must include a statement of needed transition services which are instruction, community experiences, development of employment and other post school adult living objectives, and if appropriate, acquisition of daily living skills and functional vocational evaluation; and each participating agency's responsibilities and/or linkages before the student leaves the school setting. If the IEP Committee determines that services are not needed in one or more of the above noted areas, the IEP must include a statement to that effect and the basis upon which the determination was made. When determining if transition services should begin at a younger age, the LEA must consider students at risk for dropping out, students with severe disabilities, and students who may need more than one or two years of transition services.

2. annual educational performance goals for the student;

3. short-term objectives that describe either measurable sequential steps or major component parts of the goals;

4. appropriate objective criteria and evaluation procedures and schedules for determining whether the short-term objectives and annual goals are being achieved;

5. the identification of those types of persons/ agencies responsible for the implementation of the IEP/Placement.

B. Each completed IEP shall contain the following program/services components:

1. the identification of the IEP/Placement participants as required in §441;

2. the long-term educational goal and description of the educational program, indicating whether the student shall address the regular education competencies or an approved alternative curriculum;

3. the extent to which the student will be able to participate in regular education classes and activities;

4. the screening date(s) and criterion/criteria by which the student will be screened to determine extended school year program (ESYP) eligibility;

5. the type of physical education program to be provided as indicated in §445.C;

6. a description of special education and related services needs and the date for initiation of each type of service and the anticipated duration of each. When a related service is included, the frequency (range of time per session and the

number of sessions per week) and whether the service will be individual or group shall be indicated;

7. assistive technology devices or assistive technology services, or both, as those terms are defined in the 900 Subsection of these Regulations are made available to a student with a disability if required as a part of the student's special education, related service needs, or needs under supplementary aids and services.

Comment: Items 2-5 of Part B not applicable for gifted and talented.

§445. Least Restrictive Environment Assurances and Considerations

A. Each completed IEP shall contain the following placement components:

1. a description of the specific educational environment in which the student is to be placed for the first year (or partial year) of the IEP and the reasons that it is the least restrictive environment possible. In considering the educational placement of each exceptional student, the least restrictive educational environment will be a placement, whether in existence or not which can appropriately meet the student's individual educational needs, including necessary resources.

2. If the placement decision is not instruction in regular class/setting, a description must be provided which includes evidence of specific constraints that prohibit accomplishment of IEP goals and objectives in the regular classroom. This evidence should document that:

a. the student did/will not benefit from being in a regular class/setting;

b. removing the student from regular class/setting results in improved educational opportunities; or

c. necessary services provided in a separate class/setting cannot be provided in a less restrictive environment.

3. In addition, the following noted assurances must be provided:

a. the placement is in the school which the student would attend if not exceptional unless the IEP of the student requires some other arrangement. If the placement is not in the school the student would normally attend, the placement is as close as possible to the student's home.

b. the school and the class are chronologically age appropriate for the student. No student shall be placed in a setting which violates the maximal pupil/teacher ratio or the three-year chronological age span.

c. the school/setting selected is accessible to the student for all school activities.

d. the classroom is comparable to and integrated with regular classes.

Comment: Any deviation from these assurances must be documented and justified on the IEP.

In selecting an alternative setting, the school system shall consider any potential harmful effect on the exceptional student or the quality of services needed.

4. The educational placement of deaf and (hard-of-hearing) students will be determined primarily by the provision of a free appropriate public education (FAPE) and the consideration of the Least Restrictive Environment (LRE) will be of secondary consideration.

a. Full consideration of the unique needs of a deaf and hard-of-hearing student will ensure an appropriate

education as required by the Individuals with Disabilities Education Act (IDEA) are met.

b. Factors that will be considered in developing an IEP for a deaf or hard-of-hearing student are:

i. communication needs and the student's and family's preferred mode of communication;

ii. linguistic needs;

iii. severity of hearing loss and potential for using residual hearing;

iv. academic level;

v. social, emotional, and cultural needs including opportunities for peer interaction and communication;

vi. consideration of curriculum content and method of curriculum delivery.

B. For each educational placement, the school system shall ensure that:

1. it is determined at least annually;

2. it is based on an IEP/Placement document;

3. exceptional students are educated with students who are not exceptional including students in public and private institutions or other care facilities served with IDEA funds, to the maximum extent appropriate. In making this decision, the following four areas must be considered:

a. physical integration—the student will share the same facilities with nondisabled students;

b. social integration—the student will participate in co-curricular and extra-curricular activities with nondisabled students;

c. academic integration—the student will participate in regular classroom activities; and

d. community integration—the student will participate in activities out in the community;

Comment: Communication and related needs of a student with disabilities must be considered when determining the LRE for that student.

4. special class, separate schooling, or other removal of exceptional students from the regular educational environment occurs only when the nature or intensity of the individual's needs are such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily;

Comment: Reasons for selecting a more restrictive environment may not include administrative convenience, availability of related services, or special equipment.

5. the special education program in which each educational placement is made, including day or residential nonpublic schools, meets the standards of the State Board.

C. Physical education services in accordance with the IEP/Placement document, must be provided to students with disabilities in the regular physical education program or the adapted physical education program as specified in §904.

D. A continuum of alternative educational settings shall be available to the extent necessary to implement the IEP/Placement document for each student with disabilities. At a minimum, this continuum shall include (in order of restrictiveness as it applies to each student):

1. instruction in regular classes, including:

a. supplemental aides and services to the student; and/or

b. special education instruction;

2. instruction in special classes, all or part of the day;
3. special school, all or part of the day;
4. homebound;
5. instruction in hospitals and institutions.

Comment: Instruction may take place in other settings such as the community and job sites.

E. A continuum of alternative educational settings shall be available to the extent necessary to implement the IEP/Placement document for each student with disabilities (birth through age 5). At a minimum, this continuum shall include (not in order of restrictiveness as it applies to each student):

settings for students 3 through 5, including but not limited to:

1. school/center—head start, high risk 4-year-old programs, private child care, public preschool classroom, Chapter I classroom, and kindergarten;
2. itinerant/homebased—child's home, caregiver's home, itinerant to head start, child care settings, kindergarten, high risk 4-year-old programs, and Chapter I classrooms;
3. combination parent/child intervention—any intervention with the parent may be combined with any of the above in 1 and 2 and will be considered a parent/child intervention setting.

Comment:

1. Students who are 3 through 5 years of age or are eligible for Part B services according to the LEA's policy on age of eligibility and who identified with speech impairments only are entitled to be served in any of the above preschool settings. The setting for a student with speech impairments only must be determined by the needs of the student; the student may need communication intervention in settings with other students to meet his or her needs.

2. The school system must make available center-based settings comparable in time to that of kindergarten age students if the student with a disability is kindergarten age. The pupil/teacher ratio established in Appendix I, Part B is used. The teacher providing the service must be certified in noncategorical preschool or in the area of exceptionality served if the class is categorical. The frequency and intensity of services is flexible and dependent upon the needs of the individual student and family.

Settings for infants and toddlers birth to 3 years old include:

1. school/center settings—private child care, public and private early intervention programs, and hospital;
2. itinerant/homebased training—child's home, child care (itinerant to any setting not considered the child's residence);
3. combination parent/child intervention—any intervention with the parent may be combined with any of the above in Paragraphs 1 and 2 and will be considered a parent/child setting. For infants and toddlers, it is expected that most interventions will involve the family directly or indirectly.

Comment: Services to infants and toddlers with disabilities must be provided in the natural environments in which the child would be if he/she did not have a disability. The persons providing the service must be certified, licensed or credentialed in the area of the service being delivered.

F. A continuum of alternative educational settings shall be available to the extent necessary to implement the IEP for each student who is gifted or talented. At a minimum, this continuum shall include (not in order of restrictiveness as it applies to each student):

1. regular classroom with supplemental aids/services;
2. resource with regular classroom;

3. self-contained; and
4. preschool.

G. A continuum of alternative educational settings shall be available to the extent necessary to implement the IEP for each student who is deaf or hard of hearing. At a minimum, this continuum shall include (not in order of restrictiveness as it applies to each student):

1. homebound or hospital instruction;
2. special school, all or part of the day;
3. instruction in special classes, all or part of the day;
4. special education instruction in regular classes including:
 - a. service to or consultation with the regular classroom teacher; and/or
 - b. services to exceptional students within the regular classroom.

H. The least restrictive environment Rules may not be waived by any party, including the parent(s).

I. If there is evidence that a school system or any participating agency makes placements that are not consistent with these regulations, the office shall:

1. review the school system's or participating agency's justification for its action; and
2. shall assist in developing and implementing the required corrective action.

§446. Nonacademic Setting Requirements

A. Nonacademic and extracurricular services and activities (including counseling, recreational athletics, intramural and interscholastic athletics, transportation, health services, and clubs sponsored by the school system) must be offered in a way that allows equal opportunity for each exceptional student to participate in services and activities.

B. Nonacademic and extracurricular services, meals, and recess periods must be provided in the most inclusive setting appropriate to the needs of the student.

§447. Duration of Educational Placement Rules

A. School systems shall provide special education and related services to students with disabilities in accordance with an IEP for no less than the normal 180-day school cycle. Extended school year programming (ESYP) is the provision of educational and related services to students with disabilities in excess of the 180-day school year.

B. School systems shall provide educational and related services in excess of 180 school days to students with disabilities when these students are determined to be in need of or eligible for such services. Student eligibility is to be determined in accordance with extended school year program eligibility criteria requirements in Bulletin 1870, Determining Eligibility for Extended School Year Programs.

C. The student's extended school year program is to be designed according to the standards in Bulletin 1871, Program Standards for Extended School Year Services. ESY IEP participants, in determining the length and type of an extended school year program, shall not be bound or limited by any predetermined program or length. The type and length of the extended school year program shall be determined on an individual basis for each student. A program ranging anywhere from 181 up to 240 days shall be available when appropriate.

§448. Hospital/Homebound Placement Rules

The placement of an exceptional student, excluding students whose only exceptionality is hospital/homebound, by a school system in a program of homebound or hospital instruction may be proposed only if one of the following exists:

A. The exceptional student possesses a physical impairment or illness which directly (or because of treatment required) precludes the student's movement from a hospital or home environment to the general educational environment.

B. Consistent with the requirements of these Regulations, the student has been determined to be emotionally/behavior disordered and either:

1. a psychologist or psychiatrist who is licensed to practice in Louisiana has certified in a signed written report filed with the office that the student is admitted to a full-time inpatient program of care and treatment in a hospital certified or licensed by the State of Louisiana and that continued participation in the inpatient program is necessary to the proper care and treatment of the student; or

2. a psychologist or psychiatrist who is licensed to practice in Louisiana has certified in a signed written report submitted to the school system and filed with the office that the student's current educational placement is not appropriate and that there is a need for the student to be placed at home where he will be provided a program of continuous care and treatment. Upon the receipt of this report the school system shall:

- a. conduct a formal re-evaluation which specifically addresses the behavior exhibited by the student;
- b. conduct a review IEP/Placement meeting;
- c. write and implement a behavior plan which addresses the specific behaviors preventing the student from attending school;
- d. establish an approximate date for the student to return to school and measurable criteria which when achieved would allow the student to return to school on or before the established date;
- e. student progress towards meeting the behavior goals and objectives will be maintained by the teacher through data checklists and progress reports;
- f. the behavior goals and objectives will be reviewed during each grading period to determine if they are still appropriate and attainable by the student.

C. A student who is awaiting approval for placement in a residential facility and for whom a school-based interim program has been unsuccessfully implemented because of the severity of the disability or threat of danger to self or others.

D. An exceptional student is detained by court order in a juvenile detention facility.

E. An exceptional student is undergoing disciplinary action. Time limits are subject to the provisions of §459.

§449. IEP/Placement Meeting(s) for Exceptional Students in Other School Systems or in Participating Nonpublic Schools

A. Before a school system places, refers, or provides services to an exceptional student in another school system or in a participating nonpublic school, the school system shall initiate and conduct a meeting to develop an IEP for the

student in accordance with these Regulations. In preparation for this IEP/Placement meeting, the school system shall perform the following:

1. apply to SSD#1 for approval of placement out of the geographic attendance area of the school system or for a transfer of jurisdiction in accordance with §451.B unless the placement is in an approved cooperative operated by the school system;

2. discuss with an authorized representative of the receiving school system or the approved nonpublic school:

- a. the student's eligibility for admission;
- b. the education records necessary to determine eligibility for admission;
- c. the availability of services; and
- d. the likelihood of the student being accepted by the system if the IEP/Placement meeting resulted in such a recommendation;

3. for placement consideration at or referral to a State Board special school, the proposed educational placement and supporting information must be forwarded to both SSD#1 for its review and approval in accordance with §271 and to the appropriate State Board special school for its review and agreement.

B. The school system shall ensure that a representative of the participating nonpublic school or the other school system attends the IEP/Placement meeting. If the representative cannot attend, the school system shall use other methods to ensure participation by the nonpublic school or other school system, including individual or conference telephone calls.

§450. Direct Service Rules

School systems must provide direct services themselves or through approved cooperatives in the alternative setting needed by an exceptional student if:

- 1. there are sufficient numbers of such exceptional students who need similar alternative special educational settings, who are within a three-year chronological age span, and who are under the jurisdiction of the school system;
- 2. such direct services are consistent with these Regulations which have given particular attention to LRE Rules.

§451. Alternative to Direct Services

A. An exceptional student may be placed in an approved public or nonpublic day or residential school program within the geographic area of the school system only if the direct service provisions of §450 do not require the establishment of instructional programs by the school system directly or through approved cooperatives with other school systems.

B. School systems must apply to the department when a student is referred to or is to be placed in an approved public or nonpublic day or residential school outside the geographic area of the school system, unless the placement is in an approved cooperative operated by school systems.

1. In determining whether to approve a request for referral or placement in an approved public or nonpublic day or residential school program located outside the geographic area of the school system but within the state, the department will consider the following:

- a. the short-term and long-term educational needs of the student;

- b. the alternative educational placements available within the school system or through a cooperative agreement;
- c. the potential for creating a new alternative educational placement within the school system or by cooperative agreement which would be less restrictive than the proposed placement; and
- d. the proximity of the proposed placement to the residence of the student (e.g., greater metropolitan area).

2. In determining whether to approve a request for referral or for placement in an approved public or nonpublic day or residential school program located outside the state, the department, in addition to considerations listed above, must also consider the ability of the proposed educational program and facility to meet the minimum standards for special schools of Louisiana. In this determination:

- a. the nonpublic school must be approved by the SEA of the state in which it is located;
- b. an on-site visit by department personnel must be conducted prior to placement;
- c. the state in which the facility is located must have an approved annual plan for implementation of IDEA - Part B;
- d. the public or nonpublic school must provide necessary data to establish comparability of educational programs to similar programs operated in Louisiana.

Comment:

1. The provisions of R.S. 17:1946 (Act 728 of 1979) shall be adhered to in regard to day placements made by DHH prior to July 1, 1979. Nothing in this Subpart shall be construed to limit or restrict the obligation of school systems under IDEA - Part B of this Part to provide services to voluntarily enrolled students with disabilities in approved nonpublic schools. School systems which place an exceptional student in an approved nonpublic school program must provide the approved nonpublic school program whatever resources are necessary to provide the student and the student's parents all of the rights, privileges, and services established by these Regulations.

2. Exceptional students placed in approved nonpublic schools by a school system remain within the jurisdiction of that school system regardless of the geographic location of that approved nonpublic school.

3. School systems remain fully and directly responsible for the complete compliance of the educational program being provided with the requirements of these Regulations.

4. City/parish school system referral of an exceptional student to a State Board special school is always an out of district placement unless a cooperative agreement exists with the city/parish school system; and if the student is admitted to such a school, the student is transferred to the State Board special school's jurisdiction.

§452. IEP/Placement Review Procedures

A. Each school system shall ensure that each IEP/Placement review meeting is conducted at least annually in accordance with §442, §443, §444, §445, §449; the IEP is reviewed and revised if appropriate, and includes at least the following participants:

- 1. an officially designated representative of the school system, other than the student's teacher, who is qualified to provide, or supervise the provision of, special education. This person shall also be knowledgeable about the placement options and shall have the authority to commit school system resources to implement the IEP/Placement document;
- 2. the student's teacher;
- 3. one or both of the student's parents;
- 4. student, unless deemed otherwise by the parent. If the student does not attend a meeting involving transition

planning, the school system shall take other steps to ensure that the student's preferences and interests are considered.

Comment: The school system, following prior notice guidelines in §504 of these Regulations, is required to invite each student to participate in his or her IEP meeting if the purpose of the meeting is the consideration of transition services. For all students who are 16 years of age or older, one of the purposes of the annual meeting will be the planning of transition services, since transition services are a required component of the IEP for these students.

For a student younger than age 16, if transition services are discussed at the annual meeting that does not include the student, the school system must ensure that before a decision about transition services for the student is made, another IEP meeting is conducted for that purpose, and the student is invited to attend, again following prior notice guidelines in §504 of these Regulations;

5. other individuals at the discretion of the parent(s) or school system;

6. for school systems planning transition services, a representative of any other agency that is likely to be responsible for providing or paying for transition services. If an agency invited to send a representative to a meeting does not do so, the school system shall take other steps to obtain the participation of the other agency in the planning of any transition services.

B. One IEP/Placement review meeting must be conducted annually. More than one IEP/Placement review meeting may be conducted at the discretion of the school system. If a parent makes a written request for a IEP/Placement review meeting, the school system must respond within 10 days in writing to that request. Other IEP/Placement review meetings that must be conducted in addition to the required annual meeting are listed in Bulletin 1530.

C. School systems shall include on each IEP/Placement document all special education and related services necessary to accomplish comparability of educational opportunity between exceptional students and students who are not exceptional.

D. School systems shall prepare a progress report related to the short-term objectives in the IEP/Placement document for each exceptional student and must provide it to the parent at the same time as report cards are provided to all students.

E. If a participating agency fails to provide agreed upon transition services contained in the IEP, the school system or public agency responsible for the student's education shall initiate a meeting, as soon as possible, for the purpose of identifying alternative strategies to meet the transition objectives and, if necessary, revising the student's IEP.

§453. Change to Less Restrictive Environment

A. During each IEP review or revision, the educational placement of the exceptional student must be changed to a less restrictive environment, unless the school system documents that the educational needs indicated on the updated IEP/Placement document indicate that a change in educational placement would cause a reduction in quality of services needed or have a potentially harmful effect on the student.

B. Significant change in educational placement is defined as moving a student from one alternative setting to another which is more restrictive or which transfers jurisdiction; such a change requires a re-evaluation. A re-evaluation is not required to precede a placement change to a less restrictive

environment occurring as a result of an annual IEP/Placement document update.

§454. Approved Nonpublic Schools—Review of IEP

A. Participation of Exceptional Students in Nonpublic Schools Placed or Referred by Public School Systems

1. After an exceptional student who was referred or placed by a school system enters a participating nonpublic school, any meetings to review and revise the student's IEP/Placement document may be initiated and conducted by the participating nonpublic school or facility at the discretion of the school system.

2. If the participating nonpublic school initiates and conducts these meetings, the school system shall ensure that the parents and a representative of that school system are involved in any decision about the student's IEP/Placement document and agree to any proposed changes in the program before those changes are implemented.

B. Participation of Exceptional Students Voluntarily Enrolled in Nonpublic Schools

1. After an exceptional student enters a participating nonpublic school and receives special education and related services from the public school system, any meetings to review or revise the student's IEP/Placement document must be initiated and conducted by the public school system.

2. The school system must ensure that a representative of the participating nonpublic school attends the IEP/Placement meeting. If the representative cannot attend, the school system shall use other methods to ensure participation by the nonpublic school, including individual or conference telephone calls.

§455. Special School District #1 and State Board Special School - Review of IEP

If, during the review or revision of an IEP of a student in the jurisdiction of Special School District #1 or a State Board special school, a change in placement in or a referral to a city/parish school system is considered, a representative of that school system, in addition to other meeting participants required by §454, must be involved in any decision about the student's IEP/Placement.

§456. IEP Declassification Placement

When a re-evaluation indicates that an exceptional student currently enrolled in special education no longer meets all the criteria in Bulletin 1508 for classification as an exceptional student, the school system shall either:

A. place the student in regular education if the student is still eligible for regular education; or

B. recommend that the student be placed in an appropriate alternative setting for up to a one-year period of special education programming. The declassification program shall be provided in accordance with an IEP/Placement document and shall include a regular education membership using resource or itinerant services if needed.

Comment: The student will be referred to the School Building Level Committee for appropriate accommodations or modifications as a handicapped student still eligible under Section 504 of the Rehabilitation Act of 1973.

§457. Reserved

§458. IEP Interim Placement

Refer to §416.

§459. Review of Placement Resulting from Disciplinary Action

A. Definitions

1. Suspension—

a. in-school cessation of educational services for one day or longer; and/or

b. removal from school for not more than nine school days.

2. Expulsion— removal of a student from school for 10 or more consecutive days.

3. In-school alternative discipline program which includes educational services shall not be considered a suspension.

4. Re-evaluation due to disciplinary action must be specific to the referral questions and would, generally, include the same components as specified in Bulletin 1508 under Re-evaluation and should address the specific behaviors exhibited by the student.

5. *Determination*—assessing of the student's behavior as it relates or is influenced by his/her disability. This documented determination must be made by at least one person knowledgeable about the student (e.g., a teacher) and one person knowledgeable about the disabling condition of concern (e.g., a teacher certified in the disability, a pupil appraisal staff member).

B. Prior to administering any form of discipline that may result in the cessation of the educational program of a student with disabilities, a determination (§459.A.5) must be made and documented as to whether the behavior is related to the student's disabling condition. The Special Education administrator or designee shall immediately (within one day) be notified of the determination decision regarding the behavior, and whether disciplinary action is taken.

During any suspension, removal or temporary placement of the student, the school system shall provide continued appropriate educational services and planning.

C. If the determination is made and documented that the behavior is related to the student's disability, then the student shall neither be suspended or expelled.

1. The student may remain in his/her current educational setting; or

2. The student's IEP Committee may be convened to consider modifications to the student's program/placement (i.e., additional related services, counseling, changes in his/her behavior management plan, increased time in the current Special Education program, change of class schedule, teacher, etc.).

D. If the determination is made and documented that the behavior is not related to the student's disability the student may be suspended in accordance with discipline policies for nondisabled students. The school system must notify the parents regarding the relatedness determination if it involves a change in placement. This notice shall also provide them with all procedural safeguards including the right to appeal or challenge the decision in accordance with §443 and §507 of these Regulations.

E. If the determination is made that the behavior is not related to the student's disability and an expulsion is being considered, prior to the expulsion:

1. The IEP committee must be convened to:
 - a. familiarize the IEP committee with the determination decision;
 - b. review the student's IEP/Placement; and
 - c. plan for services to be provided to the student if he/she is to be out of school. Components of the plan must include follow procedures in §448.B.2.a-f;

2. If expulsion is recommended at the expulsion hearing:

- a. a re-evaluation must be conducted;
- b. the IEP committee must be convened to develop an alternative education program that shall be provided to the student during the period of expulsion following procedures in §448.B.2.a-f; and
- c. the school system must notify the parents regarding the relatedness determination if it involves a change in placement. This notice shall also provide them with all procedural safeguards including the right to appeal or challenge the decision in accordance with §443 and §507 of these Regulations.

F. The IEP shall be convened to review the behavior plan, the program and/or placement of a student classified as disabled within three days following:

1. nine school days in, or repetitive assignments to a structured in-school alternative discipline program;
2. the third occurrence of a suspend able infraction; or
3. cessation of educational services for nine cumulative school days due to one or more suspensions.

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

1. addressing any behavioral problem(s) of the student that are related to the disabling condition;
2. developing a structured program of behavior management (including goals and objectives) for dealing with the behavior; and
3. a review and determination of the effectiveness of any prior plan of behavior management.

Note: Any structured program of behavior management which is included in a student's IEP shall not be considered disciplinary action.

H. When the student poses an immediate danger to self or others or is significantly destructive to property, the student may be removed from the school immediately. A determination decision and other due process procedures must be carried out within three school days from the day of the incident.

Services to Voluntarily Enrolled

Students in Participating Nonpublic Schools

§460. Services to Exceptional Students in Nonpublic Schools

A. Participation of Exceptional Students in Nonpublic Schools Placed or Referred by Public Agencies

1. City/parish school systems placing or referring exceptional students to a nonpublic school or facility as a means of providing special education and related services must ensure that these services are provided:

- a. in conformance with an Individualized Education Program that meets the requirement of 34 CFR §300.340-300.350;

- b. at no cost to the parent;
- c. at an approved nonpublic school or facility that meets the education standards that apply to public schools and/or facilities including personnel standards; and
- d. the student has all rights of an exceptional student served by a public agency.

2. City/parish school systems and the state education agency must monitor compliance of these agencies, provide them with information on applicable standards and allow them an opportunity to submit revisions in the development of such standards.

B. Participation of Exceptional Students Voluntarily Enrolled in Nonpublic Schools. School systems must also operate programs and services assisted or carried out under funds received from the Individuals with Disabilities Act in order that exceptional students voluntarily enrolled in nonpublic schools have a genuine opportunity to participate equitably in such programs and services consistent with their number and their need. To meet this requirement, school systems must comply with 34 CFR 76.651-76.662 (EDGAR), 34 CFR 300.450-300.452 and the Louisiana Special Education State Plan.

1. If an exceptional student has a free and appropriate public education available and the parent chooses to place the student in a nonpublic school or facility, the city/parish school system is not required by this Part to pay for the student's education at the nonpublic school or facility. However, the public agency shall make services available to the student as provided under 34 C.F. 300.450-300.452.

2. The types of services in addition to student identification and evaluation service mandated at §414 of these Regulations, to be provided to a student with a disability enrolled in nonpublic schools by their parents must be determined through the process of consultation with private school representatives (34 CFR Part 76) and through the IEP process. Which services will be provided and where such services are provided must also be addressed in consultation with nonpublic school personnel.

3. Consideration must be given to the Establishment Clause of the United States Constitution, which mandates the separation of church and state, and all applicable state statutes when providing services at nonpublic schools.

§461. Training of Personnel in Participating Nonpublic Schools

The department must provide the opportunity for continuing education (inservice training) of personnel in participating nonpublic schools.

Accessibility

§462. Facility Accessibility

A. Facilities used by school systems, directly or through contractual arrangement, must be accessible to and usable by exceptional persons. Architectural barriers shall not prevent an exceptional student from being educated in the least restrictive educational environment as defined in §445 of this Part.

B. New facilities or new parts of facilities:

1. may not be approved for construction unless and until the department and the State Board give express written approval on the basis of a satisfactory showing by a school

system that adequate provision has been made for the necessary access of the exceptional students;

2. must be designed and constructed in a manner which results in their being readily accessible to and usable by exceptional persons;

3. must be constructed to at least meet the current level of accessibility provided by the Americans with Disabilities Act (ADA) Accessibility Guidelines for Building and Facilities.

C. Facilities which are altered for the use of school systems must be altered to the maximum extent feasible in a manner which results in the altered portion of the facility being readily accessible to and usable by exceptional persons.

§463. Program Accessibility

Program accessibility must be ensured within existing facilities.

A. Program accessibility may be accomplished through one of the following:

1. alteration of existing facilities; or

2. nonstructural changes: redesign of equipment; assignment of communicative aids; reassignment of classes or other services to accessible buildings; assignment of aides to students; home visits; and delivery of health, welfare, or other social services at alternative accessible sites.

B. In choosing among available methods for meeting the program availability requirement, a school system shall give priority to those methods that offer programs and activities to persons with disabilities in integrated settings.

C. Structural changes in facilities do not need to be made where other methods effectively ensure program accessibility; where structural changes are necessary, they must be made as expeditiously as possible.

D. All nonstructural changes necessary to ensure program accessibility must be made immediately.

§464. Facility Comparability

Facilities identifiable as being for exceptional students and the services and activities provided therein must meet the same standards and level of quality as do facilities, services, and activities provided to other students.

§465-469. Reserved

Local Advisory Council

§470. Membership

Each city/parish school board shall establish a local advisory council which shall consist of at least 10 and no more than 20 persons. The city/parish school board shall ensure that the membership of the advisory council shall consist of a representative of each of the following groups with at least 50 percent of the membership consisting of consumers and/or families of exceptional students. (Each council member can represent only one of the groups.) The local council's membership should match the cultural/ethnic ratio of the community:

- A. individuals with disabilities;
- B. teachers of students in special educational services;
- C. teachers of non-disabled students;
- D. parents of exceptional children;
- E. parents of regular classroom children;
- F. state and local education officials;
- G. special education program administrators;

H. representatives of consumers, colleges and universities, or vocational-technical schools.

§471. Appointment Procedures

The membership of the advisory council by the city/parish school board shall be appointed according to the following procedures:

A. Each of the parent organizations and/or youth advocacy organizations registered with the school system pursuant to §488 shall nominate no more than two persons for appointment to the advisory council by the city/parish school board.

B. The city/parish school board shall appoint at least four persons from nominations submitted in accordance with Subsection A above.

C. If the nomination list described above consists of fewer than four nominations, the city/parish board shall select the balance without such nomination.

D. The balance of the membership shall be appointed by the city/parish school board.

§472. Terms of Office

Council members shall serve for three years. Initially, one-third of the members of the council shall serve for a term of one year, one-third for a term of two years, and one-third for three years. One person shall be elected chairman; subsequently a chairman shall be elected each year. Upon the expiration of any term of office of a member of the advisory council, the city/parish school system shall reappoint a person eligible in the same manner as the person being replaced.

§473. Functions

A. The local advisory council shall assist the city/parish school board in the development of local plans for the provision of special education and related services to exceptional students by reviewing, prior to adoption, all policy and budgetary matters included in each such plan.

B. The local advisory council shall transmit to the superintendent and the president of the board, in writing, the results of its review and any recommendations.

C. The advisory council shall meet as often as necessary to fulfill its responsibilities.

D. Agenda items must be publicly announced prior to meetings in accordance with school system policies on such announcements.

E. The advisory council shall send the name and address of its chairman to the office annually.

§474. Responsibilities of City/Parish School Systems

A. The city/parish school system shall provide as necessary:

1. interpreters at the local advisory council meetings;
2. supportive services necessary for the council to fulfill its responsibilities, consistent with city/parish school board policy.

B. Advisory council members shall serve without compensation.

§475-479. Reserved

Administrative Matters of School Systems

§480. Nondiscrimination in Employment

A. Each school system must comply with all of the federal and state requirements governing nondiscrimination in employment.

B. Each school system must extend grievance procedures now in effect pursuant to the Regulation issued by the U.S. Department of Education implementing Title IX of the Education Amendments of 1972 (45 CFR 86.8) to include any grievance of employees with disabilities.

§481. Appointment of a Supervisor/Director of Special Education

Each school system must employ a certified supervisor/director of special education on a full- or part-time basis.

§482. Certification of Personnel

Personnel of local school systems and other local agency providers who deliver special educational services (including instructional, appraisal, related, administrative, and support services) to exceptional students (birth through age 21) must currently meet all applicable Louisiana Standards for State Certification of School Personnel or, as specified under Part H requirements for IDEA and stipulated in the approved Louisiana State Plan for Infant and Toddlers with Disabilities and Their Families (Component IX, Personnel Standards.)

§483. Continuing Education (Inservice Training)

Each local school system and other agency providers must participate fully in the preparation and implementation of the statewide Comprehensive System of Personnel Development. Each local entity participating in the Louisiana special education service delivery system must provide continuing education (inservice training) to personnel who identify, evaluate, place, and provide special education or related services to exceptional students (birth through age 21). Continuing education activities must be coordinated with the continuing education efforts of other local entities to support collaboration among programs, reduce overlapping service delivery, and improve outcomes for exceptional students and their families.

§484. Reserved

§485. Assurance of Compliance

A. In connection with each annual application for state and federal financial assistance, each school system must sign a written assurance that the preschool, elementary, and secondary program operated by the school board is currently in compliance and will, in the future, be operated in compliance with these Regulations and any applicable federal regulations.

B. Each school system shall permit access by the staff of the office during regular business hours to any sources of information necessary to ascertain compliance with these Regulations.

§486. Procedure for Application for State or Federal Funds

Each school system requesting state or federal funds administered by the department shall do so according to the procedures established by the department.

§487. Annual Application for IDEA - Part B Funds

On or before June 1 of each year, each school system must submit an application to the office which sets forth a request for IDEA - Part B funds sought by the school system to provide a free appropriate public education to exceptional students.

A. The annual application must be submitted on forms issued by the department and must contain any request which the school system intends to make for federal funds.

B. The annual application must be approved by the school system governing authority before the submission to the office.

C. The annual application must include all state and federal procedures and assurances necessary to receive such federal funds.

§488. Preparation of Application

A. In the preparation of the application required under IDEA - Part B, the school system must:

1. publish a summary of the application for IDEA - Part B flow-through funds (the application) indicating its purpose and scope, its public availability, the timetable for final approval, the procedures for submitting written comments, any policy changes from previous applications, and a list of the time and place of the public meeting to be held. Such notice shall occur between 45 and 60 calendar days prior to submission of the program plan to the governing authority of this school system;

2. distribute to any parent organization, child and youth advocacy organization, approved nonpublic school program, public college or university, or other affected agency operating in the jurisdiction of the school system which has previously registered with the school system, a copy of the proposed application and a list of the times and places of the public meeting to be held. This distribution must occur no less than 30 calendar days prior to submission to the governing authority of the school system of the proposed application;

3. publish within the week preceding the public meeting a description of the time, place, and purpose of the meeting in newspaper(s) of general circulation in the jurisdiction of the school system;

4. hold the public meeting in which parents and other interested persons throughout the geographic area of the school systems are afforded a reasonable opportunity to comment on the application;

5. file in a publicly available location a written or electronic verbatim record of the public meeting and any written comments received;

6. review and consider all public comments which might warrant modification of the application;

7. attach a summary of the comments made during the public meeting or received by the governing authority of the school system to the proposed final application submitted to the governing authority of the school system;

8. publicize the approval by the governing authority of the school system of the final application and the location where copies of the plan can be obtained by the public;

9. publicize the approval or disapproval by the department of the application and the location where copies of the final application can be obtained by the public;

10. inform potentially interested parent and child advocacy organizations, approved nonpublic school programs, public colleges and universities, and other affected agencies in the jurisdiction of the school system of the requirements of this Subpart.

B. The school system shall provide a list of the organizations to which a distribution of the application is made upon submission of the application to the Office of Special Educational Services.

§489. Reserved

§490. Maintenance of Special Education Enrollment

Each school system shall maintain and assure the accuracy of the required elements for each student record on the Louisiana Network of Special Education Records (LANSER), the automated special education tracking system.

§491. Child Counting

A. Each school system shall use LANSER for the purpose of tracking students with disabilities. Data from this system shall be used to produce the annual child count, as of December 1, for the purpose of generating grant awards under IDEA-B, Section 619 Preschool and Chapter 1 S.O.P.

B. Each school system/state agency must determine the eligibility of each student for inclusion in the December 1 Child Count, which will generate funds under IDEA-B, and Chapter 1 S.O.P. It is the responsibility of the school system/state agency to verify that each eligible student is receiving the special education and related services stated on the Individualized Education Program or early intervention services, as stated on the Individualized Family Service Plan. Eligibility requirements for IDEA - Part B and H and Chapter 1 S.O.P. must be determined as specified in the *SDE Monitoring Procedures*, Bulletin 1922.

§492. Dissemination of Student and Parent Rights

Each school system shall reprint and provide to each parent of a student who is currently receiving special education or who is identified as suspected of being exceptional, a written explanation of all the procedural safeguards available to the parents and shall refer any request for a copy of these Regulations to the office.

§493. Use of IDEA - Part B Flow-through Funds

A. A school system may only use IDEA - Part B funds for the excess cost of providing special education and related services for students with disabilities. Costs must be directly attributable to the education of a student with disabilities. IDEA - Part B funds received must not be commingled with State funds.

B. The school system meets the excess cost requirement if it has on the average spent at least the amount determined under 34 CFR 300.184 for the education of each of its students with disabilities. This amount may not include capital outlay or debt service. The excess cost requirement prevents a school system from using funds provided under IDEA - Part B to pay for all of the costs directly attributable to the education of a student with disabilities. However, the excess cost requirement does not prevent a school system from using IDEA - Part B funds to pay for all of the cost directly attributable to the education of a student with disabilities in any of the ages of 3, 4, 5, 18, 19, 20, or 21 years, if no local or state funds are available for nondisabled students in that age range. However, the local educational agency must comply with the nonsupplanting and other requirements of this Part, providing the education and services.

C. School systems may not replace state and local funds with IDEA - Part B funds. To determine that requirement is met, school systems must be able to demonstrate that the total amount, or average per capita amount, of state and local school funds budgeted for expenditures in the current fiscal year for the education of students with disabilities is at least equal to the total amount, or average per capita amount, of state and local school funds actually expended for the education of students with disabilities in the most recent preceding fiscal year for which the information is available. Allowance may be made for decreases in enrollment of students with disabilities and expenditures of unusually large amounts of funds for such long-term purposes as the acquisition of equipment and the construction of school facilities.

D. School systems must use state and local funds to provide services to students with disabilities receiving IDEA - Part B funds which, taken as a whole, are at least comparable with services provided to other students without disabilities.

E. School systems must maintain records which demonstrate compliance with the excess cost, nonsupplanting, and comparability requirements.

§494. Use of Chapter 1 S.O.P. Funds

A. If more than one state agency is directly responsible for providing a free appropriate public education to a student with a disability, or early intervention services to a infant or toddler with a disability, the state agency that is primarily responsible for the provision of education to that or early intervention services to that infant or toddler, as determined by the state educational agency, is the only state agency that must count that infant, toddler, or student with a disability.

B. A state agency or a local educational agency may use Chapter 1 S.O.P. funds only for programs and projects that are designed to supplement the provision of special education and related services or early intervention services to infants, toddlers, and students with disabilities who are eligible to be served.

C. The application for Chapter 1 S.O.P. funds must be submitted on forms issued by the department and must contain a narrative description of activities, a budget reflecting the use of funds, and procedures and assurances necessary for receipt of such federal funds for the provision of special education and related services.

§495. Interagency Coordination

A. Each school system shall, upon request, assist the department in the development and implementation of any interagency agreements designed to improve the delivery of special education and related services to exceptional students.

B. Each school system shall enter into interagency agreements in §830 to the extent necessary to comply with all provisions of these Regulations.

C. Each agreement shall be consistent with §800 of these Regulations.

§496. Responsibilities for Placed Students

City/parish school systems shall enroll exceptional students currently enrolled in SSD#1 or State Board special schools for provision of special education in the least restrictive environment when the student is placed by SSD#1 or State Board special schools. Such an exceptional student remains

in the jurisdiction of SSD#1 or the State Board special schools, which shall reimburse the city/parish school system for any costs for providing such services based on an interagency agreement. A city/parish system or SSD#1 which places students with severe or low-incidence disabilities in State Board special schools must reimburse State Board special schools for any costs for providing such services based on an interagency agreement. The school system which retains jurisdiction retains fiscal responsibility for funds not available to the other system from the state. A city/parish school system that disagrees with such a placement may, on an individual basis, apply to the State Board for exemption from the State Board from this obligation.

§497. Reserved

§498. Discharge from Treatment Care and Habilitation

Upon receipt of notification from the appropriate agency, a city/parish school system shall conduct an IEP/Placement meeting according to §400 for exceptional students who were discharged from state-operated residential facilities and are still eligible exceptional students.

§499. Reserved

Part 500. Procedural Safeguards

§501. General Responsibility

Each school system shall establish and implement procedural safeguards which meet the requirements of these Regulations.

§502. Opportunity to Examine Records

The parents of an exceptional student have a right to inspect and review educational records with respect to the identification, evaluation and placement of the student and the provision of a free appropriate public education as described in §517.C.

§503. Independent Educational Evaluation

The parents of an exceptional student have a right to obtain an independent educational evaluation of the student. The school system must provide on request, information to the parent about where an independent educational evaluation may be obtained. For the purpose of this Part:

Independent Educational Evaluation (IEE)—an evaluation conducted by a qualified examiner who is not employed by the school system responsible for the education of the student in question.

Public Expense—that the school system either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

Comment: If a school system must pay for an IEE, the cost shall not exceed the average cost of such an evaluation conducted within the state of Louisiana and within a 75-mile radius of the school system.

A. An independent educational evaluation is provided at public expense and at no cost to the parents, if:

1. the parent disagrees with an evaluation provided by the school system; and/or
2. a hearing officer requests an IEE as part of a due process hearing.

B. When a school system is notified in writing by the parent that the parent disagrees with the school systems' education evaluation, the school system has 10 operational days of receipt of the notice to initiate a due process hearing to show that its evaluation is appropriate. If the hearing decision is that the evaluation is appropriate, the parent still

has the right to an independent evaluation but not at public expense. If the school system does not initiate a due process hearing when the parent disagrees with an evaluation, then the IEE must be at public expense.

Comment: Failure of a parent to provide a school system with written notice of a disagreement with the school system's evaluation does not release the school system of its responsibility to pay for an independent educational evaluation that meets the other requirements as stated above.

C. An IEE obtained at public expense must meet the same criteria established by these Regulations and Bulletin 1508, including the location of the evaluation and qualifications of the examiner.

D. If the parents obtain an independent educational evaluation at their own expense, the results of the evaluation:

1. must be considered by the school system in any decision made with respect to the provision of a free appropriate public education to the student. The school system is not required to use the IEE obtained at the parents' expense as its only criteria for deciding the content of the student's special education program; and
2. may be presented as evidence at a due process hearing.

§504. Prior Notice

A. Written notice must be given to the parents of an exceptional student a reasonable time before the school system:

1. proposes to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student, or
2. refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student.

B. The prior notice must include:

1. a full explanation of all the procedural safeguards available to the parents, including confidentiality requirements;
2. a description of the action proposed (or refused) by the school, an explanation of why the school system proposes or refuses to take the action and a description of any options the school system considered and reasons why those options were rejected;
3. a description of each evaluation procedure, test, record or report the school system uses as a basis for the proposal or refusal; and
4. a description of any other factors that are relevant to the school system's proposal or refusal.

C. The notice must be:

1. written in language understandable to the general public; and
2. provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so; and
3. if the native language or other mode of communication of the parent is not a written language, the local agency must take steps to insure that:
 - a. the notice is translated orally or by other means to the parent in his or her native language or other mode of communication, if the native language or other mode of communication is not written language;

b. notices scheduling Individualized Education Program (IEP) meetings shall contain a description of the purpose of the meeting, date, time, location of the meeting and a list of who will be in attendance; and

c. the school system must maintain written evidence that the requirements of Paragraph 3 (a) and (b) of this Section have been met, and that the parent(s) understands the content of the notice.

§505. Consent

Consent means that:

A. the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

B. the parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

C. the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

D. parental consent must be obtained before:

1. conducting a pre-placement or initial evaluation; and
2. initial placement of an exceptional student in a program providing special education and related services.

Comment:

1. If the parent's decision is to withhold formal written approval for the initial evaluation or placement of the student in special education, the school system may appeal to the appropriate state court within the time prescribed by state law.

2. A school system may not require parental consent as a condition of any benefit to the parent or student except for the services or activity for which consent is required under this Part.

3. Each school system in the state must establish and implement effective procedures to ensure that a parent's refusal to consent does not result in a failure to provide the student with FAPE.

§506. Conciliation and Mediation

A. School systems shall make all reasonable efforts consistent with their obligations under these Regulations to resolve informally any ongoing dispute between the parent and the school system. Parents may file a complaint with the SDE at any time.

B. Mediation is an optional process which may be used by the school system and the parent to reach an agreement concerning an education decision proposed or refused by the school system or the parent, and to which either the school system or parent disagrees. The parties have a right to:

1. a mediation conducted by a mediator who is not an employee of the school system responsible for providing special education and related services to the student;
2. a mediator trained in mediation with a knowledge of special education and special education services to mediate the disagreement;
3. a written copy of the agreement if an agreement is achieved.

C. Any mediation conducted between the school system and the parent does not result in a delay or denial of a parent's right to a due process hearing. Mediation is not required before a request for a due process hearing is made.

§507. Impartial Due Process Hearing

A parent or school system may initiate a hearing on any of the matters described in §504 A.1 and 2 of these Regulations.

A parent initiates a hearing by sending written notice to the LEA. The LEA initiates a hearing by sending written notice to the parent and the SDE.

A. Any party to a hearing has the right to:

1. have the hearing conducted at a time and place convenient to the parent, student and school system;
2. be accompanied and advised by counsel or by an individual with special knowledge or training with respect to the problems of exceptional students;
3. present evidence and confront, cross-examine, and compel the attendance of witnesses;
4. prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five operational days before the hearing; and
5. obtain a written or electronic verbatim record of the hearing;
6. obtain written findings of fact and decisions. The SDE, after deleting any personally identifiable information, shall:
 - a. transmit those findings and decisions to the State Advisory Council established under these Regulations; and
 - b. make those findings and decisions available to the public;
7. a statement of the qualifications and the hearing record of the proposed hearing officers, upon request from the SDE.

B. A parent involved in a hearing has the right to:

1. have the student who is the subject of the hearing present;
 2. open the hearing to the public;
 3. be informed, upon request, of any free or low-cost legal and other relevant services when either the parent or school system initiates a due process hearing; and
 4. be informed that if the parent prevails in a due process hearing, the parent may be able to recover attorney fees.
- C. If the hearing procedure, review, or judicial proceeding involves an application for initial admission to any school system, the student with formal parental approval must be placed in the public school program of the school system responsible for the placement until the completion of all the proceedings.

§508. Hearing Officer Appointment and Hearing Procedures

A. Hearing Officer Appointment

1. Hearing officers must be impartial persons knowledgeable about the legal and educational issues involved in assessing compliance with these Regulations.
 - a. A hearing officer may not be a person who is an employee of a public agency that is involved in the education or care of the student.
 - b. No person who has a personal or professional interest which would conflict with his or her objectivity may be appointed to serve as hearing officer.
2. The SDE and each school system will maintain a list of qualified hearing officers. The list will include a statement of the qualifications of each of those persons and, to the extent possible, include representation from all regions of the state. The department ensures that these hearing officers have

successfully completed an inservice training program approved by the department. Additional inservice training shall be provided whenever warranted by changes in applicable legal standards or educational practices.

3. Appointments will be for a period of three years and may be renewed. The department must annually review the activities of persons on the list and must remove persons from the list if they leave the state, decline to participate actively in the hearing process, cease to be impartial, or do not carry out their responsibilities in a satisfactory fashion.

Comment: A person who otherwise qualifies to conduct a hearing under this Section is not an employee of the agency solely because he/she is paid by the agency to serve as a hearing officer.

B. Hearing Procedures

1. Hearing Officer Designation

a. The local supervisor must notify the SDE of the need to assign a hearing officer within one day of receipt of a request for a hearing. The hearing officer will be assigned within two operational days by the SDE on a rotational basis from the State Department of Education's approved list. Consideration will be given to the location of the hearing when making the assignment.

b. After a hearing officer has been assigned by the SDE, the local supervisor must, within five operational days, give the parent(s) written notice of the name of the proposed hearing officer.

c. The parent and the school system, upon receiving notice of the assigned hearing officer, may disqualify (available only once) the person assigned. The parent must notify the parish supervisor of such a decision within three operational days after receiving notice. The school system must notify the SDE of their decision or the parents' decision to disqualify the hearing officer within three operational days after receiving notice.

d. If the parent or school system has reasonable doubt regarding the impartiality of a hearing officer, they must submit written information to the SDE within three operational days of receipt of the notice of the assigned hearing officer. The SDE shall review any written challenge and:

(1) provide a written decision and notice to the parent and parish supervisor within five operational days after receipt of the written challenge;

(2) if the SDE determines that doubt exists as to whether the proposed hearing officer is truly impartial, an alternate hearing officer must be immediately assigned from the approved list.

e. Final designation of a hearing officer occurs when a proposed hearing officer is assigned by the SDE and there is no challenge by the parent or school system.

2. Conduct of Hearing

a. The school system must notify the parent of the date, time and place of the hearing following the requirements in §504 of these Regulations.

b. A hearing shall be conducted in accordance with guidelines developed by the State Department of Education with approval of the Board of Elementary and Secondary Education.

c. The final hearing decision must be reached and a copy of the decision mailed to each party and the department

not later than 45 operational days after the receipt of the request for the hearing.

d. A hearing officer may grant specific extensions of time beyond the prescribed time requirements at the request of either party. When an extension is granted, the hearing officer shall reach a decision and mail copies to the parties and the department not later than 10 operational days from the termination of the hearing.

e. A decision made in the hearing is final unless an appeal is taken by either party.

f. At the request of either party, the hearing officer has the right to subpoena persons to appear at the hearing.

§509. Review of Hearing Decisions

A. Any party aggrieved by the findings and decisions of the hearing may appeal the hearing decision.

B. A written request to review the hearing decision must be sent by certified mail to the SDE within 15 operational days of receipt of the hearing decision. The request must state the basis upon which the review is requested.

C. The SDE must send copies of the request to all parties and notify the State Level Review Panel.

§510. Appointment of Review Panel

A. The state level review panel is composed of three hearing officers and one alternate trained by the State Department of Education in special education law and issues who are not employed by the school system responsible for the education of the student and who did not participate in the due process hearing being appealed.

B. No person may serve on the panel reviewing an appeal if the person has a personal or professional interest that would conflict with his objectivity. A review officer shall not serve on the panel reviewing an appeal that involves a local school system by which the officer is employed.

§511. Conduct of Review

A. Upon receiving a formal written request for a review, the SDE shall within 10 operational days notify the Review Panel to evaluate the hearing decisions, the hearing record, and other appropriate information.

B. A review must be conducted at a time and place that is reasonably convenient to the parents, the student and the school system.

C. In conducting the review, the panel shall within 30 operational days from receipt of the request for a review:

Comment: The review panel is allowed to grant specific extensions of time beyond the 30 calendar days at the request of either party.

1. examine the entire hearing record;

2. ensure that procedures were consistent with the requirements of due process;

3. seek additional evidence if necessary;

Comment: If a hearing is held to receive additional evidence, hearing rights stated in §507 (A and B) of these Regulations are applicable.

4. afford all parties an opportunity for oral or written, or both, argument by the parties at the discretion of the reviewing panel;

Comment: any written argument(s) shall be submitted to all parties.

5. make a final decision on completion of the review;

6. give or mail a copy of its written findings and decision to all parties;

7. the SDE, after deleting any personally identifiable information, shall:

- a. transmit those findings and decisions to the State Advisory Council established under these Regulations; and
- b. make those findings and decisions available to the public.

D. An agreement by two review officers on the panel constitutes the decision.

E. All parties have the right to continue to be represented by counsel at the state review level, whether or not the reviewing panel determines that a further hearing is necessary.

§512. Reserved

§513. Appeal

Any party aggrieved by the decision and the finding of the State Level Review Panel has the right to bring a civil action in state or federal court. The civil action must be filed in state court within 30 operational days of the decision. This timeline does not apply to federal court.

§514. Student Status During Proceedings

A. During the pendency of any administrative hearing or judicial proceeding pursuant to the Section, the student involved must remain in the present educational placement unless the parent and the school system agree otherwise.

Comment: While the placement may not be changed during an administrative or judicial proceeding, unless the school system and parents agree otherwise, this does not preclude the school system from using its normal procedures for dealing with students who are endangering themselves or others.

B. If the hearing involves an application for initial admission to a public school the student with the consent of the parents, must be placed in the public school program of the school district until the completion of all the school proceedings.

§515. Costs

A. School systems shall be responsible for paying administrative costs or reasonable expenses related to participation of school system personnel in a hearing or appeal. The necessary expenses of the hearing officers, the review panel, and any stenographic services are paid by the SDE in accordance with department policies and procedures.

B. Each school system shall inform parents that any action or proceeding under Section 615 of IDEA, courts may award parents reasonable attorneys' fees under the circumstance described in Section 615 (E)(4) of IDEA.

§516. Surrogate Parents

A. A school system shall ensure that the rights of a child are protected when no parent (as defined in §959) can be identified and shall assign a surrogate parent whenever it determines that one of the following situations exists:

- 1. that the student is a ward of the state (including a ward of the court or of a state agency);
- 2. that it is unable to locate a natural parent or legal guardian by calls, visits, and by sending a letter by certified mail (return receipt requested) to the last known address of the natural parent or the legal guardian and allowing 20 operational days for a response of the intention to appoint a surrogate parent.

B. In all cases where the legal custody of the student is undetermined but an individual is raising the student at home; the individual is considered to be a person acting as the parent of the student and has complete authority over all educational decision-making on behalf of that student. In this instance a

surrogate parent is not needed. At least three documented reasonable efforts must be made to notify the parents or guardians at their last known address.

C. A surrogate parent shall represent the student in all matters relating to the identification, individual evaluation, and educational placement of the student and the provision of a free appropriate public education including being present at an individual evaluation interpretation meeting, IEP/Placement meeting and annual review meetings, and at any hearing concerning the student.

D. A method for determining whether a student needs a surrogate parent and for assigning a surrogate parent must be developed and implemented by each school system in a manner which ensures that:

- 1. a person assigned as a surrogate parent has no interest that conflicts with the interests of the student and is not a present employee of any state or state-supported agency involved in the education or care of the student;
- 2. the person assigned has knowledge and skills that insure adequate representation of the student;
- 3. all surrogate parents who cease to carry out the responsibilities or no longer meet the criteria of eligibility specified in B above are removed from eligibility.

E. Payment of fees for service as a surrogate parent does not, in and of itself, render a person an employee of the school system.

F. Any person appointed as a surrogate parent is protected by the "limited liability" of R.S. 17:1958.

G. Disagreement about the choice of a surrogate parent may be the subject of a due process hearing as described in this Part.

§517. Confidentiality of Information

The SDE has established policies and procedures for the implementation of the confidentiality requirements under IDEA-B and the Regulations for Implementing the Family Educational Rights and Privacy Act (FERPA) of 1974.

A. Definitions. As used in these Regulations:

Destruction—physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

Education Records—the type of records covered under the definition of education records in FERPA.

Participating Agency—any school system or agency or state-operated program that collects, maintains, or uses personally identifiable information, or from which information is obtained under these Regulations.

B. Notice

1. The SDE shall give notice which is adequate to fully inform parents about the requirements under identification, location and evaluation of exceptional students, including:

- a. a description of the extent to which the notice is given in the native languages of the various population groups in the state;
- b. a description of the students on whom personally identifiable information is maintained, the types of information sought, the method the state intends to use in gathering the information (including the sources from whom information is gathered) and the uses to be made of the information;

c. a summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and

d. a description of all of the rights of parents and students regarding this information, including the rights under the Family Education Rights and Privacy Act of 1974.

2. Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers, or other media, or both, with circulation adequate to notify parents throughout the state of the activity.

C. Access Rights

1. Each school system shall permit parents to inspect and review educational records relating to their students which are collected, maintained or used by the agency under this Part. The school system shall comply with the request without unnecessary delay and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the student, and in no case shall the time exceed 45 calendar days after the request has been made.

2. The right to inspect and review educational records under this Subpart includes the following:

a. the right to a response from the school system to reasonable request for explanations and interpretations of the records;

b. the right to request that the school system provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records;

c. the right to have a representative of the parent inspect and review the records when written permission by the parent is presented.

3. The school system may presume that a parent has authority to inspect and review records relating to his or her student unless the school system has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation and divorce.

D. Record of Parties Obtaining Access. Each school system shall keep a record of parties attaining access to education records collected, maintained or used under this Part (except access by parents or authorized parties of the school system), including the name of the party, the date access was given and the purpose for which the party is authorized to use the record.

E. Records on More than One Student. If any education record includes information on more than one student, the parents of those students shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

F. List of Types and Locations of Information. Each school system shall provide parents on request a list of the types and locations of education records collected, maintained or used by the school system.

G. Fees

1. Each school system may charge a fee for copies of records that are made for parents under this Part if the fee

does not effectively prevent the parents from exercising their right to inspect and review those records.

2. A school system may not charge a fee to search or to retrieve information under this Part.

H. Amendments of Records at Parent's Request

1. The parent has a right to have the child's records amended when the parent believes that the information contained in the records is inaccurate, misleading or otherwise in violation of the parent's and child's privacy or other rights.

2. After the receipt of a request by a parent of a special education student to amend the student's record, the school system must decide whether to amend within a reasonable time.

3. If the school system refuses to amend the records as requested by the parent, the school system must inform the parent of the right to request a hearing as stated below.

I. Opportunity for a Hearing

1. The school system shall on request provide an opportunity for a hearing to challenge information in education records to insure that it is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student.

2. A hearing held this Part must be conducted according to the procedures under the Family Educational Rights and Privacy Act (FERPA).

J. Results of a Hearing

1. If, as a result of a hearing, the school system decides that the information is inaccurate, misleading, or otherwise in violation of the privacy rights or other rights of the student, it shall amend the information accordingly and so inform the parents in writing.

2. If, as a result of a hearing, the school system decides that the information is not inaccurate, misleading or otherwise in violation of privacy rights, the parents must be afforded a right to place in the record comments they may have on the records or comments setting forth any reasons for disagreeing with the decision of the agency.

3. Any explanation placed in the record must:

a. be maintained by the school system as part of the records of the student as long as the record or contested portion is maintained by the school system; and

b. if the records of the student or the contested portion is disclosed by the school system to any party, the explanation must also be disclosed to the party.

K. Consent

1. Parental consent must be obtained before personally identifiable information is:

a. disclosed to anyone other than officials of the school system collecting or using the information under this Part subject to Number 2 below of this Section; or

b. used for any purpose other than meeting a requirement of the Part.

2. A school system or institution subject to FERPA may not release information from education records to school system without parental consent unless authorized to do so under FERPA.

3. If a parent refuses to provide consent under the Section, the requesting agency may file a written complaint with the SDE. Such a complaint will be investigated by the

office according to the Board of Elementary and Secondary Education adopted procedures for the complaint management system required by IDEA

L. Safeguards

1. Each school system shall protect the confidentiality of personally identifiable information at collection, storage, disclosure and destruction stages.

2. One official at each school system shall assume responsibility for ensuring the confidentiality of any personally identifiable information.

3. Any persons collecting or using personally identifiable information must receive training or instruction regarding the state's policies and procedures.

4. Each school system shall maintain for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

M. Destruction of Information

1. The school system shall inform parents when personally identifiable information collected, maintained or used is no longer needed to provide educational services to the student.

2. The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance records, classes attended, grade level completed and year completed may be maintained without time limitation.

N. Students' Rights. Each school system shall ensure when a student attains the age of 18 years, unless such student has been interdicted or determined to be in continuing minority by a court order of the state of Louisiana, the student is afforded the rights of privacy similar to those afforded to parents, taking into consideration the student's type and severity of disability.

O. Enforcement. The SDE Monitoring Procedures, Bulletin 1922, includes the policies, procedures and sanctions which the state uses to ensure that the requirements of IDEA - Part B and these Regulations are met.

§520-599. Reserved

Part 600. Establishment and Operation of Special School District Number 1

§601. Establishment of Special School District Number 1

Special school District Number 1 (SSD#1) is an intermediate educational unit administered by the Louisiana Department of Education with the approval of its governing authority.

§602. Program Approval

Each educational program operated by SSD#1 shall meet the Standards for Approval of special schools .

§603. Purpose

The purpose of SSD#1 is to provide a free appropriate public education for eligible exceptional students, ages 3 through 21 years, who have been admitted to state-operated programs for treatment, habilitation, and care or who have been placed by court order. During this period SSD# 1 assumes responsibility for special education on an individual basis for each student and assures that the student receives an uninterrupted program of special education and related services from admission to discharge. As a result the

city/parish school system of the domicile of the student is relieved of its direct service responsibilities while the student is enrolled in SSD#1.

§604-629. Reserved

§630. General Responsibilities

A. Whenever an exceptional student enters the jurisdiction of SSD#1 consistent with the requirements of these Regulations, SSD#1 shall be responsible for either providing or causing to be provided, all needed special education and related services to each such exceptional student in full compliance with all provisions of Part 400 of these Regulations, including:

1. the necessary certified personnel to ensure the conduct of an Individual Evaluation for each student within its jurisdiction in accordance with all requirements of §430-436 of these Regulations;

2. the development and implementation of an IEP for each student within its jurisdiction in accordance with §440-459 of these Regulations;

3. adequate personnel to establish and maintain the appropriate relationships with each affected city/parish school system to provide for a smooth transition of educational services for each student discharged from an SSD#1 school;

4. the transmission of all educational records on a student discharged from an SSD#1 school to the city/parish school system in which the exceptional student will be residing to assist in the IEP/Placement meeting;

5. approval of each out-of-district educational placement not covered by an interagency agreement; and

6. the adherence to all procedural safeguards of Part 500.

B. The assumption of this responsibility by SSD#1 shall not relieve in any way an insurer, similar third party, or state or local public agency, e.g., Department of Health and Hospitals (DHH), Department of Public Safety and Corrections (DPS&C), from an otherwise valid obligation to provide or to pay for services to which exceptional students are entitled as clients or beneficiaries of such third parties under state or federal entitlement or laws, or under policies or contracts.

§631. Jurisdiction

SSD#1 has jurisdiction over all exceptional students admitted to state-operated residential facilities and each student placed by SSD#1 in another school system. When a student is no longer residing within a state-operated facility, jurisdiction is transferred from SSD#1 to the school system of current residence of the student.

§632. Enrollment

A. An exceptional student shall be enrolled in an SSD#1 school after admission to a state-operated residential facility. This enrollment process shall not exceed 30 calendar days.

B. If a student admitted to a state-operated residential facility has not been identified as being exceptional, enrollment in SSD#1 will occur upon completion of an individual evaluation and the development of an IEP in accordance with the requirements and timelines in §430-436 and 440-459 of these Regulations.

C. SSD#1 shall develop with each affected agency an interagency agreement for the purpose of implementing the

above enrollment requirements which shall include procedures for the joint development of each IEP, and treatment, care, or habilitation plan.

D. Placement in a state-operated residential facility does not require that all educational services described in the IEP of the student must be provided within the facility.

Wherever possible, consistent with the Rules for the least restrictive environment, students enrolled in SSD#1 must participate in educational programs operated by city/parish school systems serving the geographic attendance area in which the facility is located.

§633. Discharge from Treatment, Care, and Habilitation

If an exceptional student is being considered for discharge from a state-operated residential facility, SSD#1 shall notify the city/parish school system in which the eligible exceptional student will be residing, of the return of the student. Before the exceptional student is discharged, SSD#1 shall provide educational records to the affected city/parish school system.

§634. Emergency and Respite Care Program

The admission of an exceptional student by the state of Louisiana for a temporary program of respite care shall not automatically require enrollment in SSD#1 for purposes of these Regulations. The admission of an exceptional student on an emergency basis shall not constitute enrollment in SSD#1. However, if such admission continues on a nonemergency basis after a decision by the legally constituted agency (e.g., DHH or DPS&C) or by court of the state of Louisiana to place the student in a state-operated residential facility, the student must be admitted and enrolled in SSD#1 in accordance with §632 of these Regulations.

§635-649. Reserved

§650. Financing

A. The department shall provide to SSD#1 whatever financial resources are necessary to support the educational programs of SSD#1.

B. Services provided to exceptional students enrolled in SSD#1 from sources other than school systems or the department are presumed to be for related services (including those described in the IEP, if an interagency agreement so provides) and treatment aspects of the total residential care program of the facility in which the education program is conducted.

C. The cost of special education teachers, teacher aides, principals, speech therapists, pupil appraisal personnel, and other instructional support staff for the educational programs operated by SSD#1 shall be included in the operating budget prepared by the department. SSD#1 may from time-to-time enter into contracts for the delivery of educational services with school systems in whose jurisdiction residential facilities are located. School systems must participate in such contractual arrangements unless the State Board approves the request by a school system for exemption from this obligation.

§651-684. Reserved.

§685. Use of Chapter 1 S.O.P. Funds

A. If more than one state agency is directly responsible for providing a free appropriate public education to a student with a disability, or early intervention services to an infant or toddler with a disability, the state agency that is primarily responsible for the provision of education to that student or

early intervention services to that infant or toddler, as determined by the state educational agency, is the only state agency that must count that infant, toddler, or student with a disability.

B. A state agency or a local educational agency may use Chapter 1 S.O.P. funds only for programs and projects that are designed to supplement the provision of special education and related services or early intervention services to infants, toddlers, and students with disabilities who are eligible to be served.

C. The application for Chapter 1 S.O.P. funds must be submitted on forms issued by the department and must contain a narrative description of activities, a budget reflecting the use of funds, and procedures and assurances necessary for receipt of such Federal funds for the provision of special education and related services.

§686-689. Reserved

§690. Instruction for Child Count

A student with disabilities who is counted for the purpose of computing a grant under IDEA - Part B Flow-Through funds may not be counted in computing a grant under Chapter 1 S.O.P. funds.

§691. Individual Evaluation

Individual evaluations in SSD#1 schools shall be conducted to comply with all requirements of §430-436 of these Regulations.

§692. IEP and Placement Development and Review

IEP and placement of students enrolled in SSD#1 schools shall be developed and implemented in accordance with §440-446 of these Regulations.

§693. Procedural Safeguards

Students and parents of exceptional students enrolled in SSD#1 shall be provided the procedural safeguards in accordance with Part 500 of these Regulations.

§694. Reserved

§695. Monitoring and Complaint Management

Special school District Number 1 shall develop an internal monitoring and complaint management system.

§696-699. Reserved

Part 700. Responsibilities of State Board Special Schools

§701. Establishment

The State Board special schools (Louisiana School for the Deaf, Louisiana School for the Visually Impaired, and Louisiana Special Education Center) are state-operated schools providing educational programs and services for students with disabilities. These schools are administered by the department.

§702. School Approval

Each State Board special school shall meet the Standards for School Approval of the State Board.

§703. Purpose

State Board special schools are designated to provide a free appropriate public education for students with low incidence impairments who meet the criteria for admission (e.g., deafness, blindness, orthopedic disabilities) for each such special school and are enrolled in such special school on a residential basis. The quality of education shall be equal to

that received by any other similarly student with disabilities in the city/parish school systems of the state of Louisiana.

§704. Administrative Organization

The State Board is the governing board of the State Board special schools. The department administers such special schools through the schools' appointed superintendents. The superintendent of each special school shall administer the special school for which he/she is responsible in compliance with approved State Board policies and procedures, these Regulations, and other applicable Bulletins.

§705. General Responsibilities

A. Whenever a student with disabilities enters the State Board special school in compliance with the requirements of these Regulations, the State Board special school shall be responsible for either providing, or causing to be provided, a free appropriate public education.

B. State Board special schools shall, upon admitting a student with disabilities, assume the responsibility for providing each student a free appropriate public education in full compliance with all provisions of Part 400 of these Regulations, including those related to child search, evaluation, IEP development and implementation, and placement of exceptional students; the provision of special education and related services; adherence to procedural safeguards; and certification of staff.

§706. Jurisdiction

All students with disabilities admitted into and residing in State Board special schools shall be under the jurisdiction of the State Board special school. Students with disabilities referred by a school system and admitted as full-time students to participate in the academic and nonacademic programs to the extent necessary to meet the individual needs of the student with the exception of residential services because of the proximity of residence of parents and/or other residential arrangements shall also be under the jurisdiction of State Board special schools. Each student with disabilities, under the jurisdiction of the State Board special school, but placed in an educational program or receiving services in a city/parish school system, remains under the jurisdiction of the State Board special school. The school system which retains jurisdiction retains the fiscal responsibility for funds or resources not available to the other system from the state or through an interagency agreement or cooperative program.

§707. Enrollment (Admission and Release)

A. Admission

1. Eligible students with disabilities shall be admitted to State Board special schools according to admission procedures established by the State Board special school, approved by the State Board, and in compliance with these Regulations.

2. Students with disabilities shall not be admitted to a State Board special school unless such students with disabilities are referred by a city/parish school system in compliance with the provisions of §440 and §446.D or in compliance with the provision of §716.

B. Release

1. Students with disabilities admitted to State Board special schools shall be released from enrollment according to procedures established by the State Board special school,

approved by the State Board, in compliance with these Regulations.

2. Students with disabilities currently enrolled in State Board special schools shall not be referred to a city/parish school system without a review of the current IEP/Placement (in compliance with §452) being conducted by the State Board special school.

C. State Board special schools may enter into interagency agreements with special school District Number 1 for cooperative supportive efforts in the provision of services, such as child search, evaluation and coordination.

D. Admission to a State Board special school does not necessarily mean that all educational services described in the IEP of the student must be provided within such facility. Wherever appropriate, consistent with the Rules for a least restrictive environment in §445, students admitted to State Board special school programs must participate in educational programs operated by city/parish school systems serving the geographic attendance area in which the facility is located.

E. Admission to a State Board special school shall not relieve in any way an insurer, similar third party, or other state or local public agency (e.g., DHH, DPS&C, DSS) from an otherwise valid obligation either to provide or to pay for services to which students with disabilities are entitled as clients or beneficiaries of such third parties under state or federal entitlement or laws, or under policies or contracts.

§708. Financing

State Board special schools apply for state funds by submitting annual budgets approved by the State Board to the Louisiana Legislature. Such budgets indicate federal and state sources of revenue. Each State Board special school has its own schedule number in the annual appropriation bill.

§709. Child Search Activities

State Board special schools shall cooperate with each school system in which the parents of a student with a disability enrolled in the State Board special school are domiciled to permit the school system to carry out its ongoing responsibility with respect to student search when a student is in a State Board special school.

§710. Use of Chapter 1 S.O.P. Funds

A. If more than one state agency is directly responsible for providing a free appropriate public education to a student with a disability, or early intervention services to an infant or toddler with a disability, the state agency that is primarily responsible for the provision of education to that student or early intervention services to that infant or toddler, as determined by the state educational agency, is the only state agency that must count that infant, toddler, or student with a disability.

B. A state agency or a local educational agency may use Chapter 1 S.O.P. funds only for programs and projects that are designed to supplement the provision of special education and related services or early intervention services to infants, toddlers, and students with disabilities who are eligible to be served.

C. The application for Chapter 1 S.O.P. funds must be submitted on forms issued by the department and must contain a narrative description of activities, a budget reflecting the use of funds, and procedures and assurances necessary for receipt

of such federal funds for the provision of special education and related services.

§711. Instructions for Child Count

A. A student with disabilities who is counted for the purpose of computing a grant under IDEA - Part B Flow-Through funds may not be counted in computing a grant under Chapter 1 S.O.P.

B. A student with disabilities who is counted in computing a grant under Chapter 1 S.O.P. funds shall not be counted for the purpose of computing a grant under IDEA - Part B.

§712. Individual Evaluation

Individual evaluations in State Board special schools shall be conducted in compliance with all requirements of §430-436 of these Regulations.

§713. IEP/Placement

IEP/Placement of students enrolled in a State Boards special school shall be reviewed or revised and implemented in accordance with §440-459 of these Regulations.

§714. Procedural Safeguards

Students with disabilities and parents of students with disabilities enrolled in a State Board special school shall be afforded all the procedural safeguards provided by Part 500 of these Regulations.

§715. Monitoring and Complaint Management

The State Board special schools shall develop an internal monitoring and complaint management system.

§716. Louisiana School for the Deaf Alternative Placement

A. In compliance with Acts 433 and 911 of the 1992 Regular Session of the Louisiana Legislature, the Louisiana School for the Deaf (LSD) shall:

1. determine, not later than the second Monday in September of each year, the number of additional students who may be admitted under this placement option;

2. base the determination on the availability of all necessary resources required to provide a free appropriate public education.

B. Upon receipt from a parent (as defined in Part 900 of this Bulletin) of an application for admission of their child, LSD shall:

1. require, at a minimum, an individual evaluation which meets the requirements in Bulletin 1508 for classification as hearing impaired (deaf/hard of hearing) as a part of the application;

2. notify the school system of parent/student domicile that application has been made, in order to fulfill the provisions established in §709 of this Bulletin.

C. Within 45 operational days, LSD shall: process the application; make a determination of eligibility for admission; and develop an Individualized Education Program (IEP). In the development of the IEP, the parent shall be informed of all placement options available to meet the student's educational needs.

D. LSD shall notify the school system of parent/student domicile that a student has been admitted or rejected under the provisions of this Subsection.

E. The applicable procedural safeguards established in Part 500 of this Bulletin shall be followed.

§717-799. Reserved

Part 800. Interagency Agreements

§801. General Statement

The BESE has authorized the SDE, Office of Special Educational Services under R.S. 17:1941-1958 et seq., to enter into any agreement developed with another public or private agency, or agencies, where such an agreement is consistent with the Regulations; is essential to the achievement of full compliance with the Regulations; is designed to achieve or accelerate the achievement of the full educational goal for all exceptional students; and is necessary to provide maximum benefits appropriate in service, quality, and cost to meet the full educational opportunity goal in the state. Each school system and the SDE shall enter into all interagency agreements specified in the regulations by following all the requirements in this part and Guide for Developing Interagency Agreements, Bulletin 1930.

As used in this part, "interagency agreement" means an operational statement between two or more parties or agencies that describes a course of action to which the agencies are committed.

§802-809. Reserved

§810. Relationship Between School Systems and the Department

The relationship between the department and the school systems is defined by these Regulations in regard to providing a free appropriate public education to exceptional students. Interagency agreements are not necessary to define such relationships.

§811-819. Reserved

§820. Purpose of Interagency Agreements

A. The purpose of interagency agreements is to assure that the standards established by BESE to ensure a free appropriate, public education for exceptional students are upheld when they are implemented by an approved public or nonpublic agency not within the governance of the BESE.

B. The agreements are mandated to provide maximum use of both human and fiscal resources in the delivery of special education and related services, and to coordinate and clarify "first dollar" responsibilities.

C. Agreements may be entered into with parties both inside and outside the state of Louisiana with special consideration being given to abide by the Rules for least restrictive environment. Nothing in any agreement may be construed to reduce assistance available or to alter eligibility.

§821-829. Reserved

§830. Types of Interagency Agreements

SDE and SSD#1 shall have agreements with the subdivisions and the Department of Health and Hospitals (DHH), Social Services (DSS), and the Department of Public Safety and Corrections (DPS&C). Local Educational Agencies shall have those agreements whenever necessary for the provision of a free appropriate public education with mental health centers, public health units, maternal and child health and Handicapped Children Services, Early Periodic Screening, Diagnosis, and Treatment programs, SSD#1, intermediate and long-term care facilities, approved nonpublic

agencies, other local educational agencies, and Title XX providers. State Special School for the Deaf, State School for the Visually Impaired and the State Special Education Center now under the auspices of SSD#1 shall have interagency agreements with:

1. the LEA in whose geographic area they are located;
2. each LEA that places a student in the day programs of that facility;
3. regional state agencies;
4. approved and licensed nonpublic education; and
5. habilitation agenc(y)ies with whom they share students.

§831-839. Reserved

§840. Mandatory Content of Interagency Agreements

- A. Each agreement shall contain in writing:
1. a statement describing the disparate governances being dealt with by the parties of the agreement;
 2. the reason for writing the agreement;
 3. the responsibilities of each party of the agreement for providing FAPE, including the funding and the methods for accomplishing those responsibilities;
 4. all applicable state and federal standards that will apply to the agreement being developed;
 5. the data to be exchanged and the methods for exchanging it;
 6. statements with respect to Child Search and Confidentiality;
 7. the monitoring schedule and the procedures for same;
 8. the duration of the agreement;
 9. the process for amending the agreement, to include the statement to the effect that the contract may be terminated upon 30 days written notice and the disposition of data/materials collected to that point;
 10. any information specific to an agency which is necessary for approval of the agreement by SDE; and
 11. the titles and signatures of individuals authorized to enter into such agreements.

B. In addition, the agreements must contain the following three statements for conformance to Division of Administration requirements:

1. The contractor shall not assign any interest in this contract and shall not transfer any interest in same (whether by assignment or novation), without prior written consent of the state, provided however, that claims for money due or to become due to the contractor from the state may be assigned to a bank, trust company, or other financial institution without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the state.

2. The contractor hereby agrees to abide by all of the provisions of Louisiana Revised Statutes 43:31 in regard to printing of public documents. Contractor hereby agrees that prior to the final publication of any reports, documents, or publications of whatever nature for delivery to or used by the state, that the final proofs will be proofread by personnel of the SDE and that no final printing will occur until the contractor has been advised by the SDE in writing that the text of materials to be printed has been proofread and approved.

3. It is hereby agreed that the Legislative Auditor of the state of Louisiana and/or the Office of the Governor, Division

of Administration auditors shall have the option of auditing all accounts of contractor which relate to this contract.

Comment: Interagency agreements must be reviewed annually. It is not necessary to write a new agreement if there is documentation between parties that the existing signed agreement is still agreeable to all parties.

§841-859. Reserved

§860. Resolving Interagency Disputes

The steps to be followed to resolve interagency disputes, to include funding, in an expeditious manner are:

A. For agency disputes between educational agencies over which BESE has control, regular complaint procedures will be followed.

B. For agency disputes at the local level, the first step will be recourse to the Section for Complaint Management in the SDE. Upon receipt of a complaint, the complaint manager will log the dispute and attempt to mediate/resolve the dispute at the local level. If the dispute cannot be resolved, the steps for a dispute at the state agency level will be followed, to include securing reimbursement from agencies that are parties to the agreement or otherwise implement the provisions of the agreement.

C. For disputes at the state level, the first step will be review by a Committee on Dispute Resolution established for that purpose by SDE, OSES. The committee will be comprised of two classified employees appointed by their division/agency head from each involved agency and will be mediated/chaired by a trained mediator. Minutes will be kept of the proceedings, including the suggested resolution(s) of the issue. The Dispute Resolution Committee is not empowered to impose binding decisions, but serves to avoid litigation where possible. Division heads approve resolutions of dispute.

D. If a dispute continues beyond these interventions, either party of the dispute may seek resolution from a court of competent authority.

§861-899. Reserved

Part 900. Definitions

§901. General

The terms defined in §902-999 of this Part are used throughout these Regulations. Unless expressly provided to the contrary, each term used in these Regulations shall have the meaning established by this Part.

§902. Abbreviations/Acronyms used in these Regulations

A. *BESE*—State Board of Elementary and Secondary Education.

B. *Chapter 1 S.O.P. - P.L. 89-313*—Section 121 of Title I of the Elementary and Secondary Education Act of 1965 which provides for financial assistance for state-operated and state-supported programs for students with disabilities.

C. *DHH*—Department of Health and Hospitals.

D. *DPS&C*—Department of Public Safety and Corrections.

E. *FAPE*—Free Appropriate Public Education.

F. *IDEA*—Part B of the Individuals with Disabilities Education Act amends the Education for All Handicapped Children Act of 1975 formerly known as EHA (P.L. 94-142).

G. *IEP*—The Individualized Education Program required by §440 of these Regulations.

H. *LEA*—Local Education Agency.

- I. *LRE*—Least Restrictive Environment.
- J. *OSSES*—Office of Special Educational Services.
- K. *SDE*—State Department of Education.
- L. *Section 504*—Section 504 of the Rehabilitation Act of 1973, 29 USC 706 and the Regulation issued by the U.S. Department of Education at 45 CFR 84.
- M. *SSD#1*—Special School District Number One

§903. Abbreviated Terms

The Act—Sections 1941 through 1958 of Chapter 8 of Title 17 of Louisiana Statutes of 1950, as amended.

The Department—the Louisiana Department of Education

The Office—the Office of Special Educational Services of the Louisiana Department of Education.

The State—the state of Louisiana.

The State Board—the State Board of Elementary and Secondary Education.

The State Board Special Schools—the Louisiana Special Education Center; The Louisiana School for the Deaf; The Louisiana School for the Visually Impaired.

The Superintendent—the Superintendent of Public Elementary and Secondary Education of the state of Louisiana.

§904. Adapted Physical Education

Adapted Physical Education is alternative physical education for students with disabilities who may not safely or successfully engage in unrestricted participation in the vigorous activities of the regular physical education program on a full-time basis and for students with disabilities ages 3 through 5, who meet the criteria specified in Bulletin 1508. The delivery of adapted physical education required by an IEP must meet the following conditions:

1. evaluation and instruction is provided by a certified adapted physical education teacher;
2. only students with disabilities whose need is documented in accordance with criteria for eligibility as identified in Bulletin 1508 are enrolled;
3. enrollment is in accordance with the pupil/teacher ratios listed in Appendix I, Part B.

§905. Affected School Personnel

Affected School Personnel means individuals who are involved in the delivery of services relevant to the specific disagreement(s) which are the subject of the hearing. Such individuals may be called by parties to the hearing, the hearing officer, or they may exercise their rights under §511.E.

§906. Assistive Technology Device

Assistive Technology Device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

§907. Assistive Technology Service

Assistive Technology Service means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes:

1. the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the individual's customary environment;

2. purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

3. selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

4. coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

5. training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities; and

6. training or technical assistance for professional (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

§908. Audiological Services

Audiological Services means:

1. the identification of students with hearing loss;
2. the determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;
3. the provision of habilitative activities such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;
4. the creation and administration of programs for prevention of hearing loss;
5. the counseling and guidance of pupils, parents, and teachers regarding hearing loss;
6. the determination of the student's needs for group and individual amplification, monitoring hearing aids and auditory training units, and evaluation of the effectiveness of amplification.

§909. Autism

Autism is a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3, that adversely affects a student's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a student's educational performance is adversely affected primarily because the student has a serious emotional disturbance.

§910. Calendar Days

Calendar Days means all days of the week, including weekends and holidays.

§911. Certificate of Achievement

Certificate of Achievement is an exit document issued to an exceptional student who has achieved certain competencies and meeting specified conditions as listed below:

1. the student is exceptional under the criteria in Bulletin 1508;
2. the student has been enrolled in an Alternative to Regular Education Program as documented in the IEP;
3. the student has completed at least 12 years of school or has reached the age of 22 (not to include students younger than 16);

4. the student has met attendance requirements according to Bulletin 741;

5. the student has addressed a state-approved alternative curriculum as reflected on the IEP as goals and objectives;

6. the student has successfully completed his/her alternative program with at least 70 percent completion of annual goals listed on the IEP;

7. transition planning has been completed and documented;

8. the program is provided by personnel certified in appropriate areas.

§912. Certified IEP Time Unit

Certified IEP Time Unit means that specific period of time set aside for special education and related services under an approved individualized education program.

§913. Child Search Coordinator

Child Search Coordinator means the school system employee meeting the certification requirements who is responsible for the child search and child identification activities including that of locating the student.

§914. Reserved

§915. Combination Self-contained and Resource Classroom

Combination Self-contained and Resource Classroom is an alternative education setting in which the same teacher provides special education instruction for students receiving self-contained services (more than three hours per day) and for students receiving resource services (three hours or less per day).

1. Instruction must be provided by a teacher certified in accordance with Bulletin 746 and/or other department policy interpretation regarding certification.

2. The pupil/teacher ratio is bound by the ratios specified in Appendix I, Part B.

3. Instruction is provided for not more than 12 students whose exceptionalities are not severe or low incidence impairments for any one hour of certified IEP time units.

§916. Community-Based Instruction

Community Based Instruction is teaching and learning functional skills and activities in the community setting in which these activities would typically occur.

§917. Community-Based Vocational Training

Community Based Vocational Training is job training for high school students conducted in real work sites/local businesses, without pay, with training/support/supervision and/or follow along provided by trained personnel from the school system.

§918. Consent

Consent means that:

1. the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

2. the parent understands and agrees in writing to carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

3. the parent understands that granting of consent is voluntary on the part of the parent and may be revoked at any time.

§919. Counseling Services

Counseling Services means services provided by qualified social workers, psychologists, guidance counselors, or otherwise qualified personnel.

§920. Deaf-blindness

Deaf-blindness is concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that such students require specific special education services to meet the needs resulting from both impairments.

§921. Education Records

Education Records means those records that are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution. The term does not include those educational records listed in 45 CFR 99.3. of IDEA. The definition at 99.3 of IDEA has an extensive list of what is not included in educational records. The reader is referred to 45 CFR 99.3 for the full text.

§922. Educational Assessment Services

Educational Assessment Services include:

1. identifying special needs of students by providing: consultation and collaboration with teachers, school administrators, students and parents, classroom, observations and academic support services;

2. preventing educational problems through early identification of at risk students;

3. consulting with teachers and other school staff members in planning, implementing and evaluating school programs and strategies to meet the educational needs of individuals and groups of students;

4. designing interventions which address academic needs of specific students which will increase success in the academic setting;

5. administering, analyzing and interpreting informal and formal tests which will assist in identifying educational strengths and/or weaknesses in students who may need special services;

6. working as part of a multidisciplinary team to assess the educational, psychological, social and medical needs of individual students;

7. when necessary, providing supervision to new educational assessment teachers. Specific requirements must be met to be eligible as a supervisor.

§923. Educationally Handicapped

Educationally Handicapped is a rate of acquisition and/or degree of retention of information or educational skills significantly slower than the rate expected for students of the same age. This definition applies only to those students classified as educationally handicapped/slow learner prior to July 28, 1983.

§924. Emotional/Behavioral Disorder

Emotional/Behavioral Disorder means a disability characterized by behavioral or emotional responses so different from appropriate age, cultural, or ethnic norms that they adversely affect performance. Performance includes academic, social, vocational or personal skills. Such a disability is more than a temporary, expected response to stressful events in the environment; is consistently exhibited

in two different settings; and persists despite individualized intervention within general education and other settings. Emotional and behavioral disorders can co-exist with other disorders.

§925. Evaluation

Evaluation means procedures used in accordance with Bulletin 1508, The Pupil Appraisal Handbook to determine whether a student has a disability and the nature and extent of the special education and related services that the student needs. The term means procedures used selectively with an individual student and does not include basic tests administered to or procedures used with all students in a school, grade, or class.

§926. Evaluation Coordinator

Evaluation Coordinator is the pupil appraisal person who, in addition to serving as an examiner in the individual evaluation, is assigned the responsibilities described in §433 for a particular student.

§927. Exceptional Student

Exceptional Student is a student who is evaluated in accordance with §430-436 of these Regulations and is determined according to Bulletin 1508 to have an exceptionality which significantly affects educational performance to the extent that special education is needed. This definition also includes an infant or toddler with disabilities birth to 3 years of age who is evaluated in accordance with Bulletin 1508.

§928. Exceptionality

Exceptionality is any one of the characteristic impairments or conditions, as defined in Bulletin 1508, which significantly affect the student's educational performance to the extent that the student needs special education.

§929. Extended School Year Programming (ESYP)

Extended School Year Programming (ESYP) is the provision of educational and related services to students with disabilities in excess of the 180-day school year. All students, ages 3-21 by the ESYP screening date, classified as disabled according to Bulletin 1508, with a current evaluation and IEP, are to be screened annually to determine eligibility for ESYP.

§930. Free Appropriate Public Education (FAPE)

Free Appropriate Public Education (FAPE) means special education and related services that (a) are provided at public expense, under public supervision and direction, and without charge; (b) meet the standards of the SEA; (c) include preschool, elementary school, or secondary school education in the state involved; and (d) are provided in conformity with an IEP.

§931. Generic Class

Generic Class is an instructional setting (self-contained/resource) in which:

1. in accordance with the level of support needed, students with disabilities may be placed as follows:
 - a. mild/moderate class;
 - b. severe/profound class;
2. the instruction is provided by a special education teacher with appropriate certification as specified in Bulletin 746;

3. the pupil/teacher ratios established in Appendix 1, Part B, A or B are used;

4. the generic class meets the other requirements of the categorical self-contained, resource, or itinerant class.

§932. Gifted

Gifted is demonstrated abilities that give evidence of high performance in academic and intellectual aptitudes.

§933. Hearing Impairment

Hearing Impairment is a hearing loss that significantly interferes with educational performance. It includes students who are deaf or hard of hearing or who have unilateral hearing loss or high frequency hearing loss.

§934. Homebound or Hospital Instruction (Settings)

Homebound or Hospital Instruction (Settings) are alternative education settings for the provision of special education according to an IEP by a certified teacher in the student's home environment or in a hospital in which both of the following conditions exist: 1) the student must be enrolled in special education, and 2) the student is not able to be moved from the hospital or home environment as a result of physical illness, accident or emotional crisis or the treatment thereof, or as a result of disciplinary action taken consistent with §459.

§935. Hospital/Homebound

Hospital/Homebound is an exceptionality for a student enrolled in regular education who, as a result of physical illness, accident, emotional crisis or the treatment thereof, is not able to be moved from the hospital or home environment for the provision of regular educational services for at least 15 operational days.

§936. Include

Include means that the items named are not all of the possible items that are covered, whether like or unlike the one named.

§937. Inclusive Education

Inclusive Education is the education of all students in regular education and community settings to ensure full and valued membership in society. Special education and related services needed by exceptional students are provided in the most integrated environment appropriate.

§938. Independent Educational Evaluation

Independent Educational Evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the student in question.

§939. Individualized Education Program

Individualized Education Program means a written statement for each student with an exceptionality developed at a meeting by a representative of the local educational agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with exceptionalities, the teacher, the parents or guardian of such student, and, whenever appropriate, such student, which shall include:

1. a statement of the present levels of educational performance of such student;

2. a statement of annual goals, including short-term instructional objectives;

3. a statement of the specific educational services to be provided to such student, and the extent to which such student will be able to participate in regular educational programs;

4. a statement of the needed transition services for students with disabilities beginning no later than age 16 and annually thereafter (and, when determined appropriate for the individual, beginning at age 14 or younger), including, when appropriate, a statement of the interagency responsibilities or linkages (or both) before the student leaves the school setting;

5. the projected date for initiation and anticipated duration of such services; and

6. appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.

In the case where a participating agency, other than the educational agency, fails to provide agreed upon services, the educational agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives.

§940. Individual Transition Plan (ITP)

Individual Transition Plan (ITP) is a written plan which lists the action steps that a person will need to have accomplished in order to live, work, and recreate as an adult as normally and independently as possible. It must be written by age 16, or earlier if appropriate, and revised annually until the student exits the school system.

§941. Infants and Toddlers with Disabilities

Infants and Toddlers with Disabilities are students between the ages of birth and 3 years of age who have been determined eligible for early intervention services according to Bulletin 1508.

§942. Instruction in Regular Class

Instruction in Regular Class is an alternative education setting for eligible exceptional students in which instruction is provided in the regular classroom including:

1. supplemental aides and services to exceptional students, and/or

2. special education instruction to exceptional students which is provided by a special education teacher certified generically or in the area of exceptionality for which special education is provided.

3. The pupil/teacher ratios established in Appendix I, Part B, are used.

§943. Interagency Agreement

Interagency Agreement means an operational statement between two or more parties or agencies that describes a course of action to which the agencies are committed. The statement is drawn up to be consistent with the mandatory provision of Part 800 of these Regulations.

§944. Interpreter Services

Interpreter Services means the facilitation of communication within an instructional environment via an enhanced visual and/or tactile mode between and among hearing impaired and hearing individuals in situations in

which those individuals are unable to communicate with one another using a speech and hearing mode.

§945. Itinerant Resource Room Program

Itinerant Resource Room Program is a type of alternative education setting for the provision of special education and related services for no less than two and one-half hours per week, not less frequently than twice a week, in which all of the following exist:

1. special education and related services are provided at more than one approved preschool, elementary, or secondary school. One school must be designated as the homebase school for the teacher;

2. the pupil/teacher ratios established in Appendix I, Part B, are used;

3. instruction is provided for not more than 12 students whose exceptionalities are not severe or low incidence impairments for any one hour of certified IEP time units;

4. special education is provided by a special education teacher certified generically or in the area of exceptionality for which special education is provided.

§946. Learning Disabilities

Learning Disabilities are severe and unique learning problems as a result of significant difficulties in the acquisition, organization, or expression of specific academic skills or concepts. These learning problems are typically manifested in school functioning as significantly poor performance in such areas as reading, writing, spelling, arithmetic reasoning or calculation, oral expression or comprehension, or the acquisition of basic concepts. The term includes such conditions as attention deficit, perceptual handicaps or process disorders, minimal brain dysfunction, dyslexia, developmental aphasia, or sensorimotor dysfunction, when consistent with these criteria. The term does not include students who have learning problems which are primarily the result of visual, hearing, or motor impairments; of mental disabilities; of a behavior disorder; or of environmental, cultural, educational, or economic disadvantage.

§947. Least Restrictive Environment

Least Restrictive Environment means the educational placement of an exceptional student in a manner consistent with the *Least Restrictive Environment* Rules in §445.

§948. Mental Disabilities

Mental Disabilities is significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

§949. Multiple Disabilities

Multiple Disabilities is concomitant impairments (such as mental disabilities-blind; mental disabilities-orthopedic impairment), the combination of which causes such severe educational problems that these pupils cannot be accommodated in special education programs solely for one of the impairments. The term does not include students with deaf-blindness nor may noncategorical preschool be used as one of the two impairments to classify for multiple disabilities.

§950. Native Language When Used with Reference to a Person of Limited English-Speaking Ability

Native Language When Used with Reference to a Person of Limited English-Speaking Ability means the language normally used by that person, or in the case of a student, the language normally used by parents of the student.

§951. Noncategorical Preschool

Noncategorical Preschool is an exceptionality in which students 3 years through age 5, but not enrolled in a state-approved kindergarten, are identified as having a disabling condition which is described, according to functional or developmental levels. Students with disabilities who will turn three during the school year may also be identified as *noncategorical preschool*.

Comment: Students who exhibit a severe sensorial impairment, severe physical impairment, speech impairment, severe language disorder, or who are suspected of having autism, or being gifted or talented shall be identified categorically.

§952. Occupational Therapy as a Related Service

Occupational Therapy as a Related Service means:

1. improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;
2. improving ability to perform tasks for independent functioning when functions are impaired or lost;
3. preventing, through early intervention, initial or further impairment or loss of function.

§953. Operational Day

Operational Day means any day on which the Louisiana Department of Education is open for the conduct of public business. However, if the central office of the school system is officially closed and the department is open, that day does not count in the calculation of the timelines for that particular school system as mandated in these Regulations. Operational days as used in Bulletin 1508 are identified by the LANSER calendar, which is distributed annually.

§954. Orientation and Mobility Training

Orientation and Mobility Training means a program for students with a visual impairment for the purpose of using the senses in determining position in relationship to surroundings and moving from a fixed position to a desired position within the environment.

§955. Other Health Impairment

Other Health Impairment means limited strength, vitality, or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes, ventilator assistance, traumatic head injury or attention deficit disorder.

§956. Orthopedic Impairment

Orthopedic Impairment is a severe orthopedic impairment which adversely affects a student's educational performance. The term includes disabilities caused by congenital anomaly (i.e., clubfoot, absence of some member); impairments caused by disease (e.g., poliomyelitis, bone tuberculosis); and disabilities from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures).

§957. Paraprofessional

Paraprofessional is a person who assists in the delivery of special educational services under the supervision of a special education teacher or other professional who has the

responsibility for the delivery of special education services to exceptional students and who has all of the following qualifications of a teacher aide: 1) is at least 20 years of age; 2) possesses a high school diploma or its equivalent; and 3) has taken a nationally validated achievement test and scored such as to demonstrate a level of achievement equivalent to the normal achievement level of a tenth grade student.

§958. Paraprofessional Training Unit

Paraprofessional Training Unit is a setting that may be used for the self-help training (toilet training, dressing skills, grooming skills, feeding skills, and pre-academic readiness activities) students with severe or low incidence disabilities or preschool students. A school-aged unit may be made up of no more than six paraprofessionals. A preschool unit may be made up of no more than four paraprofessionals. All units must be supervised directly by a certified special education teacher.

§959. Parent

Parent means a parent, a guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance with 34 CFR §300.514. The term does not include the state if the student is a ward of the state. The term "parent" is defined to include persons acting in the place of a parent, such as a grandmother or stepparent with whom a student lives, as well as persons who are legally responsible for a student's welfare. Louisiana Law requires that the rights and responsibilities of a parent established by these Regulations shall be exercised by the exceptional student who attains the age of 18 years unless such student has been interdicted or determined to be in continuing minority by a court order of the state of Louisiana and taking into consideration the student's type and severity of disability.

§960. Parent Counseling and Training

Parent Counseling and Training means assisting parents in understanding the special needs of their child and providing parents with information about child development.

§961. Participating Agency for Transition Purposes

Participating Agency for Transition Purposes is a state or local agency (school system), other than the public agency responsible for a student's education, that is financially and legally responsible for providing transition services to the student.

§962. Personally Identifiable

Personally Identifiable means that information includes (1) the name of the student, the student's parent, or other family member; (2) the address of the student; (3) a personal identifier, such as the student's social security number or student number; or (4) a list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty.

§963. Physical Education

Physical Education means the development of physical and motor fitness; fundamental motor skills and patterns; and skills in aquatics, dance, and individual or group games or sports. The term physical education includes regular physical education, modification in the regular program to accommodate the LRE needs and adapted physical education for students with disabilities identified as being in need of such according to Bulletin 1508. Physical education other

than adapted physical education shall be provided by a special education teacher, a regular education teacher, or a physical education teacher, consistent with the school system policy for providing physical education to nonexceptional students.

§964. Physical Therapy

Physical Therapy as a related service includes:

1. evaluating students with disabilities by performing and interpreting tests and measurements of neuromuscular, musculoskeletal, cardiovascular, respiratory, and sensorimotor functions;
2. planning and implementing treatment strategies for students based on evaluation findings;
3. maintaining the motor functions of a student to enable him to function in his educational environment; and
4. administering and supervising therapeutic management of students with disabilities and providing inservice education to parents and educational personnel.

§965. Psychological Services

Psychological Services means:

1. administering psychological and educational tests and other assessment procedures;
2. interpreting assessment results;
3. obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
4. consulting with other staff members in planning school programs to meet the special needs of students as indicated by psychological tests, interviews, and behavioral evaluations; and
5. planning and managing a program of psychological services, including psychological counseling for students and parents.

§966. Public Agency

Public Agency includes the SEA, LEAs, IEUs, and any other political subdivisions of the state that are responsible for providing education to students with disabilities.

§967. Pupil Appraisal Personnel

Pupil Appraisal Personnel means professional personnel who meet the certification requirements for school personnel for such positions and who are responsible for delivery of pupil appraisal services included in §410-436 in these Regulations.

§968. Reasonable

Reasonable when used in regard to time, means a period not to exceed 30 to 45 operational days unless specifically indicated otherwise in these Regulations.

§969. Rehabilitation Counselor

Rehabilitation Counselor is an individual who provides services in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. It also includes vocational rehabilitation services.

§970. Related Services

Related Services means transportation and such developmental, corrective, and other supportive services as are required to assist an exceptional student to benefit from special education. Related services include speech/hearing/language services and audiological services, psychological services, physical and occupational therapy, recreation

including therapeutic recreation, early identification and assessment of disabilities in students, counseling services including rehabilitation counseling, interpreter services, orientation and mobility training, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parental counseling and training. For infants and toddlers with disabilities, all services are considered direct services with the exception of health services which are considered a related service.

§971. Resource Center for Gifted or Talented

Resource Center for Gifted or Talented is a type of instructional setting, designed or located at one school, that provides instructional services to students who are gifted or talented from two or more schools and in which:

1. special education is provided by an individual certified in accordance with Bulletin 746;
2. the pupil/teacher ratios established in Appendix I, Part B, are used; and
3. instructional time is not less than two and one-half hours per week.

§972. Resource Room

Resource Room is a type of alternative education setting for special education and related services designed or adapted as a location where exceptional students may receive all or a part of the special education required by their IEP, and in which all of the following exist:

1. the pupil/teacher ratios established in Appendix I, Part B, are used;
2. no student who is not an exceptional student is enrolled;
3. instruction is provided for not more than 12 students whose exceptionalities are not severe or low incidence impairments for any one hour of certified IEP time units;
4. special education is provided by a teacher certified generically or in the area of exceptionality for which special education is provided;
5. no student shall be enrolled for more than 180 minutes of certified IEP time units per day.

§973. School Building Level Committee

School Building Level Committee is a committee of at least three school level staff members which may be identified as an SBLC, SAT, STAT, etc. at the discretion of the LEA. The committee must be comprised of at least the principal/designee, a classroom teacher, and the referring teacher. It is suggested that other persons be included, such as the guidance counselor, reading specialist, master teacher, nurse, parents, etc. This committee is a problem solving, decision making group who meet on a scheduled basis to receive referrals from teachers, parents, or other professionals on individual students who are experiencing difficulty in school due to academic and/or behavior problems. In most instances, for enrolled students, it is only through the SBLC that a referral can be made to pupil appraisal for an individual evaluation.

§974. School Health Services

School Health Services means services provided by a qualified school nurse or other qualified person including:

1. identification of students with health impairments through:

- a. health screening and health assessments;
 - b. the review and interpretation of medical records and medical diagnoses;
2. determination and provision of the nursing diagnoses, treatments and interventions of real or potential health problems;
 3. referral and follow-up for medical or other professional attention for the habilitation of health problems;
 4. provision of medically prescribed, and nursing procedures;
 5. health education, counseling and guidance of parents, students, teachers, and other school personnel to promote, maintain or restore the health of a student.

§975. School System

School System means:

1. city/parish school system;
2. SSD#1;
3. a State Board special school.

§976. Self-contained Departmentalized

Self-contained Departmentalized is a special education class which meets the definition of self-contained with the exclusion of the single teacher requirement. The total number of exceptional students for whom a teacher provides instruction is limited to five times the midpoint of the range for that exceptionality and is not to exceed the maximum for that exceptionality at any given period.

§977. Self-contained Special Education Class

Self-contained Special Education Class is a type of alternative education setting in which the same teacher provides special education instruction for an approved group (the size of which must be consistent with the pupil/teacher ratio listed in Part B of these Regulations:

1. in which instruction is provided for each exceptional student for more than 180 minutes per day when the balance of the school day is in regular class placement;
2. a student may be released during the school day to receive related services, adapted physical education, or speech therapy consistent with the student's IEP; and
3. special education is provided by a teacher certified generally or in the area of exceptionality served.

§978. Severe Language Disorder

Severe Language Disorder is a type of communication impairment resulting from any physical or psychological condition which seriously interferes with the development, formation, and expression of language and which adversely affects the educational performance of the student. This category does not include students whose communication impairment is primarily due to mental disability, autism, or a hearing impairment.

§979. Severe or Low Incidence Impairments

Severe or Low Incidence Impairments may include moderate, severe and profound mental disabilities, multiple disabilities, autism, blindness, deafness, deaf/blindness, emotional/behavioral disorders, severe language disorders, orthopedic impairments, and traumatic brain injury dependent upon the intensity of the student's individual needs.

§980. Social Work Services in Schools

Social Work Services in Schools means preparing a social or developmental history on an exceptional student; group and

individual counseling with the student and family; working with those problems in a student's living situation (home, school, and community) that affect the student's adjustment in school; and mobilizing school and community resources to enable the student to learn as effectively as possible in his or her educational program.

§981. Special Education

Special Education shall be any program of instruction within the preschool, elementary, and secondary school structure of the state, specifically designed by providing for different learning styles of exceptional students. This instruction shall be in alternative educational settings (§445) which meet the standards of the State Board, are approved by the department, and implemented according to an individualized education program.

§982. Speech/Hearing/Language Services

Speech/Hearing/Language Services means identification of students with speech or language disorders; diagnosis and appraisal of specific speech or language disorders; referral for medical or other professional attention necessary for the habilitation of speech or language disorders; provisions of speech and language services for the habilitation of communication or prevention of communication disorders; and counseling and guidance of parents, students, and teachers regarding speech and language disorders.

§983. Speech Impairment

Speech Impairment is a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment which adversely affects a student's educational performance.

§984. Speech Therapy Program

Speech Therapy Program is a service delivery pattern in which exceptional students receive speech/hearing/language intervention services as specified on the IEP when the speech disorder is identified according to Bulletin 1508.

§985. Student Specific Aide

Student Specific Aide criteria are:

1. The need for a student specific special education teacher aide must be based on educational need, such that the student could not receive FAPE without the specific individual assistance of an aide.
2. The student must be medically fragile or otherwise seriously physically involved.
3. The requirement for the student specific aide must be documented in the student's IEP.
4. The school system must certify that it is unable through other adaptations, such as scheduling or reorganization, to provide the required services in any manner.
5. IEP goals must address progress towards student independence.
6. Under these criteria, an aide is required for more than one student in the system.

§986. Student with Disabilities

Student with Disabilities means an exceptional student whose only exceptionality is not gifted or talented.

§987. Supervisor

Supervisor means the supervisor/director of special education employed by every city/parish school system as

required by §481 of these Regulations. In addition, it includes the superintendent of a State Board school and the superintendent of SSD#1.

§988. Support Services

Support Services are those services that are provided to regular education students who are experiencing difficulty in their educational performance. These services may be as follows:

1. *Direct Support Services*—those services provided directly to a regular education student which may include but are not limited to, individualized interventions, curriculum-based assessment, task analysis, etc.

2. *Indirect Support Services*—those services provided to the classroom teacher, a student's family, or to a whole class. These services could include but are not limited to home/school behavior modification program, discipline techniques, teaching strategies, etc.

§989. Talented

Talented is possession of measurable abilities that give evidence of unique talent in visual or performing arts, or both.

§990. Transition

Transition is a period of time, initiated by age 16, earlier if appropriate, which includes planning for the future and is accompanied by steps to assist in securing an independent and typical adult life. It includes vocational training, formal planning for the future, and identification of meaningful future options. Transition is a bridge between the adolescent school years and young adult life and is characterized by transition services. The objective of transition is to arrange for those opportunities and services that will promote successful adult living and prevent interruption of needed services.

§991. Transition Services

Transition Services are a coordinated set of activities for a student, designed within an outcome oriented process, which promotes movement from school to post school activities, including post secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and when appropriate, acquisition of daily living skills and functional vocational evaluation.

§992. Transitional Assessment

Transitional Assessment consists of gathering information, both formally and informally, which provides programming information in the targeted areas for transition planning as follows: post secondary education; employment; living arrangements; homemaking needs; financial/income needs; community resources; recreation and leisure; transportation needs; medical needs; relationships; advocacy/legal needs; and any other information pertinent to lifestyle planning.

§993. Transportation

Transportation is all travel necessary to implement each service written in the IEP of an exceptional student and includes:

1. travel to and from school; between schools and sites;
2. travel in and around school buildings; and
3. specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a student with disabilities.

§994. Traumatic Brain Injury

Traumatic Brain Injury is an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition, language, memory, attention, reasoning, abstract thinking, judgement, problem solving, sensory, perceptual, or motor abilities, information processing and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

§995. Visual Impairment

Visual Impairment is an impairment which, even with correction, adversely affects a student's educational performance. The term visual impairment includes students who have blindness and partial seeing.

§996. Vocational Education

Vocational Education means organized educational programs directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.

§997. Voluntarily Enrolled Nonpublic School Student

Voluntarily Enrolled Nonpublic School Student means an exceptional student, or a student suspected of being an exceptional student, who is enrolled in a participating nonpublic school program at the choice of his or her parent(s) after the parent(s) have been provided full and effective notice by a school board of its obligation and willingness to provide a free appropriate public education.

§998-999. Reserved

Part A. State Funding and Program Rules for Special Education

1. Cost of Regular Education Personnel

a. In administering the State Program for Public Education, the department shall permit the inclusion of an exceptional student in the population used to determine the number of regular classroom teachers pursuant to pupil/teacher ratios established by the department if the exceptional student is receiving not less than one hour per day of instruction in the regular classroom as indicated on the IEP.

b. Inclusion of an exceptional student in the regular classroom membership as described in A above shall not limit the ability of a city/parish school system also to include the same student in the population used to calculate the costs of special education personnel providing special education services to the student.

2. Cost of Special Education Personnel

a. In administering the State Program for Public Education, the department, in accordance with Louisiana Teacher's Minimum Salary Schedule for teachers and therapists, salary schedules for pupil appraisal personnel, and per individual amounts for special education personnel such

as teacher aides or bus attendants, shall only include in the cost program of a city/parish school system requesting funds under the program of:

i. the salary of a certified special education teacher, speech therapist, or teacher aide who is engaged exclusively in the teaching of exceptional students in eligible membership (as defined in Subpart 3 of this Part) consistent with the bona fide multiple enrollment requirements of Subpart 4 of this Part or in a program approved by the State Board of Elementary and Secondary Education;

ii. the salary of certified pupil appraisal personnel who are engaged exclusively in pupil appraisal activities pursuant to Part 400 of these Regulations;

iii. the salary of a bus attendant.

b. Reserved.

c. Use of Pupil/Teacher Ratio

i. The number of positions A and B of this Subpart shall be determined on the basis of pupil/teacher, pupil/teacher aide, and pupil/therapist ratios (Part B of the Appendix establishes such ratios). For pupil appraisal personnel the number of positions allotted and employed under A and B of this Subpart shall be determined on the basis of the approved allotment schedules for assessment teachers and pupil appraisal personnel.

ii. In calculating the pupil enrollment for pupil/speech therapist ratios the weighted caseload approach set forth in Part B herein shall be used.

iii. When there are fewer than the minimal number of pupils per teacher, therapist, or aide specified by the ratios set forth in Part B of this Appendix, the state pupil/teacher ratio allotment for the approved teacher, therapist, or aide shall be reduced one-tenth for each pupil less than the specified minimum. The amount due after the reduced state allotment shall be paid to the teacher, therapist, or aide from the school system's funds, if the personnel are employed. This reduction shall not be the cause or excuse for not providing a free appropriate public education.

d. The total number of students used by city/parish school systems for purposes of calculating the number of salaries to be claimed in Subsection C of this Subpart shall not exceed 17 percent of the total school aged (e.g., 3 through 21 years) population of the city/parish school system as determined by the department.

3. Eligible Membership. Subject to the limitation of Subpart 4 of this Part, an exceptional student enrolled in any of the following programs may be counted within each program as part of the pupil population used under 2.c of this Part to calculate the number of certified special education teachers, therapists, and teacher aides employed under the program.

a. a self-contained special education class as defined in §976 of these Regulations;

b. a resource room as defined in §972 of these Regulations;

c. an itinerant resource room program as defined in §945 of these Regulation;

d. an instruction in regular class program as defined in §942 of these Regulations;

e. a paraprofessional training unit as defined in §958 of these Regulations;

f. a speech therapy program as defined in §984 of these Regulations;

g. an approved program of hospital or homebound instruction as defined in §934 of these Regulations;

h. an approved program of adapted physical education instruction as defined in §904 of these Regulations.

4. Bona Fide Multiple Enrollments

a. An exceptional student must be enrolled in a school program that consists of a regular classroom enrollment and eligible special education membership(s) as defined in Subpart 3 and not prohibited by b below or in a combination of eligible special education membership(s) as defined in Subpart 3 and not prohibited in b below.

b. For the purposes of Subparts 2 and 3 of this Part, exceptional students may not be included concurrently in the pupil population of any combination listed below:

i. a self-contained special education class of either type and a resource room;

ii. a self-contained special education class of either type and an itinerant special education program;

iii. a resource room program and an itinerant special education program.

5. Use of Special Education Personnel

a. The certified special education teacher, speech therapist, teacher's aide, and special education supervisor whose salaries are included in the costs under Subpart 2 of this Part shall be used to provide services only to those exceptional students needing special education and related services for whose benefit the state authorization was made or in a program approved by the State Board of Elementary and Secondary Education.

b. The certified pupil appraisal personnel whose salaries are included in the cost under Subpart 2 of this Part shall be used only for the purpose of providing pupil appraisal services provided in accordance with Part 400 of these Regulations.

6. Certification Requirements

a. Staff or school systems who provide special education and related services to exceptional students must currently meet all applicable Louisiana Standards for State Certification of School Personnel (Bulletin 746).

b. Teacher aides meeting qualifications shall be assigned only to special teachers or regular education teachers providing special education services to exceptional students according to the IEPs of the students.

7. Travel and Preparation Time

a. Each teacher providing instruction in an itinerant special education program shall be afforded adequate travel time and one instructional period per day for preparation and consultation with the student's regular teacher and other applicable school personnel.

b. Each teacher providing instruction in a resource room shall be afforded one instructional period per day for preparation and consultation with the student's regular teacher and other applicable school personnel.

**Part B. Pupil/Teacher, Pupil/Speech Therapist,
Teacher/Teacher Aide, and Pupil Appraisal
Ratios for Public Education**

I. Numbers of pupils enrolled in an eligible membership which justify the inclusion of the salary of a teacher providing instructional services.

A. Self-contained Classroom

	Pre-School	Elem.	Sec.
1. Autism	2-4	2-4	2-4
2. Behavioral Disorders		4-9	4-9
3. Blindness	4-7	4-9	4-9
4. Deafness	4-7	4-9	4-9
5. Deaf-Blindness	2-4	2-4	2-4
6. Educationally Handicapped/Slow Learner		12-25	12-25
7. Emotional Disorders		4-7	4-7
8. Gifted a. Full day b. Half day	10-19 12-23	12-25	12-27
9. Hard-of-Hearing	6-11	8-15	8-17
10. Learning Disabilities		7-13	8-15
11. Mental Disabilities a. Mild b. Moderate c. Severe d. Profound		8-17 6-11 4-9 4-9	8-17 8-17 4-9 4-9
12. Mild/Moderate (Generic)		7-16	7-16
13. Multiple Disabilities	4-7	4-9	4-9
14. Noncategorical Preschool a. Mild/Moderate Functioning 1. Full day 2. Half day b. Severe/Profound Functioning 1. Full day 2. Half day	6-11 8-16 4-7 8-14		
15. Other Health Impairments		8-17	8-17
16. Orthopedic Impairments	4-7	6-11	7-13
17. Partial Seeing	6-11	8-15	8-17
18. Severe Language Disorders	4-7	4-9	4-9
19. Severe/Profound (Generic)		4-9	4-9
20. Talented		12-25	12-27
21. Traumatic Brain Injury	4-7	4-9	4-9
* Half-day Categorical Preschool Class: The pupil/teacher ratio for all half-day categorical preschool classes, excluding gifted, is 8-16.			

B. Paraprofessional Training Units

Preschool-Aged Students: One teacher and two paraprofessionals for the initial six preschool students. For students functioning within the severe/profound range, there

shall be one additional paraprofessional for any additional group of three not to exceed two additional groups of such students (maximum of four paraprofessionals per unit). For students functioning within the mild/moderate range, the additional paraprofessionals shall be added for each additional group of four. The maximum number of students may not exceed 12.

School-Aged Students: One teacher and two paraprofessionals for the initial six students with severe/profound or low incidence disabilities, provided that after the initial six there shall be one additional paraprofessional for any additional group of three, not to exceed four additional groups of such students (maximum of six paraprofessionals per unit).

C. Resource Room (Generic or Categorical) and Itinerant Instruction Programs (per teacher)

1. Students with severe or low incidence impairments/disabilities 5-10
2. All other students with disabilities 12-27
3. Gifted or talented pupils 12-30

Comment: Because of the travel requirements of the program, this range may be reduced by the school system to 10-19 when instruction is provided to "all other students with disabilities" and "gifted or talented pupils" in at least two different schools.

D. Combination Self-contained and Resource Classrooms

1. Students with severe/low incidence impairments/disabilities 4-12
2. All other students with disabilities 8-20
3. Gifted 12-22

E. Gifted or Talented Resource Center 24-55

F. Hospital/Homebound Instruction (per teacher)

1. Itinerant 5-10
2. One Site 8-17

G. Preschool Intervention Settings (Parent/Child Training)

1. Intervention in the Home 5-15
2. Intervention in a School or Center 10-19

H. Adapted Physical Education Instruction (per teacher) 10-60

1. In cases of caseloads exceeding 35 students, the total number of students identified as having a severe motor deficit shall not exceed 17.

2. Itinerant Instruction (two or more schools) 10-40

I. Instruction in Regular Classes

1. Students with severe or low incidence impairments/disabilities 5-10
2. All other students with disabilities 12-27

Comment: Because of the travel requirements of the program, this range may be reduced by the school system to 10-19 when instruction is provided to "all other students with disabilities" in at least two different schools.

II. Teacher Aides

A. One teacher aide may be hired for each teacher hired under I-A above.

B. One teacher aide may be hired for each teacher hired under I-D.1 and 2 above, provided there is a minimum of eight students receiving self-contained services in D.2 above in the combination class or a minimum of four students receiving self-contained services in D.1 above in the combination class.

C. One teacher aide may be hired providing all criteria for a special education student specific aide in §985 is met.

III. Speech therapists in school systems shall be employed at the rate of one for each 30 (or major fraction thereof) students receiving speech therapy. In determining the number of pupils that justify the salary of a speech therapist for Public

Education, the criteria specified in Bulletin 1508 shall be used.

Each student shall receive speech therapy as specified in §988.

Each speech therapist shall be assigned a minimum of one student in speech therapy and shall not be assigned more than 79 points.

Each hour per week of pupil appraisal assessment services and/or supervision of speech therapists who hold restricted license shall equal one point for the purpose of determining the caseload. Assignment of these activities shall be made by the parish supervisor.

The caseload shall be determined according to the following:

Service Type	Number of points Determining Caseload
Each hour of assessment	1
Each hour of supervision	1
Each hour of consultation	1
Each student receiving speech therapy	1

IV. Pupil appraisal members shall be employed by school systems at the following rate:

	Public School	Nonpublic School
Educational Diagnosticians	Ratios based on teachers 1:160 or major fraction thereof	Based on membership 1:3500 or major fraction thereof
School Psychologists	1:160 or major fraction thereof	1:3500 or major fraction thereof
Social Workers	1:210 or major fraction thereof	1:4500 or major fraction thereof

Pupil appraisal operating expenses are \$7,500 plus \$2.50 times the prior year's student membership. These funds are to be used exclusively for the support of the operation of the pupil appraisal program which may include such expenditures as clerical, materials and supplies, test equipment and travel for pupil appraisal staff. It is not for the hiring of personnel other than pupil appraisal clerical staff.

Comment: School systems may substitute one pupil appraisal discipline for another provided that all pupil appraisal services are provided in accordance with these Regulations and Bulletin 1508; and that there is documentation on file that the appropriate discipline can not be employed.

Weegie Peabody
Executive Director

9702#045

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1868—Personnel Manual (LAC 28:I.922)

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and readopted as an Emergency Rule, Revised Bulletin 1868, BESE Personnel Manual. Revisions to the manual were developed as a result of federal and state mandates, board action, or reworded for clarification as a result of using the manual. Bulletin 1868 is being readopted as an Emergency Rule, effective February 27, 1997, in order to continue the policies until finalized as a Rule.

Copies of this bulletin have been provided to all entities under the jurisdiction of the Board of Elementary and Secondary Education and listed below:

1. each technical institute;
2. BESE's special schools - Louisiana School for the Deaf, Louisiana School for the Visually Impaired, Louisiana Special Education Center;
3. each site operated by Special School District Number 1;
4. Louisiana Association of Educators and Louisiana Federation of Teachers.

Bulletin 1868, BESE Personnel Manual, may be seen in its entirety in the Office of the State Register located on the Fifth Floor of the Capitol Annex; in the Office of the State Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge; or in the Office of Vocational Education or the Office of Special School District Number 1, both located in the State Department of Education.

Bulletin 1868 is referenced in LAC 28:I.922 and amended as stated below:

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans §922. Personnel Policies

A. Bulletin 1868

1. Revised Bulletin 1868, Personnel Manual of the State Board of Elementary and Secondary Education, is adopted by the Board. Policies in this bulletin apply to personnel under the jurisdiction of the state board in the Board Special Schools; in the entities comprising Special School District Number 1; and in entities in the vocational-technical system, exclusive of the assistant superintendent for Vocational Education and related state department staff.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(10), R.S. 17:81.4, R.S. 17:1941-1956; R.S. 17:1993.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 16:297 (April 1990), amended LR 16:957 (November 1990), LR 23:

(It should be noted that the clause "exclusive of the central office staff" which appeared after Special School District Number 1 has been eliminated from the bulletin. The salary schedule for technical institutes has been deleted from the bulletin.)

Weegie Peabody
Executive Director

9702#046

DECLARATION OF EMERGENCY

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

Waste Tire Remediation Agreements
(LAC 33:VII.10536)(SW023E1)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 30:2011, the Secretary of the Department of Environmental Quality (DEQ) declares that an emergency action is necessary in order to facilitate the clean-up of promiscuous/unauthorized tire piles in parishes where the local government has not actively pursued any agreements with the Department.

Waste tires that are not processed in accordance with LAC 33:VII.Chapter 105 create environmental and health-related problems and pose a significant threat to the safety of the community should a fire occur. The elimination of breeding areas for mosquitoes caused by waste tire piles will reduce the exposure to these insects and the serious health problems associated therewith.

The DEQ will propose a Rule which reflects the provisions of this Emergency Rule. This Emergency Rule is effective on February 15, 1997 and shall remain in effect for a maximum of 120 days or until a final Rule is promulgated, whichever occurs first. For more information concerning SW023E1, contact DEQ's Investigations and Regulations Development Division at (504) 765-0399.

Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste
Subpart 2. Recycling

Chapter 105. Waste Tires
§10536. Cleanup of Promiscuous Unauthorized Tire Piles

* * *

[See Prior Text in A-F]

G. The Department may enter into agreements with processors holding either a standard waste tire processing permit or a mobile processor authorization certificate for the remediation of promiscuous/unauthorized waste tire sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), LR 23:

J. Dale Givens
Secretary

9702#043

DECLARATION OF EMERGENCY

Department of Environmental Quality
Office of Water Resources

Produced Water Discharge Extension
(LAC 33:IX.708) (WP023E)

(Editor's Note: WP023E, published on pages 16-18 of the January 20, 1997 Louisiana Register, was submitted to the Office of the State Register with several inadvertent omissions in the Declaration of Emergency. The Department of Environmental Quality has resubmitted a corrected version of this declaration and requests that it be published as follows.)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Environmental Quality (department) to use emergency procedures to establish Rules, and of R.S. 30:2011 and R.S. 30:2074, which allow the department to establish standards, guidelines, and criteria, to promulgate Rules and Regulations, and to issue compliance schedules, the secretary of the department hereby finds that imminent peril to the public welfare exists. Accordingly, the department adopts the following Emergency Rule effective December 30, 1996, for 120 days, or until promulgation of the final Rule, whichever occurs first.

Under current Louisiana regulations, most discharges of produced water from oil and gas production facilities must cease before January 1, 1997. For certain of these facilities, compliance with the prohibition on produced water discharges would require stopping production or the disposal of all produced waters. Either alternative could affect the public welfare through loss of employment, loss of taxes, and loss of royalty revenues.

The cost of disposal of produced water at permitted disposal facilities, along with the attendant costs of storage and transportation, could greatly reduce the net income generated by these production facilities. In many cases, the costs may be so great in relation to the revenue generated by the oil and/or gas production as to render continued operation impractical.

As a further basis for promulgation of this Emergency Rule, the department finds the following:

State Regulation of Produced Water

1. Many LWDPs permits have prohibited discharges of produced water beginning in 1988.

2. In March of 1991, state regulations were promulgated concerning produced water.

3. Certain facilities have been granted authority to discharge produced water for limited periods of time while working to eliminate all produced water discharges.

Federal Regulation of Produced Water

Federal General Permit

NPDES general permit LAG290000 (published in the *Federal Register* on January 9, 1995, and effective February 8, 1995) prohibits produced water discharges to coastal waters with some exceptions.

Federal Administrative Order

In conjunction with NPDES general permit LAG290000, the EPA issued an administrative order (also effective February 8, 1995) extending the time for compliance with the prohibition until January 1, 1997.

Federal Guidelines and Standards

1. The most recently promulgated federal guidelines and standards that address produced water discharges were published December 16, 1996, at 61 Fed. Reg. 66085 (1996) (the federal guidelines).

2. The federal guidelines note at page 66122-23 the following:

EPA received numerous comments from operators in the Gulf of Mexico coastal region claiming that they would need additional time to comply with the Rule's zero discharge requirement for produced water. EPA recognizes that it may take some time for operators to determine the best and most cost effective mechanism of compliance and to implement that mechanism. EPA also recognizes that the NPDES permit issuing authority has discretion to use administrative orders to provide the requisite additional time to meet zero discharge.

3. The department's Office of Water Resources became the NPDES permit issuing authority for the State of Louisiana on August 27, 1996.

4. The federal guidelines also note at page 66087 the following:

The United States Department of Energy (DOE) has provided the State of Louisiana with comments and analyses suggesting a change to the Louisiana state law requiring zero discharge of produced waters to open bays by January 1997. Promulgation of [these 12/16/96 federal guidelines] would generally preclude issuance of permits allowing discharges.

Department of Energy Study

1. The department accepted information that was part of the DOE study referenced in LAC 33:IX.708.C.2.b.iv.(e), as documented at 61 Fed. Reg. 66087.

2. Even though the DOE study itself has not yet been completed, the department and the EPA agree that study results would not change the produced water zero discharge requirement because the study's data and argument address water quality based limits and the federal guidelines are technology based.

Mitigating Factors

Various facilities have been unable to comply with the requirement to cease all discharges of produced water by January 1, 1997, because:

a. A number of facilities have applied to the Louisiana Department of Natural Resources (DNR) for permits to construct injection wells to receive the produced water that would otherwise be discharged. Due to a personnel shortage at DNR, all of the permit applications currently pending will not be processed prior to January of 1997.

b. Facilities that discharge under the authority of LAC 33:IX.708.2.a.iv possess a valid LWDPs permit which allows continued discharge of produced water. With the publication of the federal guidelines on December 16, 1996, and upon the effective date of those guidelines (January 14, 1997), these dischargers will still possess a valid state permit which conflicts with promulgated federal guidelines requiring zero discharge.

c. Certain facilities that previously had authority to discharge produced water relied upon the DOE study to support an individual or general permit or a Rule change to allow the discharge of produced water. These facilities are now, with promulgation of the 1996 federal guidelines, required to attain zero discharge.

Conclusion

The loss of employment, taxes, and royalties that would otherwise result, to the detriment of the public welfare, can be avoided by allowing, on a case-by-case basis, a limited amount of additional time for certain operators to either arrange an alternate method for disposal of their produced water, or to cease production. This extension of time shall not extend the produced water discharge beyond January 1, 1999, except that an additional one-year extension may be granted to those facilities that discharge produced water generated in outer continental shelf waters into a major deltaic pass of the Mississippi River or to the Atchafalaya River, including Wax Lake Outlet, below Morgan City. In no instance shall the Department approve a produced water discharge which would extend beyond January 1, 2000.

Adopted this 30th day of December, 1996.

J. Dale Givens
Secretary

9702#053

DECLARATION OF EMERGENCY

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

**Durable Medical Equipment Program
Reimbursement for Customized Wheelchairs**

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 and as directed by the 1996-97 General Appropriation Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses Durable Medical Equipment (DME) Providers 80 percent of the Medicare Fee Schedule amounts for wheelchairs with standardized construction and wheelchair accessories all of which have specific HCPC procedure codes and are included in the Medicare Fee Schedule. The Department provided reimbursement for

wheelchairs with customized construction, HCPC procedure code E1220, and which are not included in the Medicare Fee Schedule based on the lowest bid received from the DME providers who participate in a seating evaluation conducted by a rehabilitation therapist and physician. The bureau has determined it is necessary to revise its methodology of reimbursement for customized wheelchairs. Previous Emergency Rules were adopted effective July 1, 1996 and October 29, 1996, changing the methodology for reimbursing providers of customized wheelchairs from a bidding system to a formula pricing system based on the manufacturer's suggested retail price minus 18 percent (*Louisiana Register*, Volume 22, Numbers 7 and 10). The bureau has subsequently determined that this reduction in reimbursement may result in reduced access to customized wheelchairs for a significant proportion of the Medicaid population who have need of these devices. Therefore, this Emergency Rule continues the methodology of a formula pricing system based on the manufacturer's suggested retail price (MSRP), but differs from previous Emergency Rules by reducing the MSRP by 15 percent for manual custom wheelchairs, and by 12 percent for motorized custom wheelchairs.

Emergency Rule

Effective for dates of service February 26, 1997 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing revises the methodology for reimbursing providers of customized wheelchairs from a bidding system to a formula pricing system based on the manufacturer's suggested retail price minus 15 percent for manual custom wheelchairs, and minus 12 percent for electric custom wheelchairs.

Bobby P. Jindal
Secretary

9702#060

DECLARATION OF EMERGENCY

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

**EPSDT Program—Follow-up Medical
Screening and Rehabilitation Services**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts 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 and as directed by the 1996-97 General Appropriations Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses KIDMED providers a flat fee for medical screening services

and for rehabilitation services provided to Medicaid recipients under 21 years of age, which are included in an Individual Education Plan or Individual/Family Service Plan and provided by school boards or early intervention centers covered under the early Periodic Screening, Diagnostic Testing and Treatment (EPSDT) Program. The rehabilitation services include evaluation and treatment services for speech, occupational, physical, and psychological therapies as well as audiological services. These services were not reduced during state fiscal year 1995-1996 when similar services were reduced for other providers.

The bureau has now determined that it is necessary to reduce the flat fee for the follow-up medical screening services codes and to reduce by 10 percent the reimbursement fee for the previously referenced rehabilitation services. Previous Rulemaking was promulgated effective July 10, 1996 and October 29, 1996 enforcing the above provisions (*Louisiana Register*, Volume 22, Numbers 7 and 10). This subsequent Emergency Rule continues the same provisions in force and is necessary to avoid a budget deficit in the Medical Assistance Program.

Emergency Rule

Effective October 29, 1996 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following reimbursement methodology for follow-up medical screening and rehabilitation services provided under the Early Periodic Screening Diagnostic and Treatment (EPSDT) Program:

A. Reimbursement for follow-up medical screening services included under the EPSDT Program is reduced for the following procedure codes.

Procedure	Codes	New Rate
X0180	Consult EPSDT-New Dx by Nurse	\$13.71
X0181	Consult EPSDT-New Dx by Nutrition	\$13.71
X0182	Consult EPSDT-New Dx by Social Worker	\$13.71
X0187	Consult EPSDT-Scrn Dx-by Nurse	\$13.71
X0188	Consult EPSDT-Scrn Dx-by Nutrition	\$13.71
X0189	Consult EPSDT-Scrn Dx-by Social Worker	\$13.71

B. The reimbursement for rehabilitation services provided to Medicaid recipients under 21 years of age included in an Individual Education Plan or Individual/Family Service Plan and provided by school boards or early intervention centers covered under the Early Periodic Screening, Diagnostic Testing and Treatment (EPSDT) Program is reduced by 10 percent; these rehabilitation services include evaluation and treatment services for speech, occupational, physical, and psychological therapies as well as audiological services.

Bobby P. Jindal
Secretary

9702#059

DECLARATION OF EMERGENCY

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

Professional Services Program—Physician Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt 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 and as directed by the 1996-97 General Appropriation Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage and reimbursement for physician services under the Medicaid Program. The bureau's reimbursement policy has included payment for anesthesia services provided on the day of surgery or delivery. However this policy has not been promulgated under the Administrative Procedure Act. In addition, the bureau has determined that the more appropriate reimbursement for the re-injection of the epidural catheter necessitates the use of the CPT procedure code 00098 when a period of several hours lapses between a delivery and the performance of a tubal ligation and the re-injection of the epidural catheter is required.

Previously, the bureau had not defined a global surgery period for the reimbursement of surgical services which is now necessary in order to reimburse these services properly. Each CPT surgical procedure code will be assigned to a specific global surgery period. Three global surgery periods consisting of the day before and the day of surgery and either 0, 10, or 90 post-operative days will be utilized. Pre- and post-operative visits made during any of these global surgery periods shall be considered to be a part of the surgery fee.

The Medicaid Program reimburses professional services according to established rates for Current Procedural Terminology (CPT) codes, locally assigned codes and HCPS codes contained on the Physician's Formulary File. Reimbursement for certain bilateral medical and surgical procedures has been provided at a rate of 200 percent of the fee on this Physician's Formulary file. The bureau is proposing to reduce reimbursement to 150 percent of the fee on the Physician's Formulary File for following CPT procedure codes.

30903	31276	49505	69420	31254
49495	49507	69421	31255	49496
49520	69424	31256	49500	49521
69433	31267	49501	49525	69436

The bureau has determined through the Legislative Auditor's Report that the fees paid for four CPT codes were above the southern regional average.

36415 - for routine finger stick to collect specimen;

99211 - outpatient visit, established patient (may not require physician's presence);

99212 - outpatient visit, established patient, straightforward medical decision making;

99233 - for subsequent hospital care, medical decision making of high complexity.

Therefore the bureau will reduce the reimbursement for the following CPT procedure codes payable under the Professional Services Program in accordance with the southern regional average. The following Emergency Rule is necessary to avoid a budget deficit in the medical assistance programs. A previous Emergency Rule was adopted and published in the *Louisiana Register* (Volume 22, Number 10) establishing the above provisions for physician services.

Emergency Rule

Effective February 26, 1997 and after, the Department of Health and Hospitals, Bureau of Health Services Financing adopts the following regulations governing the provision of physician services under the Professional Services Program:

1. Anesthesia Services

A. Anesthesia services are reimbursed for the day of surgery or delivery.

B. CPT procedure code 00098 must be used when a period of several hours lapses between a delivery and the performance of a tubal ligation and the re-injection of the epidural catheter is required.

2. Surgery Services

A. Each CPT surgical procedure code shall be assigned to one of the global surgery periods.

B. Three different global surgery periods will be utilized. One period shall consist of 0 days defined as the day before and the day of surgery only; the second period shall consist of 10 days defined as the day before and the day of surgery and 10 post-operative days; and the third period shall consist of 90 days defined as the day before and the day of surgery and 90 post-operative days.

C. No outpatient or inpatient visits during the global surgery period will be reimbursed unless the diagnosis code for the visit is different from that of the diagnosis code necessitating the surgery.

3. Bilateral Medical and Surgical Procedure Reductions. Reimbursement shall be made at 150 percent of the fee on the Physician's Formulary File for the following CPT procedure codes.

30903	31276	49505	69420	31254
49495	49507	69421	31255	49496
49520	69424	31256	49500	49521
69433	31267	49501	49525	69436

4. Other Reimbursement Reductions

CPT Code	Description	New Fee
36415	Routine finger stick to collect specimen	\$ 2.65
99211	Outpatient visit, established patient (may not require physician's presence)	\$ 9.24
99212	Outpatient visit, established patient straightforward medical decision making	\$18.91

99233	Subsequent hospital care, medical decision making of high complexity	\$42.60
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Bobby P. Jindal
Secretary

9702#058

DECLARATION OF EMERGENCY

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

Reimbursement for Rehabilitation Services

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

The Medicaid Program provides coverage and reimbursement for rehabilitative services provided in rehabilitation clinics and in hospital settings as an outpatient service. Rehabilitation clinics are defined as facilities that are not part of a hospital, but are organized to provide a variety of outpatient rehabilitative services including physical, occupational, speech, hearing, and language therapies. Outpatient hospital rehabilitation services are reimbursed at an interim rate of 60 percent of billed charges with final reimbursement adjusted to 83 percent of allowable costs through the cost settlement process. Rehabilitation clinics are paid at 90 percent of the established payment schedule which was in effect as of July 6, 1995. The Department has determined that it is necessary to revise the reimbursement methodology for rehabilitation services in the following manner. The payment schedule for rehabilitation clinics will be based on the hourly rates of \$40 per hour for physical therapy, \$32 per hour for occupational therapy, and \$30 per hour for speech/hearing therapy. Reimbursement for outpatient hospital rehabilitation services will be at 110 percent of the rate established for rehabilitation clinics. Rehabilitation clinics will be reimbursed for evaluations at the rate which was in effect for those services as of July 6, 1995. Outpatient hospitals will be reimbursed for evaluations at 110 percent of the rate paid to rehabilitation clinics for that service. Outpatient hospital rehabilitation services shall no longer be included in the cost report for settlement. Effective November 15, 1996 the Bureau adopted an Emergency Rule enforcing the above regulations. This subsequent Emergency Rule continues the above provisions in force, and is necessary to avoid a budget deficit in the medical assistance programs.

Emergency Rule

Effective for dates of service on March 16, 1997 and after, the Department of Health and Hospitals, Bureau of Health

Services Financing shall reimburse rehabilitative services as follows:

1. the payment schedule for rehabilitation clinics shall be based on the hourly rates of \$40 per hour for physical therapy, \$32 per hour for occupational therapy, and \$30 per hour for speech therapy;
2. outpatient hospital rehabilitation services shall be reimbursed at 110 percent of the rates paid to rehabilitation clinics;
3. rehabilitation clinics shall be reimbursed for evaluations at the rate which was in effect for those services as of July 6, 1995; and
4. outpatient hospitals shall be reimbursed for evaluations at 110 percent of the rate paid to rehabilitation clinics for that service.

Outpatient hospital rehabilitation services shall no longer be included in the cost report for settlement. Hospitals shall now be required to use the same state-assigned HCPCS procedure codes used by rehabilitation clinics in addition to the applicable hospital revenue code when submitting a claim for rehabilitation services.

Bobby P. Jindal
Secretary

9702#056

DECLARATION OF EMERGENCY

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

Title XIX—Medically Needy Program

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, 42 USCA 1396a et seq. and as directed by the 1996-97 General Appropriation Act. This Rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing has provided coverage for the Medically Needy Program under the Medicaid Program. The Medically Needy Program includes those individuals or families who meet all AFDC or SSI related categorical requirements and whose income is within the Medically Needy Income Eligibility Standard and/or whose resources are within the allowable limits. It also includes those individuals or families whose resources fall within the AFDC or SSI limits, but whose income is above the Medically Needy Income Eligibility Standard. Coverage for these individuals is optional under Title XIX of the Social Security Act Section 1902(a)(10) and 42 CFR Subpart D Section 435.300. A state may choose to include or exclude coverage for this eligibility category from its Title XIX State Plan. The Department has

now determined it is necessary to terminate coverage for the Medically Needy eligibility category in order to avoid a budget deficit in the medical assistance programs. Previous rulemaking was promulgated effective July 1, 1996 and October 29, 1996 (*Louisiana Register*, Volume 22, Numbers 7 and 10.)

Emergency Rule

Effective February 27, 1997 and after, the Department of Health and Hospitals, Bureau of Health Services Financing terminates coverage for all individuals certified for the Medically Needy Program including those individuals with an approved period of coverage which extends beyond June 30, 1996.

Bobby P. Jindal
Secretary

9702#057

DECLARATION OF EMERGENCY

Department of Natural Resources Office of the Secretary

State Lands—Reclamation (LAC 43:XXVII.Chapters 21 and 23)

In accordance with the emergency provisions of R.S. 49:953(B), R.S. 39:1598, the Administrative Procedure Act, and under the authority of R.S. 49:214.4, the Secretary of the Department of Natural Resources hereby declares that the conservation and restoration efforts authorized in accordance with R.S. 49:213.6 for the Isles Dernieres and Timbalier Barrier Islands shall proceed on an emergency basis.

In conjunction with this, pursuant to R.S. 41:1702, which allows reclamation of lands lost through erosion, compaction, subsidence, or sea level rise and further provides for wetlands conservation and restoration projects, regulations governing same are hereby adopted on an emergency basis.

These regulations are made effective February 20, 1997 and expire June 19, 1997.

This determination is made in view of the fact the land mass of these islands has eroded to such a critically small and fragile extent that additional losses stemming from further delays may render their currently mandated conservation projects ineffective. In addition, reclamation efforts by owners of land contiguous to and abutting navigable waters, bays, arms of the sea, the Gulf of Mexico and navigable lakes are hindered by the lack of regulations governing these efforts. Therefore, these Emergency Rules must be adopted and the proposed work must be expedited to the extent provided by law in order to prevent an imminent and irretrievable destruction of property. These projects have been deemed to provide extensive public benefits and enhancement of the public welfare.

(*Editor's Note:* The following Rule text is being temporarily codified under unused Chapters 22 and 24, until proposed during formal rulemaking procedures.)

Title 43

NATURAL RESOURCES

Part XXVII. Reclamation Regulations

Chapter 22. Reclamation Projects

§2201. Definitions

As used in these regulations, unless the context requires otherwise, the terms set forth below shall have the following meanings:

Emergent Land—land that emerges from a public waterbottom to an elevation sufficient to support emergent vegetation except that in the case of the seaward side of a barrier island the minimum elevation required shall be the lowest elevation sufficient to support emergent vegetation on the landward side of such island. No land which lies below the elevation of ordinary low water shall be considered emergent land.

Owner—an owner or owners of land contiguous to and abutting navigable waters, bays, arms of the sea, Gulf of Mexico, and navigable lakes belonging to the state.

Secretary—the secretary of the Department of Natural Resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 23:

§2203. Implementation by Owner

A. Right to Reclaim. An owner shall have the right to reclaim land lost through erosion, compaction, subsidence, or sea level rise occurring on and after July 1, 1921, in the manner hereinafter provided.

B. Processing of Application for Work Permit

1. An application for a work permit for the reclamation or recovery of land lost through erosion, compaction, subsidence, or sea level rise may be made by the owner to the secretary on forms provided by the Department of Natural Resources and accompanied by the following:

a. a certified map or plat of survey prepared by a professional land surveyor qualified and currently registered by the State Board of Registration for Professional Engineers and Land Surveyors in accordance with R.S. 37:681 et seq, showing the following:

i. the land-water boundary between land belonging to the state and those of applicant;

ii. the exact extent of land claimed to be lost through erosion, compaction, subsidence, or sea level rise on and after July 1, 1921 (and prior to July 1, 1921, if applicable);

iii. location of the activity site including section, township, and range;

iv. Louisiana grid coordinates of all corners and angle points;

v. name of waterway;

vi. all applicable political (parish, town, city, etc.) boundary lines;

vii. name of and distance of local town, community or other identifying location;

viii. names of all roads in the vicinity of the site;

Rules

RULE

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

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

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;

* * *

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

James R. Plaisance
Executive Director

9702#004

DECLARATION OF EMERGENCY

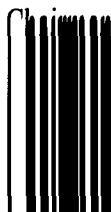
Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Calcasieu Lake Oyster Take Limit

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 967 and under the authority of R.S. 56:6(25)(a) and R.S. 56:435.1, notice is hereby given that the Wildlife and Fisheries Commission finds that imminent peril to the public welfare exists and hereby adopts the following Emergency Rule.

For the remainder of the 1996/97 season in Calcasieu Lake, the daily take limit shall be 15 one and one-half bushel sacks per boat per day.

Daniel J. Babin



In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides hereby adopts Rules which amend LAC 7:XXIII.13113, 13123, 13131, and 13144 regarding standard registrations of pesticides, certification of commercial applicators, licensing requirements of owner-operators, and special restrictions on pesticide applications in schools. The Department published its Notice of Intent to adopt these Rules in the April 20, 1996 edition of the *Louisiana Register*. The Rules adopted hereby have an effective date of February 20, 1997.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

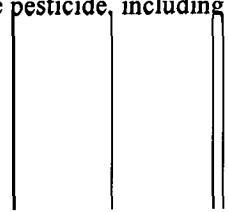
Chapter 131. Louisiana Advisory Commission on Pesticides

Subchapter D. Registration of Pesticides §13113. Standard Registrations

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

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

- a. the brand of the pesticide;
- b. the name, address and contact person of the manufacturer of the pesticide;
- c. two complete copies of the labeling of the pesticide, containing:
 - i. the specific name of each active ingredient in the pesticide;
 - ii. the percentage of the active ingredients in the pesticide;
 - iii. the percentage of the inert ingredients in the pesticide;
 - iv. the net contents of each package in which the pesticide will be sold;
 - v. a statement of claims made for the pesticide;
 - vi. directions for the use of the pesticide, including



d. the material safety data sheet prepared in accordance with the requirements of the Environmental Protection Agency;

e. such other information as the commissioner may require.

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

a. the brand of the pesticide;

b. the name, address and contact person of the manufacturer of the pesticide;

c. such other information as the commissioner may require;

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

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

1. the composition of the pesticide is not sufficient to support the claims made for the pesticide;

2. the label on the pesticide does not comply with state and federal requirements;

3. use of the pesticide may produce unreasonable adverse effects on the environment.

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

1. Any pesticide sold or offered for sale or distribution must bear a label consistent with the label submitted in the registration application.

2. Each shipping container must bear the lot or batch number of the pesticide.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 15:76 (February 1989), LR 23:192 (February 1997).

Subchapter F. Certification

§13123. Certification of Commercial Applicators

A. ...

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

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

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

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

Category 1. - Category 6.

* * *

Category 7. Industrial, Institutional, Structural and Health Related Pest Control. This category includes commercial applicators and nonfee commercial applicators

using or supervising the use of pesticides with restricted uses in, on or around food handling establishments, human dwellings, institutions, such as schools and hospitals, industrial establishments, including warehouses and grain elevators, and any other structures and adjacent area, public or private; and for the protection of stored, processed or manufactured products. This category has been subdivided into four subcategories:

i. ...

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

iii. ...

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 23:193 (February 1997).

Subchapter H. Licensing Requirements

§13131. Owner-Operators

A. - N. ...

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:194 (March 1984), LR 12:87 (February 1986), LR 23:194 (February 1997).

Subchapter I. Regulations Governing the Application of Pesticides

§13144. Special Restrictions on Pesticide Applications in Schools

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

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

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

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

4. brand name and EPA registration number of all pesticides to be used;
5. for each pesticide to be used list the following:
 - a. pest to be controlled;
 - b. type of application to be used;
 - c. location of application;
 - d. restricted use pesticide or general use pesticide.
6. proposed location and date for noncertified applicator training;
7. other methods of pest control.

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 21:928 (September 1995), amended LR 23:194 (February 1997).

Bob Odom
Commissioner

9702#009

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Boll Weevil Eradication Commission

Definitions; Red River Eradication Zone;
Cotton Acreage; and Program Participation
(LAC 7:XV.9903, 9914, 9919 and 9921)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Boll Weevil Eradication Commission hereby amends the following Rules, LAC 7:XV, Chapter 99, Sections 9903, 9914, 9919, and 9921, regarding creation of a Red River Eradication Zone; reporting of cotton acreage; and fee payment in the Boll Weevil Eradication Program. The Commission published its Notice of Intent to amend these Rules in the October 20, 1996 edition of the *Louisiana Register*. The Rules amended hereby have an effective date of February 20, 1997.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 99. Boll Weevil

§9903. Definitions Applicable to Boll Weevil

* * *

ASCS—the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture, now known as FSA (Farm Service Agency).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 23:000 (February 1997).

§9914. Red River Eradication Zone: Creation

A. There is hereby created an eradication zone which shall hereafter be known as the Red River Eradication Zone.

B. The Red River Eradication Zone shall consist of all those territories within the boundaries of the following parishes: Acadia, Avoyelles, Bienville, Bossier, Caddo, Claiborne, DeSoto, East Baton Rouge, Evangeline, Grant, Natchitoches, Pointe Coupee, Rapides, Red River, St. Landry, St. Tammany, Webster, West Baton Rouge, West Feliciana.

C. The effective date of the establishment of the Red River Eradication Zone shall be effective immediately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 23:195 (February 1997).

§9919. Reporting of Cotton Acreage

* * *

C. Noncommercial cotton shall not be planted in an Eradication Zone unless an application for a written waiver has been submitted in writing to the Commissioner stating the conditions under which such written waiver is requested, and unless such written waiver is granted by the Commissioner. The Commissioner's decision to grant or deny a written waiver for noncommercial cotton shall include consideration of the location, size, pest conditions, accessibility of the growing area, any stipulations set forth in any compliance agreement between the applicant and the Commissioner, and any other factors deemed relevant to effectuate the boll weevil eradication program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1607 and R.S. 3:1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 23:195 (February 1997).

§9921. Program Participation, Fee Payment and Penalties

Upon passage of the referendum, all cotton producers growing cotton in an Eradication Zone shall be required to participate in the eradication program as follows:

1. Each year, during the first five years of the program, cotton producers shall submit to the ASCS office the annual assessment as set by the Commission following the

adjudicatory procedure of the Administrative Procedure Act, which assessment shall not exceed \$10 per acre the first year and \$35 per acre for each of the remaining years, for each acre of certified cotton acreage on file with ASCS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, R.S. 3:1612, and R.S. 3:1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997).

Dan P. Logan, Jr.
Chairman

9702#005

RULE

**Department of Agriculture and Forestry
Office of Agro-Consumer Services
Agriculture Commodities Commission**

Fees (LAC 7:XXVII.14728)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Agricultural Commodities Commission hereby amends LAC 7:XXVII.14728 which changes the fee charged for sample inspections under the Louisiana Agricultural Commodities Law in order to allow the state to recover most of the actual cost of performing the sample inspection and changes the fee charged for mileage to bring it in conformance with the Division of Administration, Policies and Procedures Memorandum Number 49. The department published its Notice of Intent to amend these Rules in the October 20, 1996 edition of the *Louisiana Register*. The Rules amended hereby have an effective date of February 20, 1997.

Title 7

AGRICULTURE AND ANIMALS

**Part XXVII. Agricultural Commodity Dealer
and Warehouse Law**

Chapter 147. Agricultural Commodities Commission

Subchapter E. Assessments and Fees

§14728. Fees: Amount, Time of Payment

C. Schedule of Fees:

1. - 2. ...

3. Mileage shall be billed at the rate established under the Division of Administration, Policies and Procedures Memorandum Number 49.

4. Official Services (including sampling except as indicated):

Online D/T sampling inspection service (sampling, grading and certification), per regular hour	\$25.00
Overtime hourly rate, per hour	\$40.00
Unit Inspection Fees:	
Hopper car, per car	\$20.00
Boxcar, per car	\$15.00
Truck/trailer, per carrier	\$10.00
Barge, per 1,000 bushels	\$ 2.50
Submitted sample inspection	\$12.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 12:287 (May 1986), amended LR 14:528 (August 1988), LR 19:889 (July 1993), LR 23:196 (February 1997).

Bill Boudreaux
Director

9702#006

RULE

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

**Rendering Plants and Contagious Diseases
(LAC 7:XXI.11715 and 11717)**

The Department of Agriculture and Forestry, Livestock Sanitary Board, hereby amends the following Rules which amend LAC 7:XXI.11715 and 11717. The department published its Notice of Intent to adopt these Rules in the August 20, 1996 edition of the *Louisiana Register* (Volume 22, page 718).

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter A. General Provisions

§11715. Rendering Plant

A. Permit

1. No person shall operate a rendering plant without first obtaining a permit to operate from the board.

2. - 4. ...

B. Vehicles and Containers

1.a. - b. ...

2. Any vehicle used for hauling dead animals or offal shall be provided with a tarpaulin or other covering or be so constructed so as to shut off from view all such dead animals or offal, and said conveyance shall not stop by the way unless detained by unavoidable circumstances.

3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2131.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:234 (March 1985), amended LR 11:615 (June 1985), LR 23:196 (February 1997).

§11717. Requiring the Reporting of Contagious Diseases

A. In order to improve the protection of the livestock industry from the effects of contagious diseases of livestock, all veterinarians licensed in the state of Louisiana, are required to report to the state veterinarian, by telephone or wire, within 24 hours after diagnosis or tentative diagnosis, the occurrence of suspected occurrence of the following contagious diseases: hog cholera, anthrax, vesicular condition, scabies, equine encephalomyelitis, pullorum/typhoid, pseudorabies, Newcastle (OIE List A Diseases), Avian Influenza (OIE) List A Diseases, Ornithosis, Paramyxovirus (Other than Newcastle Disease), Infectious Encephalomyelitis, Infectious Laryngotracheitis (other than vaccine induced), or any other disease condition which may seriously threaten the welfare of the livestock and poultry industry.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2094, and R.S. 3:2095.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Louisiana Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 15:813 (October 1989), LR 16:391 (May 1990), LR 23:197 (February 1997).

Dr. Maxwell Lea, Jr.
Executive Secretary

9702#034

RULE

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

**Fugitive Emission Control for Ozone
Nonattainment Areas (LAC 33:III.2122)(AQ145)**

(Editor's Note: AQ145 was referenced as a final Rule in the December 20, 1996, issue of the Louisiana Register. The document provided to the Office of the State Register contained an incorrect version of the Paragraph below. The corrected text, as it should have appeared in AQ145, is being published.)

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

**Chapter 21. Control of Emission of Organic
Compounds**

Subchapter A. General

**§2122. Fugitive Emission Control for Ozone
Nonattainment Areas**

[See Prior Text in A -C.1]

a. No component in petroleum refineries, SOCMI, MTBE, and polymer manufacturing industry shall be allowed to leak volatile organic compounds exceeding an instrument

reading of 1,000 ppmv or greater for valves, connectors, pressure relief devices, and process drains; 5,000 ppmv for pumps and compressors; or 10,000 ppmv for agitators, as outlined in Subsection D of this Section, when tested by Method 21 (40 CFR part 60, appendix A, as incorporated by reference at LAC 33:III.3003).

[See Prior Text in C.1.b - G.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1102 (October 1994), repromulgated LR 20:1279 (November 1994), amended LR 22:1129 (November 1996), LR 22:1212 (December 1996), repromulgated LR 23:197 (February 1997).

Gus Von Bodungen
Assistant Secretary

9702#036

RULE

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

**Nonattainment New Source Review Procedures
(LAC 33:III.504) (AQ146)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.504 (AQ146).

The department is adopting a provision in the 1990 Clean Air Act amendments which provides for a special Rule for modifications of sources emitting 100 tons or more. Affected sources are any major stationary source of volatile organic compounds located in an area which emits, or has the potential to emit, 100 tons or more of volatile organic compounds (VOCs) per year. Whenever there is any change in emissions of VOCs from any discrete operation, unit, or other pollutant-emitting activity at the source, such increase shall be considered a modification for purposes of Section 172(c)(5) and Section 173(a). This Rule allows the owner or operator of the source to offset the increase by a greater reduction in emissions of VOCs from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1, in lieu of the requirements of Section 173(a)(2) concerning the lowest achievable emission rate (LAER). This revision is in accordance with Section 182(c)(8) of the 1990 Clean Air Act amendments.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

[See Prior Text in A-D.2]

3. Notwithstanding Subsection D.2 of this Section, in the case of any major stationary source that emits or has the

potential to emit 100 tons per year or more of VOC and is located in an area classified as serious, if the owner or operator of the source elects to offset the emissions increase by a reduction in emissions of VOC from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1, then the requirements for LAER shall not apply.

4. For any new major stationary source or major modification in accordance with this Section, it shall be assured that the total tonnage of the emissions increase that would result from the proposed construction or modification shall be offset by an equal or greater reduction as applicable, in the actual emissions of the regulated pollutant from the same or other sources in accordance with Subsection F.9 of this Section. A higher level of offset reduction may be required in order to demonstrate that a net air quality benefit will occur.

5. Emission offsets shall provide net air quality benefit, in accordance with offset ratios listed in Table 1, in the area where the national ambient air quality standard for that pollutant is violated.

6. The proposed major stationary source or major modification will meet all applicable emission requirements in the Louisiana State Implementation Plan (SIP), any applicable new source performance standard in 40 CFR part 60, and any national emission standard for hazardous air pollutants in 40 CFR part 61 or part 63.

7. As a condition for issuing a permit to construct a major stationary source or major modification in a nonattainment area, the public record must contain an analysis, provided by the applicant, of alternate sites, sizes, production processes, and environmental control techniques and demonstrate that the benefits of locating the source in a nonattainment area significantly outweigh the environmental and social costs imposed.

8. The administrative authority shall allow a source to offset, by alternative or innovative means, emission increases from rocket engine and motor firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the following conditions:

a. Any modification proposed is solely for the purpose of expanding the testing of rocket engines or motors at an existing source that is permitted to test such engines on the date of enactment of this Subsection.

b. The source demonstrates to the satisfaction of the administrative authority that it has used all reasonable means to obtain and utilize offsets, as determined on an annual basis, for the emissions increases beyond allowable levels, that all available offsets are being used, and that sufficient offsets are not available to the source.

c. The source has obtained a written finding from the Department of Defense, Department of Transportation, National Aeronautics and Space Administration, or other appropriate federal agency, that the testing of rocket motors or engines at the facility is required for a program essential to the national security.

d. The source will comply with an alternative measure, imposed by the administrative authority, designed to offset any emission increases beyond permitted levels not

directly offset by the source. In lieu of imposing any alternative offset measures, the administrative authority may impose an emissions fee to be paid to such authority of a state which shall be an amount no greater than 1.5 times the average cost of stationary source control measures adopted in that area during the previous three years. The administrative authority shall utilize the fees in a manner that maximizes the emission reductions in that area.

[See Prior Text in E-F.8]

9. Emission offsets shall be obtained from the same source in the case of internal offsets provided in accordance with Subsection D.3 of this Section. In all other cases emission offsets shall be obtained from the same source or other sources in the same nonattainment area, except that such emission reductions may be obtained from a source in another nonattainment area if:

[See Prior Text in F.9.a-G. Visibility Impairment]

POLLUTANT	MAJOR STATIONARY SOURCE Threshold Values (tons/year)	MAJOR MODIFICATION Significant Net Increase (tons/year)	OFFSET RATIO Minimum
OZONE VOC ¹		Trigger Values	
Marginal ¹	100	40 (40) ²	1.10 to 1
Moderate	100	40 (40) ²	1.15 to 1
Serious	50	25 ³ (5) ⁴	1.20 to 1 w/LAER or 1.30 to 1 internal w/o LAER
Severe	25	25 ³ (5) ⁴	1.30 to 1
CO			
Moderate	100	100	>1.00 to 1
Serious	50	50	>1.00 to 1
SO ₂	100	40	>1.00 to 1
PM ₁₀			
Moderate	100	15	>1.00 to 1
Serious	70	15	>1.00 to 1
Lead	100	0.6	>1.00 to 1

¹ For those parishes which are designated incomplete data or transitional nonattainment for ozone, the new source review Rules for a marginal classification apply.

² Consideration of the net emissions increase will be triggered for any project which would increase emissions by 40 tons or more per year, without regard to any project decreases.

³ For serious and severe ozone nonattainment areas, the increase in emissions of volatile organic compounds resulting from any physical change or change in the method of operation of a stationary source shall be considered significant for purposes of determining the applicability of permit requirements, if the net emissions increase from the source equals or exceeds 25 tons.

⁴ Consideration of the net emissions increase will be triggered for any project which would increase volatile organic compound emissions by five tons or more per year, without regard to any project decreases, or for any project which would result in a 25 ton or more per year cumulative increase in emissions after November 15, 1992, without regard to project decreases.

VOC = volatile organic compounds

CO = carbon monoxide

SO₂ = sulfur dioxide

PM₁₀ = particulate matter of less than 10 microns in diameter

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

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

Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997).

Gus Von Bodungen
Assistant Secretary

9702#012

RULE

**Department of Environmental Quality
Office of Water Resources
Water Pollution Control Division**

Adoption by Reference (LAC 33:IX.2301)(WP022*)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Pollution Control Division Regulations, LAC 33:IX.2301.F (WP022*).

This Rule clarifies that references to the *Code of Federal Regulations* (CFR) contained in LAC 33:IX.Chapter 23 (e.g., 40 CFR 122.29) shall refer to those Regulations published in the July 1994 *Code of Federal Regulations*, unless otherwise noted.

**Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality**

**Chapter 23. The LPDES Program
Subchapter A. Definitions and General Program
Requirements**

§2301. General Conditions

* * *

[See Prior Text in A - E]

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter (e.g., 40 CFR 122.29) shall refer to those Regulations published in the July 1994 *Code of Federal Regulations*, unless otherwise noted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997).

Linda Levy
Assistant Secretary

9702#017

RULE

**Department of Environmental Quality
Office of Water Resources
Water Pollution Control Division**

Best Management Practices (LAC 33:IX.2560)(WP021*)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the

provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Secretary has amended the Water Pollution Control Division Regulations, LAC 33:IX.2560 (WP021*).

LAC 33:IX.Chapter 23.Subchapter P, §§2561-2569 mirrors 40 CFR 125 Subpart K. The effect of these federal regulations was stayed until further notice by the U.S. Environmental Protection Agency (44 FR 47063, August 10, 1979 and 45 FR 17997, March 20, 1980). Therefore, to maintain equivalency with the federal regulations, the state hereby postpones the effective date of Subchapter P until further notice.

**Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality**

**Chapter 23. The LPDES Program
Subchapter P. Criteria and Standards for Best
Management Practices Authorized
Under Section 304(e) of the Act**

§2560. Effective Date

The state hereby suspends this Subchapter until further notice.

[Note: LAC 33:IX.Chapter 23.Subchapter P mirrors 40 CFR 125 Subpart K. The effect of these federal regulations was stayed until further notice by the U.S. Environmental Protection Agency (44 FR 47063, August 10, 1979, and 45 FR 17997, March 20, 1980). Therefore, to maintain equivalency with the federal regulations, the state hereby suspends this Subchapter until further notice.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 23:199 (February 1997).

Linda Levy
Assistant Secretary

9702#018

RULE

**Department of Health and Hospitals
Board of Dentistry**

**Advertising; Records on Prescriptions
(LAC 46:XXXIII.301 and 303)**

(Editor's Note: The following Rule, published on page 1215 of the December, 1996 *Louisiana Register*, is being repromulgated to correct a codification error.)

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

**Chapter 3. Dentists
§301. Advertising and Soliciting by Dentists**

A. - C. ...

D. Definitions

Pediatric Dentistry—an age-defined specialty that provides both primary and comprehensive preventive and therapeutic oral health care for infants and children through adolescence, including those with special health care needs.

E. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January 1996), LR 22:1215 (December 1996), repromulgated LR 23:199 (February 1997).

§303. Maintenance of Records on Prescriptions Pursuant to R.S. 37:1204

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 13:179 (March 1987), repealed by the Department of Health and Hospitals, Board of Dentistry, LR 22:1215 (December 1996), repromulgated LR 23:200 (February 1997).

C. Barry Ogden
Executive Director

9702#001

RULE

**Department of Health and Hospitals
Office of Alcohol and Drug Abuse**

**Co-payment for Urine Drug
Screening (LAC 48:VII.Chapter 9)**

Under the authority of R.S. 36:258(E), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Alcohol and Drug Abuse has adopted Rules and Regulations to implement a co-payment for urine drug screens. This Rule is applicable to patients receiving treatment services in a state operated outpatient or inpatient alcohol or drug abuse facility.

Title 48

PUBLIC HEALTH

Part VII. Alcohol and Drug Abuse Services

Chapter 9. Co-payment for Urine Drug Screening

§901. Statement of Purpose, Scope and Eligibility

A. The Department of Health and Hospitals (DHH), Office of Alcohol and Drug Abuse (OADA), will determine a patient's ability to pay a co-payment for Urine Drug Screening (UDS) according to the co-payment sliding fee scale.

B. Any active patient of OADA shall pay a co-payment for a urine drug screen of not more than \$12 per screen to be determined based on the UDS co-payment sliding fee schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 28:771 and R.S. 36:258(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Alcohol and Drug Abuse, LR 23:200 (February 1997).

§903. Exemptions

A. Any patient eligible to receive Medicaid shall be exempt from the provisions of the UDS co-payment requirements.

B. The UDS co-payment fees shall be exempt from the provisions of R.S. 49:971(A)(3) which provide that no state agency shall increase any existing fee or impose any new fee unless the fee increase or fee adoption is expressly authorized pursuant to a fee schedule established by statute or specifically authorized by federal law, Rule or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Alcohol and Drug Abuse, LR 23:200 (February 1997).

§905. Definitions

The following definitions shall apply to the OADA urine drug screening co-payment for patient billing:

Dependent—all persons dependent on the household income as accepted by the Internal Revenue Service (IRS) for federal income tax purposes. In case of a minor not claimed as a dependent for income tax purposes, the parents are still responsible for payment.

Family—the basic family unit consisting of one or more adults and children, if any, related by blood, marriage, adoption or residing in the same household.

Gross Income—income as determined under Title XIX, Medicaid, guidelines. Gross income shall be rounded down to the nearest \$1,000.

Responsible Person—the patient's parent(s) or guardian if the patient is under the age of 18, unless someone else claims the patient as a dependent, in which case it is that person. If the patient is 18 years of age or older, the patient is responsible for his/her co-payment based on his/her gross family income and allowable deductions, unless claimed as a dependent in which case the claimant becomes responsible for the fee based on the claimant's family income.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Alcohol and Drug Abuse, LR 23:200 (February 1997).

§907. General Provisions

A. Billing for the UDS co-payment shall be made to the patient or responsible party.

B. A person responsible for the payment of charges for services rendered who refuses or fails to supply the information necessary for accurate determination of the urine drug screen co-payment shall be billed accordingly. Any person who is potentially eligible for Medicaid who refuses to provide evidence of application for said benefits shall be presumed to be able to pay the full charge for services rendered, and shall be billed accordingly.

C. Eligibility will be good for one year. Periodic checks may be made with the responsible person to make charge adjustments as necessary. The responsible person shall be advised of his responsibility to report any change in the family unit composition, income, and employment.

D. Wherever applicable, billing for services rendered shall be sent monthly to the client or responsible person in accordance with the co-payment bill. When a patient's account becomes delinquent, it shall be handled in accordance with DHH Policy Number 4300-76, regarding collection procedures for patient bills.

E. OADA has developed internal management procedures for billing. A copy of these procedures are housed in the Assistant Secretary's Office of OADA.

F. Any individual or family unit who is indigent, as defined herewith shall be eligible for reduced co-payment fees based on the urine drug screen co-payment sliding fee scale. When documented medical bills incurred within the 12 months prior to treatment/service equal or exceed 20 percent of the annual gross family unit income, urine drug screens shall be provided at reduced cost to the family unit. The period of eligibility begins at the date at which liability reaches the 20 percent figure through the end of the calendar year. Such patients with third-party payors shall be provided reduced cost medical services or only that portion of their bill for which no third-party payor is or may be liable.

G. Exceptions may be granted at the discretion of the Assistant Secretary or his designee.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing terminates coverage for the optional eligibility categories, Aid to Families with Dependent Children-Medicaid and Supplemental Security Income - Medicaid, as allowed by Title XIX of the Social Security Act Section 1902(a)(10) and 42 CFR Subpart C Section 435.210.

Bobby P. Jindal
Secretary

9702#051

RULE

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

Community Care Program—Physician Management Fee

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

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the physician management fee in the Community Care Waiver Program to \$3 per enrolled recipient per month.

Bobby P. Jindal
Secretary

9702#055

RULE

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

**Direct Reimbursement to Recipients
During Period of Retroactive Eligibility**

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

Rule

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following provisions to establish and govern direct reimbursement to a Medicaid

Co-payment Sliding Fee Scale for Urine Drug Screen

Income	Dependents				
	1	2	3	4	5+
0 - 2000	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2
2001 - 3000	4	2	2	2	2
3001 - 4000	8	4	2	2	2
4001 - 5000	10	8	4	2	2
5001 - 6000	12	10	8	4	2
6000+	12	12	10	8	4

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Office of Alcohol and Drug Abuse, LR 23:200 (February 1997).

Bobby P. Jindal
Secretary

9702#011

RULE

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

**Aid to Families with Dependent Children and
Supplemental Security Income—Medicaid Programs**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act, 42 USCA 1396a et seq. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

RULE

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

**Hospital Prospective Reimbursement
Methodology for Long-Term Acute Hospitals**

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

Rule

The Department of Health and Hospitals, Bureau of Health Services Financing will prospectively reimburse long-term acute hospitals for psychiatric treatment at the prospective per diem rate established for psychiatric treatment facilities.

Bobby P. Jindal
Secretary

9702#061

RULE

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

**Hospital Prospective Reimbursement
Methodology for Rehabilitation Hospitals**

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

Rule

The Department of Health and Hospitals, Bureau of Health Services Financing amends the Hospital Prospective Reimbursement Methodology Rule by prospectively reimbursing rehabilitation hospitals within the peer groups established for nonteaching hospitals established in the Hospital Prospective Reimbursement Methodology Rule. The appropriate peer group shall be determined according to the number of licensed rehabilitation beds as of March 31 of the year preceding the state fiscal year for which the rates will be in effect. The bureau will continue to apply the criteria contained in the pre-admission and certification and length of stay criteria for Inpatient Hospital Services Rule according to the treatment needs of the individual patient.

Bobby P. Jindal
Secretary

9702#062

eligible for his payment(s) made to any Medicaid-enrolled provider for medical care, services and supplies delivered during the recipient's period of retroactive eligibility and prior to receipt of the first medical eligibility card (MEC). Reimbursement shall be made only in accordance with all applicable federal and state regulations.

General Provisions

A. Reimbursement shall be made only for payments made to providers of medical care, services and supplies who were enrolled in the Medicaid Program at the time of service.

B. Reimbursement shall be made only for medical care, services and supplies covered by the Medicaid Program at the time of service.

C. Reimbursement shall be made only for medical care, services and supplies delivered during a retroactive eligibility period and prior to receipt of the recipient's first MEC.

D. Reimbursement shall be made only up to the maximum allowable Medicaid rate for the particular service(s) rendered.

E. Reimbursement shall be provided only under the following conditions. Reimbursement shall be made only for eligibles certified for Medicaid coverage beginning February 15, 1995. Reimbursement shall be made for all bills, from any Medicaid-enrolled provider, for medical care, services and supplies covered by the Medicaid Program and rendered during the three months prior to application, as well as bills paid during the period from application to certification.

F. The Medicaid recipient must submit the following documentation to the bureau in order to receive reimbursement. Proof of payment shall be a receipt or similar evidence of payment.

G. Reimbursement for services rendered during any retroactive eligibility period and prior to receipt of the initial MEC for Medicaid eligibles certified beginning February 15, 1995 through the effective date of this Rule shall be made in accordance with the following requirements. Proof in accordance with Subsection F above, along with the recipient's Medicaid identification number must be presented to the local Bureau of Health Services Financing (Medicaid) office by December 30, 1996.

H. Reimbursement of payments for services rendered during any retroactive eligibility period or prior to receipt of the recipient's initial MEC from the effective date of this Rule and henceforth shall be made in accordance with the following requirements:

1. A recipient's intention to make a request for reimbursement must be made known to the local Bureau of Health Services Financing (Medicaid) office within 30 days from the date of the letter sent to the recipient advising him of his right to request reimbursement.

2. Proof in accordance with Subsection F above must be presented to the local Bureau of Health Services Financing (Medicaid) office within 15 days of the request for reimbursement. If the recipient requests an extension on this time limit, it will be provided.

Bobby P. Jindal
Secretary

9702#054

RULE

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

**Professional Services Program
Physical Medicine Services**

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

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing suspends reimbursement for the following CPT procedure codes for physical medicine services under the Professional Services Program:

97010	97020	97026	97035	97122
97012	97022	97028	97036	97250
97014	97024	97034	97039	97265

Bobby P. Jindal
Secretary

9702#050

RULE

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

Reimbursement for Medicare Part B Claims

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

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing shall reimburse the full co-insurance and deductible on Medicare Part B crossover claims for professional services rendered to dually-eligible Medicare/Medicaid recipients.

Bobby P. Jindal
Secretary

9702#049

RULE

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

State-Funded Medically Needy Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Rule under the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing continues and re-establishes the State-Funded Medically Needy Program which shall be governed by the following provisions.

General Provisions

The State-Funded Medically Needy Program shall be administered in accordance with requirements of Title XIX of the Social Security Act for the Medically Needy Program under the Act except as described below.

I. Eligibility

A. Coverage under this program shall be limited to individuals who are certified for the Title XIX Medically Needy Program or have a pending application for participation under the Title XIX Medicaid Program and are subsequently found eligible for Title XIX Medically Needy Program for June 30, 1996. Recipients who were found eligible and certified as of June 30, 1996 may reapply through June 30, 1997. They must meet all the federal eligibility criteria of the Title XIX Medically Needy Program in order to maintain or to re-establish their eligibility status under the State-Funded Medically Needy Program.

B. Recipients who are determined to be potentially eligible under any Title XIX eligibility category or any other benefit must take all appropriate steps to pursue that eligibility including applying for coverage and providing the necessary information to determine eligibility for the Title XIX category or other benefit.

C. Eligibility for the State-Funded Medically Needy Program will be terminated under any one of the following circumstances:

1. the recipient is determined eligible under a Title XIX category or other benefit;
2. the recipient refuses to apply for coverage or cooperate in the eligibility determination process;
3. the recipient no longer meets the required criteria of health condition or age; or
4. the recipient no longer meets the eligibility requirements of the Title XIX Medically Needy Program terminated on June 30 1996.

D. The State-Funded Medically Needy Program shall provide for an eligibility determination process for the following persons:

1. persons in a nursing facility whose countable income exceeds 300 percent of the Supplemental Security Income (SSI) federal benefit rate;

2. children under the age of 1 who are receiving critical care services (neonates);
3. children through age 17 with a diagnosis of cancer;
4. persons with renal (kidney) failure who require hemodialysis treatment;

Applicants listed above who meet the eligibility criteria of the Title XIX Medically Needy Program shall be determined eligible no earlier than October 8, 1996. There shall be no retroactive eligibility period for persons determined eligible under the items 1-4 listed above.

II. Services. The scope of services and reimbursement for the covered services shall be provided in accordance with the federal and state regulations that previously governed the Title XIX Medically Needy Program administered by the Bureau of Health Services Financing.

III. Appeal Rights. Applicants who are denied eligibility or recipients who lose eligibility under the State-Funded Medically Needy Program shall be afforded the opportunity to appeal the agency's decision in accordance with the Administrative Procedure Act. There shall be no continuation of benefits pending appeal.

Bobby P. Jindal
Secretary

9702#052

RULE

**Department of Revenue and Taxation
Tax Commission**

**Ad Valorem Taxation
(LAC 61:V.Chapters 7-35)**

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, the Tax Commission adopted and/or amended sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 1997 (1998 Orleans Parish) tax year.

Title 61

REVENUE AND TAXATION

Part V. Ad Valorem Taxation

Chapter 7. Watercraft

§703. Tables - Watercraft

Table 703.B Floating Equipment Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1996	0.997	1	94	.94
1995	1.012	2	87	.88

1994	1.048	3	80	.84
1993	1.078	4	73	.79
1992	1.099	5	66	.73
1991	1.112	6	58	.64
1990	1.134	7	50	.57
1989	1.165	8	43	.50
1988	1.227	9	36	.44
1987	1.280	10	29	.37
1986	1.298	11	24	.31
1985	1.311	12	22	.29
1984	1.330	13	20	.27

Table 703.C Floating Equipment Barges (Nonmotorized)				
Cost Index (Average)		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1996	0.997	1	97	.97
1995	1.012	2	93	.94
1994	1.048	3	90	.94
1993	1.078	4	86	.93
1992	1.099	5	82	.90
1991	1.112	6	78	.87
1990	1.134	7	74	.84
1989	1.165	8	70	.82
1988	1.227	9	65	.80
1987	1.280	10	60	.77
1986	1.298	11	55	.71
1985	1.311	12	50	.66
1984	1.330	13	45	.60
1983	1.366	14	40	.55
1982	1.391	15	35	.49
1981	1.456	16	31	.45
1980	1.606	17	27	.43
1979	1.767	18	24	.42
1978	1.931	19	22	.42
1977	2.077	20	21	.44
1976	2.187	21	20	.44

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 and 10:925 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997).

Chapter 9. Oil and Gas Properties

§907. Tables - Oil and Gas

Year	Value 1	Value 2	Percentage
1993	215326	216474	90 percent
1992	214190	215325	87 percent
1991	212881	214189	84 percent
1990	211174	212880	81 percent
1989	209484	211173	78 percent
1988	207633	209483	75 percent
1987	205211	207632	71 percent
1986	202933	205210	68 percent
1985	197563	202932	64 percent
1984	189942	197562	60 percent
1983	184490	189941	56 percent
1982	179370	184489	52 percent
1981	173109	179369	48 percent
1980	166724	173108	44 percent
1979	162463	166723	39 percent
1978	158114	162462	34 percent
1977	154410	158113	30 percent
1976	150983	154409	26 percent
1975	147695	150982	23 percent
1974	144502	147694	21 percent
1973	Lower	144501	20 percent
VAR.	900000	Higher	50 percent

**Table 907.A-1
Oil, Gas and Associated Wells**

Producing Depths	Cost-New Value by Depth Per Foot		**15% of Cost-New By Depth Per Foot	
	Region 1*	Region 2*	Region 1*	Region 2*
0-1,249 ft.	\$ 4.58	\$ 9.48	\$.69	\$ 1.42
1,250-2,499 ft.	8.24	17.33	1.24	2.60
2,500-3,749 ft.	11.16	23.07	1.67	3.46
3,750-4,999 ft.	12.10	26.05	1.82	3.91
5,000-7,499 ft.	26.71	56.03	4.01	8.40
7,500-9,999 ft.	24.84	52.09	3.73	7.81
10,000-12,499 ft.	39.37	39.37	5.91	5.91
12,500-14,999 ft.	55.51	55.51	8.33	8.33
15,000-17,499 ft.	77.35	77.35	11.60	11.60
17,500-19,999 ft.	94.11	94.11	14.12	14.12
20,000-Deeper ft.	105.22	105.22	15.78	15.78

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1996), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997).

Chapter 11. Drilling Rigs and Related Equipment
§1103. Drilling Rigs and Related Equipment Tables

Instructions for Use of Tables 907.A-1, 907.A-2 and 907.A-3 and Procedure for Arriving at Assessed Value

Adjustments for Allowance of Economic Obsolescence

4. Obsolescence credits may be based on production schedules as a basis for establishing a total assessment cap to be applied to both wells and surface equipment.

5. Note: All oil and gas property assessments may be based on an individual cost basis.

**Table 1103.A
Land Rigs**

Depth "0" to 7,000 Feet

Depth (Ft.)	Fair Market Value	Assessment
3,000	\$ 52,950	\$ 7,900
4,000	70,600	10,600
5,000	88,250	13,200
6,000	105,900	15,900

**Table 907.A-3
Serial Number to Percent Good Conversion Chart**

Year	Beginning Serial Number	Ending Serial Number	25-Year Life Percent Good
1996	218653	Higher	98 percent
1995	217588	218652	95 percent
1994	216475	217587	93 percent

7,000	123,550	18,500
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
8,000	\$163,760	\$ 24,500
9,000	184,230	27,600
10,000	204,700	30,700
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
11,000	\$ 214,390	\$ 32,200
12,000	233,880	35,100
13,000	253,370	38,000
14,000	272,860	40,900
15,000	292,350	43,800
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
16,000	\$ 305,600	\$ 45,800
17,000	324,700	48,700
18,000	343,800	51,600
19,000	362,900	54,400
20,000	382,000	57,300
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
21,000	\$ 456,960	\$68,500
25,000 +	544,000	81,600

* * *

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment
* * *			
IC	300- Up Ft.	24,875,000	3,731,250
* * *			
Table 1103.C Semisubmersible Rigs			
* * *			

Note: The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

Consideration of Obsolescence

Functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, functional obsolescence shall be given.

If functional obsolescence is not given when warranted, an appreciated value greater than fair market value may result.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997).

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (10 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1996	0.997	1	92	.92
1995	1.012	2	84	.85
1994	1.048	3	76	.80
1993	1.078	4	67	.72
1992	1.099	5	58	.64
1991	1.112	6	49	.54
1990	1.134	7	39	.44
1989	1.165	8	30	.35
1988	1.227	9	24	.29
1987	1.280	10	21	.27
1986	1.298	11	20	.26

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997).

Chapter 17. Inventories

§1701. Guidelines for Ascertaining the Fair Market Value of Inventories

H. Assessment of Inventory. The assessed value shall be based upon 15 percent of the average inventory cost for the preceding calendar or fiscal year. Any inventory that existed less than a full year shall be averaged for the months it had situs at the reported location. However, this does not mean to annualize the monthly inventory costs if less than 12 months are used to calculate the average inventory to be assessed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2322.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 13:188 (March 1987), LR 23:207 (February 1997).

Chapter 25. General Business Assets

§2503. Tables Ascertain Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

1984	776.4	1.330
1983	755.8	1.366
1982	742.4	1.391
1981	709.2	1.456
1980	642.8	1.606
1979	584.4	1.767
1978	534.7	1.931
1977	497.1	2.077
1976	472.1	2.187
1975	444.3	2.324
1974	398.4	2.592
1973	344.1	3.001
1972	332.1	3.109
1971	321.3	3.214

*Reappraisal Date: January 1, 1996 - 1032.6 (Base Year)

Table 2503.A Suggested Guidelines for Ascertaining Economic Lives of Business and Industrial Personal Property	

Business Activity/Type of Equipment	Average Economic Life In Years

Pollution Control M and E	15

Table 2503.D Composite Multipliers 1997 (1998 Orleans Parish)								
Age	3 Yr	5 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.70	.85	.90	.92	.94	.95	.97	.98
2	.50	.70	.80	.85	.88	.91	.94	.96
3	.36	.54	.70	.80	.84	.89	.94	.97
4	.22	.37	.58	.72	.79	.85	.93	.97
5		.25	.47	.64	.73	.80	.90	.96
6		.22	.37	.54	.64	.76	.87	.93
7			.29	.44	.57	.70	.84	.92
8			.26	.35	.50	.64	.82	.91
9			.25	.29	.44	.60	.80	.92
10				.27	.37	.55	.77	.91
11				.26	.31	.48	.71	.88
12					.29	.41	.66	.84
13					.27	.35	.60	.80
14						.31	.55	.76
15						.29	.49	.72
16						.29	.45	.70
17							.43	.71
18							.42	.69
19							.42	.66
20							.44	.62
21							.44	.57

Table 2503.B Cost Indexes		
Year	National Average 1926 = 100	January 1, 1996 = 100*
1996	1036.0	0.997
1995	1020.4	1.012
1994	985.0	1.048
1993	958.0	1.078
1992	939.8	1.099
1991	928.5	1.112
1990	910.2	1.134
1989	886.5	1.165
1988	841.4	1.227
1987	806.9	1.280
1986	795.4	1.298
1985	787.9	1.311

22										.53
23										.54
24										.60
25										.62
26										.64

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 and 10:945 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997).

Chapter 27. Use Value
§2705. Classification

Lincoln

St. Helena

Vermilion

AUTHORITY NOTE: Promulgated in accordance with LSA - Constitution of 1974, Article VII, §18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), LR 19:212 (February 1993), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:208 (February 1997).

§2707. Map Index Table

Table 2707 Map Index Listing of General Soil Maps and Modern Soil Surveys for the State of Louisiana Published by U.S. Dept. of Agriculture, Natural Resources Conservation Service in Cooperation with Louisiana Agricultural Experiment Station			
Parish	Date (General)	Map Number (General)	Date Published or Status (Modern)

Lincoln	Sept., 1972	4-R-17131-B	April, 1996

St. Helena	Mar., 1971	4-R-17438-A	April, 1996

Vermilion	Jan., 1970	4-R-28747-A	May, 1996

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 and R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Tax Commission, LR 3:290 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:946 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:208 (February 1997).

§2717. Tables - Use Value

Table 2717.C Average Assessed Value Per Acre, by Class of Marsh Land	
Class	Assessed Value Per Acre
Fresh Water Marsh	\$ 7
Brackish Water Marsh	\$ 6
Salt Water Marsh	\$ 5

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 through R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:248 (April 1987), LR 13:764 (December 1987), LR 14:110 (February 1988), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:208 (February 1997).

Chapter 31. Public Exposure of Assessments; Appeals
§3101. Public Exposure of Assessments, Appeals to the
Board of Review and Board of Review Hearings

D. Each assessor will make any determined changes to the assessment list during the public exposure period, and shall certify the assessment lists to the parish Board of Review within three days of the final exposure date. The Orleans Parish Assessors shall certify their assessment lists to the Board of Review on or before the tenth business day after August 15.

F. The Parish Police Jury or Parish Council shall sit as a Board of Review for a period of 15 days (beginning on the fourth day and concluding on the eighteenth day following the final assessment lists exposure date). The Board of Review may have only one hearing date or as many hearing dates as may be required within its 15-day review period. The Orleans Parish Board of Review shall convene hearings on or before September 15.

G. The Board of Review shall hear the complaint of qualified persons as provided in R.S. 47:1992, who have

provided a written appeal (Form 3101) to the Board of Review at least seven days prior notice either through appearing in person at its office or by filing such appeal by means of certified mail. Orleans Parish appellants shall submit a written appeal directly to the municipal district assessor within three regular work days of August 15; which appeals shall then be filed to the Orleans Parish Board of Review within seven regular work days of August 15. At the public hearing/s, the Board of Review shall determine if an assessment of real or personal property should be changed and determine the amount of any change, whether an increase or a decrease and change the assessment lists accordingly. The Board of Review shall certify the parish assessment lists, including any changes thereon, to the Tax Commission, no later than the 21st day after the final public exposure date. The Orleans Parish Board of Review shall certify the assessment lists to the Tax Commission on or before October 20 of each year. If the Board of Review has satisfied all legal requirements, protecting the taxpayer's appeal rights, and, the Board of Review hearing/s is/are completed prior to the 15 day deadline, the Tax Commission will accept an earlier certification of the assessment lists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:188 (March 1987), LR 13:764 (December 1987), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:208 (February 1997).

§3105. Practice and Procedure For Public Service Properties Hearings

A. The Tax Commission or its designated representative, as provided by law (that is a hearing officer), shall conduct hearings to consider the written protest of an appellant taxpayer, who shall be required to use Form 3105.A. The appeal shall be filed within 30 days of the Tax Commission's dated Certificate of Value to the taxpayer. The taxpayer shall also submit an "Exhibit B, Appointment of Taxpayer Agent", Form 3105.B, for any attorney or other representative of the taxpayer, who is not a full time employee of the taxpayer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February 1997).

Chapter 35. Miscellaneous

§3503. Homestead Exemptions

A. General Provisions

2. The Constitution exempts to the extent of \$7,500 of assessed value:

b. The same homestead exemption shall also fully apply to a mobile home or other similar manufactured housing which serves as a bona fide home, which is owned and

occupied by any person, regardless of whether the homeowner owns the land upon which the home is sited.

c. This exemption also extends to: "the surviving spouse or minor child of a deceased owner...when the homestead is occupied as such and title to it is in either the husband or the wife...."

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 16:1064 (December 1990), amended LR: 17:611 (June 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 23:209 (February 1997).

§3507. Claim for Taxes Paid in Error

6. The claim must be presented to the Tax Commission within three years of the erroneous payment. The date of payment shall be shown by a dated receipt from the tax collector; or, by a date marked by the collector on the check on the date of payment or processing; or, if neither is available, the date of processing, or cancellation marked by the bank in which the check was deposited.

a. The claim should be sent with return receipt requested to provide proof of receipt by the Tax Commission. If it is not sent in this manner, the postmark date on the envelope shall be the date on which the claim is made to the Tax Commission for determination of a timely filed claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2108.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 16:1063 (December 1990), amended LR 19:212 (February 1993), LR 20:198 (February 1994), LR 22:117 (February 1996), LR 23:209 (February 1997).

Malcolm B. Price, Jr.
Chairman

9702#028

RULE

Department of Social Services Office of Family Support

Reporting Arrearages to Credit Bureaus (LAC 67:III.2541 and 2753)

The Department of Social Services, Office of Family Support has amended LAC 67:III.Subpart 4, Support Enforcement Services (SES), the Child Support Enforcement Program.

Pursuant to the Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the state is required to report the names of noncustodial parents who are delinquent in the payment of child support, and the amount of overdue support to credit reporting agencies, after due process. This Rule is being amended to strengthen the Agency's role in the enforcement of support. Previously promulgated as §2753, the Section is being renumbered.

**Title 67
SOCIAL SERVICES**

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter L. Enforcement of Support Obligations

§2541. Information Released to Consumer Reporting Agencies

The Support Enforcement Program will report periodically to credit bureaus/consumer reporting agencies, the name of any noncustodial parent (absent parent) who is delinquent in the payment of support, and the amount of overdue support owed by such parent. The Agency shall provide due process to the noncustodial parent providing such parent with advance notice and a reasonable opportunity to contest the accuracy of such information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:56(D), (F)(4), (F)(5), (M) and 45 CFR 303.105, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1151 (December 1985), amended by the Department of Social Services, Office of Family Support, LR 22:117 (February 1996), LR 23: 210 (February 1997).

Chapter 27. General Program Administration

Subchapter B. Notice of Collection of Assigned Support

§2753. Information Released to Consumer Reporting Agencies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:56(D), (F)(4), (F)(5), (M) and 45 CFR 303.105, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1151 (December 1985), amended by the Department of Social Services, Office of Family Support, LR 22:117 (February 1996), repealed LR 23:210 (February 1997).

Madlyn B. Bagneris
Secretary

9702#064

RULE

**Department of Transportation and Development
Office of Engineering**

Utility Relocation Assistance
Funding (LAC 70:III.1103)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development adopts LAC 70:III.1103 in accordance with R.S. 48:381(C) et seq.

Title 70

TRANSPORTATION

Part III. Highways/Engineering

Chapter 11. Utility Relocation Assistance Funding

§1103. Additional Information to be Supplied by Applicants for Utility Relocation Assistance Funding (URAF)

A. A copy of the utility owner's most recently completed audit report must be provided to DOTD. If no audit has been

performed, the utility owner should initiate one. The certification process may not begin until this report is submitted.

B. A copy of the utility owner's unaudited financial statements covering the period from the date of the last audited financial statements to the current date must be provided to DOTD.

C. A copy of the utility owner's budget, including any amendments, for the current fiscal year must be provided to DOTD.

D. A listing of encumbrances that are payable from the utility owner's current year earnings must be provided to DOTD. For the purpose of this certification, encumbrances are considered to be those items for which the utility owner has incurred an obligation to expend current year earnings, plus 10 percent of the current year's revenue as a reserve.

E. A signed representation letter prepared on the utility owner's letterhead must be provided to DOTD. It must state:

1. that the utility owner is familiar with the provisions of R.S. 48:831;

2. that the utility owner has not violated any of the provisions of R.S. 48:381 in the past;

3. if the utility owner has received URAF funding from DOTD in prior years, the utility owner must meet the following requirements:

a. it must state that it has received prior URAF funding;

b. it must state that it has:

i. not located facilities longitudinally in state highway right-of-way since last receipt of URAF funding if a balance is outstanding; or

ii. facilities have been placed longitudinally in highway right-of-way and URAF funds have been reimbursed to DOTD.

F. The utility owner is responsible for the presentation of the financial statements and other information provided and for insuring that the information is complete and accurate.

G. The financial information provided must be taken from verifiable records. The budget information must be based on estimates derived from the financial statements.

H. The utility owner must certify that it has no other unpaid obligations to the State of Louisiana.

I. If the utility owner fails to satisfactorily complete the certification process, the utility owner may request a second certification review after one year from date of the first certification report. The request for the second review must be made before the starting date of construction. The request for the second review should be addressed to the DOTD Audit Section. When in the best interest of DOTD, the time period between the first failure of certification and the second request for certification may be modified by DOTD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 23:210 (February 1997).

Frank M. Denton
Secretary

9702#044

RULE

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

**Black Drum, Sheepshead, Flounder Harvest
(LAC 76:VII.349)**

(Editor's Note: A portion of the following Rule, amended on pages 233-234 of the March, 1996 Louisiana Register, is being republished to correct a typographical error.)

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

**§349. Rules for Harvest of Black Drum, Sheepshead,
Flounder and Other Saltwater Species using
Pompano Strike Net**

A. Restricted Species Strike Net Permit

1. ...

2. No person shall be issued a Restricted Species Strike Net Permit unless that person meets all of the following requirements:

a. - c.ix. ...

d. - e. ...

3. ...

B.1. - 5. ...

C. ...

AUTHORITY NOTE: Promulgated in accordance with 56:6(10), 56:6(25)(a); 56:326.1; 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.4.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:698 (August 1990), amended LR 22:233 (March 1996), repromulgated LR 23:211 (February 1997).

Glynn Carver
Chairman

9702#002

Notices of Intent

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Agro-Consumer Services
Division of Weights and Measures**

Bar Code Scanning Devices (LAC 7:XXXV.Chapter 175)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures proposes to amend regulations governing the use of bar code scanning devices in commerce. These Rules comply with and are enabled by R.S. 3:4608.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Division of Weights and Measures

Chapter 175. Division of Weights and Measures

**§17501. Specifications, Tolerances and Regulation for
Commercial Weighing and Measuring Devices**

The commissioner of Agriculture and Forestry, under authority conferred by the Louisiana Revised Statutes of 1950, Title 3, Section 4608, and for the enforcement of requirements applicable to the equipment therein referred to, hereby adopts by reference all Rules, regulations, standards, specifications and tolerances as contained in the National Bureau of Standards and Technology Handbook H-44, and amendments thereto, entitled *Specifications, Tolerances, and Regulations for Commercial Weighing and Measuring Devices*, and as contained in the National Conference on Weights and Measures Publication 19 entitled *Examination Procedure for Price Verification*, but only insofar as the Louisiana Revised Statutes of 1950, as amended, may provide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4606 and R.S. 3:4608 (formerly R.S. 55:4 and R.S. 55:6).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, amended and promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1530 (December 1993), amended LR 23:

§17502. Definitions

Wherever in these regulations the masculine is used, it includes the feminine and vice versa; wherever the singular is used, it includes the plural and vice versa.

* * *

Hand-held Scanning Device—a portable device that scans UPC codes that allows for the comparison of the price displayed on a shelf, item, or otherwise advertised, to the price for the item in the point-of-sale database.

* * *

Point-of-Sale—an assembly of elements including a weighing element, indicating element, and receiving element (which may be equipped with a scanner) used to complete a direct sale transaction.

Price Look-Up Code or PLU—a pricing system where numbers are assigned to items or commodities and the price is stored in a data-base for recall when the numbers are manually entered. PLU codes are used with scales, cash registers, and point-of-sale items.

* * *

Scanner or Scanning Device—an electronic system that employs a laser bar code reader to retrieve product identity, price and other information stored in computer memory.

Universal Product Code or UPC—a unique symbol that consists of a machine-readable code and human-readable numbers.

Weights, Measures, or Weighing and Measuring Devices—all weights, scales, scanners, taxi meters, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any such instruments. However, it does not include or refer to devices used to meter or measure, other than by weight, water, natural or manufactured gas, electricity, or motor fuel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:157 (March 1987), amended and promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1531 (December 1993), amended LR 23:

§17514. Bar Code Scanning Devices and Labels

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible.

B. The price displayed on the shelf, commodity or item required by Subsection A of this Section shall be precisely equal to the price actually charged by the seller.

C. In calculating violations of this Section, multiple items contained in the same lot shall constitute one violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1533 (December 1993), amended LR 23:

§17522. Fee Schedule

A - D. . . .

E. The registration fee for each location utilizing scanning devices shall be as follows:

Category	Number of Point-of-Sale Devices	Fee
A	1 to 10	\$ 50
B	11 to 25	\$100
C	Over 25	\$150

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), amended LR 23:

§17523. Registration

A. Each commercial weighing and measuring device in use in Louisiana shall be registered annually with the division insofar as is specified in this regulation.

B - C. . . .

D. Scanning devices shall be registered according to the following criteria:

1. make;
2. model;
3. serial number; and
4. number of point-of-sale devices.

E. A late fee of \$25 will be assessed for each device, the maximum penalty of \$100 per outlet, when the application is submitted after December 31.

F. A late fee of \$25 will be assessed for each new device not registered within 30 days from the date it is put into service.

G. A compound weighing device shall be considered one or more devices for the purpose of registration in accordance with the following:

1. A compound weighing device that consists of a single load receiving element and more than one indicating element shall be considered a single device when all indicating elements may be tested during the same test for the purpose of sealing the device as correct. Said device shall be considered separate devices for each separate test necessary for sealing.

2. A compound weighing device that consists of one indicating element and more than one load receiving element shall for the purpose of registration be considered a separate device for each load receiving element.

H. Applicants for registration may request application forms, verbally or in writing, from the Division of Weights and Measures of the Department of Agriculture and Forestry.

I. Each application for annual registration shall be accompanied by payment of required fee and said registration shall be valid until December 31. To remain valid, each annual registration must be renewed before January 1. The initial annual registration and fees due for scanning devices for calendar year 1997 shall be payable on or before April 30, 1997. Registration renewals and fees due for scanning devices for calendar years after 1997 shall be due and payable as set forth in this Section.

J. Any registration obtained without complying with all of the requirements of these regulations may be voided by the division.

K. Before a device may be sealed to certify the accuracy and correctness of a device, that device must be registered with the Division of Weights and Measures of the Louisiana Department of Agriculture and Forestry.

L. In accordance with R.S. 3:4611, no one shall use a weight, measure or weighing or measuring device which has not been sealed by the division, its director, or its inspectors, at its direction, within the year prior thereto, unless written notice has been given to the division to the effect that the weight, measure or weighing or measuring device is available for examination or is due for re-examination.

M. Application for registration or renewal of registration shall fulfill the requirement of notification in Subsection L of this Section.

N. Applications for annual renewal of registration shall be mailed by the Division of Weights and Measures of the Department of Agriculture and Forestry to all registrants, at the last address provided by the registrant, on or before November 15 and must be returned before January 1.

O. The record of all registrations shall be maintained by the Division of Weights and Measures and the director of the Division of Weights and Measures in its office in Baton Rouge.

P. Any registrant having a device registered under provisions of this regulation, and that is taken out of commercial use at the location shown on the application for registration, shall notify the commission's office in writing to remove said device from its records.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:158 (March 1987), amended LR 15:78 (February 1989), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), LR 23:

Interested persons should submit written comments on the proposed Rules to Ronnie Harrell through April 1, 1997, at 5835 Florida Boulevard, Baton Rouge, LA 70806. No preamble regarding these Rules is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bar Code Scanning Devices**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that implementation of this regulation will cost the state \$923,856 in fiscal year 1996-1997, \$1,516,281 in fiscal 1997-1998, and 1,552,393 in fiscal year 1998-1999.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that revenue collections to the state in the form of registration fees will be \$923,856 in fiscal year 1996-1997, \$1,516,281 in fiscal year 1997-1998, and \$1,552,393 in fiscal year 1998-1999. (Source of funds will be from registration fees, based on approximately 18,500 businesses at the lowest level of \$50 for FY 97. Registration is expected to increase in FY 98 and FY 99.)

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

It is estimated that each commercial entity which uses bar code scanning devices will incur costs between \$50 - \$150 per year in registration fees (fee based upon number of devices). It is estimated that costs to commercial entities which use bar code scanning devices will be \$923,856 in fiscal year 1996-1997, \$1,516,281 in fiscal year 1997-1998, and \$1,552,393 in fiscal year 1998-1999. (Estimate based on approximately 18,500 businesses at the lowest level registration fee of \$50 for FY 97, and with registration expected to increase in FY 98 and FY 99.) It is estimated that consumers will benefit from the enforcement program in the form of a reduction in overcharges.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that there will be no effect on competition and employment.

Richard Allen
Assistant Commissioner
9702#033

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of the Secretary**

**Emergency Airstrip for Agricultural
Purposes Program (LAC 7:I.107)**

In accordance with provisions of the Administrative Procedure Act, the Department of Agriculture and Forestry

proposes to adopt Rules setting forth a program to designate certain roads as airstrips to aid in the use of aircraft for agricultural purposes during agricultural emergencies.

These Rules comply with and are enabled by R.S. 3:18.

Title 7

AGRICULTURE AND ANIMALS

Part I. Administration

Chapter 1. Administrative Procedure

§107. Emergency Airstrip for Agricultural Purposes Program

A. Creation. There is hereby established within the Department of Agriculture and Forestry a program to designate certain roads as emergency airstrips to aid in the use of aircraft for agricultural purposes to be known as the "Emergency Airstrip for Agricultural Purposes Program."

B. Declaration of Emergency

1. The department may declare an agricultural emergency to exist which requires the use of portions of designated roads as airstrips for agricultural purposes when conditions are such that agricultural turf airstrips are rendered unavailable for safe use.

2. Each declaration of agricultural emergency shall be in writing and contain a declaration number, the date, and a list of the portions of designated roads which may be utilized as airstrips during the agricultural emergency.

3. The department shall provide a copy of the declaration to the sheriff and police jury for the parish in which each of the designated roads is located, and the aviation division of the State Department of Transportation and Development (hereinafter referred to as "DOTD") prior to utilization of the emergency airstrip. If the designated road is a state road, a copy of the declaration should also be provided to the communications center at State Police Headquarters and to the secretary of DOTD. If a designated road is located on the parish line, a copy of the declaration must be provided to the sheriff and police jury for both parishes.

4. The appropriate law enforcement entity as set forth in Subsection B.3 above shall be responsible for implementing security and safety requirements for road traffic during periods when a road designated for use as an emergency airstrip to aid in the use of aircraft for agricultural purposes is actually utilized for that purpose. At a minimum, the appropriate law enforcement entity shall have at least one officer at the site and signs shall be placed at each end and at all approach ramps of a designated road to notify persons that the road is designated for use as an emergency airstrip to aid in the use of aircraft for agricultural purposes. The officer will insure that whenever aircraft are in the process of landing, taking off, or taxiing, there shall be no movement of vehicles on the emergency airstrip or within 500 feet of each landing threshold of the emergency airstrip. The enforcement entity providing said officer shall have the option of cost recovery for services from the party requesting use of the emergency airstrip.

C. Designation of Roads

1. Upon declaration by the department that an agricultural emergency exists, certain roads, including but not limited to dead-end roads and strategically placed parish roads, may be designated by the department for use as airstrips to aid in the use of aircraft for agricultural purposes.

2. Whenever possible, the department shall pre-designate a portion of a road for use as an emergency agricultural airstrip for use in the event a declaration of an agricultural emergency is made by the department. The request for pre-designation must be made by mail or facsimile to the department and include the following information:

- a. location of the road marked on a topography map;
- b. reason for designation; and
- c. a statement that the road meets all the criteria set forth in Subsection C.3 or a statement setting forth the reasons why a waiver under Subsection C.4 should be issue.

3. Predesignated emergency agricultural airstrips shall be inspected and registered by DOTD Aviation using similar criteria as utilized by DOTD in the registration of an agricultural use permanent airstrip. The registration certificate shall be issued to and held by the department. The registered and designated airstrip shall be marked and signed as such. Persons seeking predesignation must contact the aviation division of DOTD for specifications regarding the appropriate marking and signage required for the registered and designated emergency airstrip.

4. The department may authorize use of airstrips which have not been pre-designated and registered with the aviation division of DOTD, on a case by case basis, when safety and aircraft performance would not be compromised by such waiver and the use of said road as an emergency agricultural airstrip is deemed necessary by the department. Any such airstrip authorized shall, at a minimum, meet all of the following:

- a. the surface must be flat and straight for a minimum distance to 2,000 feet;
- b. the width shall be a minimum of 20 feet for the full length of the landing area. Sufficient wing tip clearance shall be provided as required for the aircraft utilizing the emergency agricultural airstrip;
- c. there shall be no potholes or depressions greater than 3 inches in depth over the entire landing surface;
- d. there shall be no vertical obstructions such as utility poles, trees, buildings, road signs, mail boxes, etc., on more than one longitudinal side of the landing surface;
- e. there shall be no overhead obstructions such as utility lines, overpasses, bridges, etc., for the full length of the landing area and within 500 feet of each landing area threshold;
- f. each landing area threshold shall be marked in such a way as to be readily identified from an aircraft in flight (e.g., white or orange cones, buckets, or painted tires); and
- g. threshold markers shall be placed on either side of the landing area at the thresholds and shall be no taller than 24 inches.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:18.

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

All interested persons should submit written comments on the proposed Rules through close of business on April 1, 1997, to Larry LeJeune, Department of Agriculture and

Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806. No preamble concerning the proposed Rules is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Emergency Airstrip for
Agricultural Purposes Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State or local traffic officers may incur costs in implementing security and safety requirements for road traffic during periods when a road is used as an emergency airstrip; however, these costs may be recovered from the party requesting use of the road as an emergency agricultural airstrip at the rate of \$35 per hour for the first two hours then \$15 per hour thereafter, with the actual cost dependent upon the length of time the road is in use.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State or local traffic governmental units may have an increase in revenue due to payment in the form of reimbursement to those entities for costs incurred in implementing security and safety requirements for road traffic during periods when a road is used as an emergency airstrip. These costs may be recovered from the party requesting use of the road as an emergency agricultural airstrip at the rate of \$35 per hour for the first two hours then \$15 per hour thereafter, with the actual cost (revenue to governmental units) dependent upon the length of time the road is in use. This revenue should have a neutral effect on state or local traffic governmental units in that those units would have incurred costs in supplying the service.

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

The parties requesting use of the emergency airstrip may incur costs to state or local traffic officers to reimburse the cost of implementing security and safety requirements for road traffic during periods when a road is used as an emergency airstrip. It is estimated that such costs would be charged at the rate of \$35 per hour for the first two hours then \$15 per hour thereafter; therefore, actual cost to the party requesting use would depend on the length of time the road is in use. The parties requesting use of the emergency airstrip may incur an economic benefit in that the use of these emergency airstrips is designed to take place only when extreme weather or other factors have rendered the normal turf airstrips unusable. By allowing a landing area for agricultural use during these periods greatly reduces the cost of application to the farmer and reduces the loss of seeds and helps with crop management. All of these have a direct impact on the agricultural economy for that party.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Richard Allen
Assistant Commissioner
9702#032

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Deposit for Expenses (LAC 35:V.8305)

The Racing Commission hereby gives notice that it intends to amend LAC 35:V.8305, Deposit for Expenses, to provide for increased suspensive appeal deposits for individuals violating electrical device Rules.

Title 35

HORSE RACING

Part V. Racing Procedures

Chapter 83. Appeals to the Commission

§8305. Deposit for Expenses

A. A deposit of not less than \$50 nor more than \$500 may be required by the commission to defray the necessary expenses of witnesses called and necessary equipment required by the commission upon appeal to the commission by stewards' final rulings.

B. However, a deposit of \$1,000 shall be required by the commission upon appeal of a stewards' ruling pursuant to LAC 35:I.1706.

C. If the commission upholds the stewards' ruling, the commission shall retain the full deposit. If the commission finds in favor of the appellant, the deposit shall be returned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:144, R.S. 4:148 and R.S. 4:197.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 4:289 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 16:763 (September 1990), LR 23:

The domicile office of the Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact Paul D. Burgess, Executive Director; C. A. Rieger, Assistant Director; or Tom Trenchard, Administrative Manager, at (504)483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed Rule through Friday, March 7, 1997, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Paul D. Burgess
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Deposit for Expenses**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this action.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This action may or may not affect revenue collections. An increase in suspensive appeal deposits for electrical device violations could deter individuals from making suspensive appeals and/or violating the Rules, possibly reducing

collections. However, if the number of violations does not significantly decrease, an increase in the cost of each suspensive appeal would result in an overall increase to the state.

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

In conjunction with §1706 proposed for adoption, this action benefits all racing groups to a limited extent as an additional deterrent to possession/use of electrical devices. With the proposed increase for these specific violations, it will be even more costly for violators to appeal stewards' rulings and be able to (temporarily) get back on the racetrack. Keeping such individuals off the tracks improves the public's perception of racing, which encourages increased patronage, thereby maintaining or helping purses, breeder awards and handle, and distributions therefrom.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
9702#040

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Electric Battery Violation Penalties (LAC 35:I.1706)

The Racing Commission hereby gives notice that it intends to adopt LAC 35:I.1706, Electric Battery Violation Penalties, because of the need to establish concrete penalties for individuals violating Rules involving the possession and use of electrical devices on racetracks.

Title 35

HORSE RACING

Part I. General Provisions

**Chapter 17. Corrupt and Prohibited Practices
§1706. Electric Battery Violation Penalties**

A. Any person whom the commission finds to have violated, attempted to violate, or conspired to violate R.S. 4:175(D) and/or LAC 35:I.1705 as it pertains to an electrical or mechanical device or other expedient, shall be revoked and such person shall be ineligible for licensing for a period not less than five years from the date such revocation takes effect. The minimum penalty established herein shall not be diminished, reduced, suspended in whole or in part, or remitted except under conditions set forth herein below.

B. In addition to license revocation and a minimum period of ineligibility, the commission may fine the violator an amount not less than \$3,000 and not more than \$10,000, which fine must be paid within 30 days of the date on which the commission's decision becomes effective. If any fine is not timely paid, then the person shall remain ineligible for licensing for an indefinite period of time beyond the period imposed in Subsection A.

C. Upon imposition of the penalty by the commission, it shall, pursuant to R.S. 4:175(F), notify the district attorney for

the parish in which the violation occurred and formally request that the district attorney and its attorney institute a criminal prosecution.

D. The penalties imposed by the commission pursuant to Subsections A and B may only be diminished, reduced, suspended or remitted if the State Police Racing Investigations Unit, with the consent of the assistant attorney general, formally requests in writing that such penalties be modified for good cause. Such request must be made within 10 days of the commission's imposition of the penalty.

E. This Rule shall be applicable to all violations occurring on or after the date of adoption of this Rule.

F. Any licensed individual who refuses to answer under oath, for any reason whatsoever, any questions put to him during a deposition, hearing, or administrative investigation concerning such licensed individual's knowledge, awareness, use or possession of an electrical device, or of methods and practices engaged in by persons designing, manufacturing, creating, distributing or testing electrical devices shall be suspended by the stewards for six months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:175.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 23:

The domicile office of the Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact Paul D. Burgess, Executive Director; C. A. Rieger, Assistant Director; or Tom Trenchard, Administrative Manager, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed Rule through Friday, March 7, 1997, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Paul D. Burgess
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Electric Battery Violation Penalties

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This action may or may not affect revenue collections. The Commission has applied similar penalties as specified within the proposed Rule to violators in the past, so a new Rule could possibly discourage violators to a greater degree, thereby resulting in fewer fines. On the other hand, the Commission, with a new Rule intact, could possibly start applying higher fines than before because of the Commission's lower tolerance level. Also, over the years, fines have been adjusted upward due to inflation.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
By preventing these devices from being used on horses to "shock" them into racing faster and altering race results, the

benefit is a domino effect: the winners are "true" winners so their owners get the purses they deserve; the breeders get their breeder award money intended; patrons are assured their winning bets are returned as intended; and the racing associations' portion of the handle is guaranteed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action has no effect on competition or employment.

Paul D. Burgess
Executive Director
9702#042

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Racing Commission

Interstate Wagering (LAC 35:XIII.10379)

The Racing Commission hereby gives notice that it intends to adopt LAC 35:XIII.10379, Authority to Grant Permission for Interstate Wagering, to simplify and quicken the approval process for simulcast wagering requests from racing associations.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 103. Pari-Mutuels

§10379. Authority to Grant Permission for Interstate Wagering

The chairman is authorized to grant permission for any request for interstate simulcasting whenever he finds that there is not impediment to the request by virtue of federal or state law, that there is no conflict with the Rules or polices of the commission regarding such permission, and that such permission is in the best interest of racing in Louisiana. Any such action on the part of the chairman, or a duly authorized vice-chairman acting in his place, shall not require further ratification by the commission. Any such action taken pursuant to this Rule shall constitute the consent of the commission pursuant to 15 U.S.C. Section 3004(a)(2) or (3), whichever is applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149 and R.S. 4:149.3.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 23:

The domicile office of the Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact Paul D. Burgess, Executive Director; C. A. Rieger, Assistant Director; or Tom Trenchard, Administrative Manager, at (504) 483-4000 (LINC 8-635-4000), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed Rule through Friday, March 7, 1997, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Paul D. Burgess
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Interstate Wagering

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This action does not affect revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action benefits the associations and patrons as well as the Commission itself by allowing the Chairman to grant permission for interstate simulcasting/wagering without the necessity of the Commission hearing the matter. This action will basically save time and effort and shorten the approval process.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
9702#041

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Method of Payments (LAC 35:XIII.10367)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:XIII.10367, "Method of Payments," in conjunction with the proposed Rule amendment (§10365) involving the reduction of payoffs in a minus pool from \$1.10 to \$1.05 on each \$1 wager.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 103. Pari-Mutuels

§10367. Method of Payments

Payments due on all wagers shall be made in conformity with the well-established practice of the pari-mutuel system. Money wagered on winning tickets is returned in full plus the profits. The practice is to work in dollars and not in number of tickets. The break permitted by law is deducted in all of the calculations which are necessary to arrive at the payoff prices, i.e., the odd cents over any multiple of \$.10 of winnings per dollar wagered, except in the case of a minus pool, as provided in §10365.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:166 and R.S. 4:166.3.

HISTORICAL NOTE: Adopted by the Louisiana State Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:441 (December 1976), repromulgated LR 3:37 (January 1977), LR 4:282 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 23:

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4 p.m., and interested

parties may contact Paul D. Burgess, Executive Director; C. A. Rieger, Assistant Director; or Tom Trenchard, Administrative Manager, at (504)483-4000 or by FAX (504)483-4898, holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed Rule through Friday, March 7, 1997, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Paul D. Burgess
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Method of Payments

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This action does not affect revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
In conjunction with proposed Rule amendment §10365, this action adds an exception clause in §10367 regarding minus pool minimum payoffs (changes from \$1.10 to \$1.05 on each \$1 wager) and breakage. This action protects the financial interests of licensed racing associations from adverse financial impacts arising from the increasing frequency of minus pools. [Minus or negative pools are when insufficient bets are collected to cover payouts, resulting in a negative balance in that betting pool of money.] This will also permit the continued acceptance of "show" (third place) bets in a short field. Unless the minimum payoff on the minus pools is reduced from \$1.10 to \$1.05 on the dollar, associations will be negatively impacted. This action is consistent with developments in other racing jurisdictions. The only cost, if any, will be for the associations to reprogram their totalisator machines to make the calculation change.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
9702#038

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Pari-Mutuel Pool (LAC 35:XIII.10365)

The Racing Commission hereby gives notice that it intends to amend LAC 35:XIII.10365, Association's Deduction from Pari-Mutuel Pool, by reducing the minimum payoff in a negative ("minus") wagering pool from \$1.10 to \$1.05 on each \$1 wager.

Title 35
HORSE RACING
Part XIII. Wagering

Chapter 103. Pari-Mutuels

§10365. Association's Deduction from Pari-Mutuel Pool

The commission deducted by the association from pari-mutuel pools shall not exceed that percentage which is provided by law of the gross amount of money handled and the odd cents over any multiple of \$0.10 of winnings per dollar wagered. All associations licensed by the commission to conduct racing under the pari-mutuel or certificate system of wagering must in all cases of a minus pool, pay off \$1.05 on each \$1 wager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:166 and R.S. 4:166.3.

HISTORICAL NOTE: Adopted by the Louisiana State Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:441 (December 1976), repromulgated LR 3:37 (January 1977), LR 4:282 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 23:

The domicile office of the Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact Paul D. Burgess, Executive Director; C.A. Rieger, Assistant Director; or Tom Trenchard, Administrative Manager, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed Rule through Friday, March 7, 1997, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Paul D. Burgess
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pari-mutuel Pool**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This action does not affect revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action protects the financial interests of licensed racing associations from adverse financial impacts arising from the increasing frequency of minus pools. [Minus or negative pools are when insufficient bets are collected to cover payouts, resulting in a negative balance in that betting pool of money.] This will also permit the continued acceptance of "show" (third place) bets in a short field. Unless the minimum payoff on the minus pools is reduced from \$1.10 to \$1.05 on the dollar, associations will be negatively impacted. This action is consistent with developments in other racing jurisdictions. The only cost, if any, would be that to the associations to reprogram their totalisator machines to make the calculation change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
9702#039

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Math Graduation Requirements

In accordance with R. S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, revisions to Bulletin 741, Mathematic Requirements for High School Graduation.

MATHEMATICS

Shall be selected from the following courses and may include a maximum of two entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

3 units

Program of Studies

MATHEMATICS

2.105.17 Effective for 1997-98 incoming freshmen and thereafter, three units of mathematics shall be required for graduation. They shall be selected from the following courses and may include a maximum of two entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

HONOR'S CURRICULUM

(Effective for incoming freshmen 1997-98 and thereafter)

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

MATHEMATICS **4 Units**
Algebra I or Applied Mathematics I and II;
Algebra II; Geometry or Applied Geometry; and one additional unit to be selected from Pre-Calculus, Calculus, Advanced Mathematics I or II

NATURAL SCIENCE **3 Units**
Biology; Chemistry; and Environmental Science,
Physics or Physics of Technology

SOCIAL STUDIES	3 Units
United States History; World History; and World Geography or Western Civilization	
FREE ENTERPRISE	½ Unit
CIVICS	½ Unit
FINE ARTS SURVEY	1 Unit
Any two units of credit in band, orchestra, choir, dance, art or drama may be substituted for one unit of Fine Arts Survey	
FOREIGN LANGUAGE (in same language)	2 Units
PHYSICAL EDUCATION	2 Units
ELECTIVES	<u>4 Units</u>
TOTAL	24 Units

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. April 14, 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 741—Math Graduation Requirements

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Cost to Local Systems: Implementation costs will vary depending upon the number of new courses initiated throughout the 66 parish/city school systems. It is unknown at this time how many new courses will be implemented.

Cost to State Department of Education: The cost to the State Department of Education will be approximately \$31,000 to pay expenses for consultants, teachers, and supervisors to develop model course syllabi (course guidelines) and provide staff development.

BESE-estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$140. Funds are available.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state or local governmental units will not be affected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The cost (texts, staff, and materials) to implement specific courses in each system will be the burden of individual school systems. These costs will vary depending upon the number of courses that are initiated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Marlyn Langley
Deputy Superintendent
9702#047

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Ancillary
Counselor for K-12 Certification

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement certification requirements for Ancillary Counselor K-12 and Counselor K-12. The proposed certification requirements will be placed in Bulletin 746, Standards for State Certification of School Personnel. These revisions are mandatory September 1, 2001.

Ancillary Counselor K-12

1. Counselor in the School Setting. An applicant who meets the following requirements may be issued an Ancillary Counselor K-12 certificate.

The applicant must hold a master's degree in school counseling from a regionally accredited institution or a master's degree with the equivalent hours and courses required for a master's degree in school counseling. The graduate training must include a total of 24 semester hours of professional courses distributed so that at least one course will be taken in each of the basic areas listed below.

- a. Principles and Administration of School Counseling Programs
- b. Career and Lifestyle Development
- c. Individual Appraisal
- d. Counseling Theory and Practice
- e. Group Processes
- f. Human Growth and Development
- g. Social and Cultural Foundations in Counseling
- h. Supervised Practicum in a School Setting

2. Professional Counselor in the School Setting. An Ancillary Professional Counselor certificate may be issued to an applicant who has met the requirements for counselor in the school setting and holds current licensure as a Licensed Professional Counselor in Louisiana (LPC) in accordance with Act 892 L.S. 1987 et seq.

NOTE: An applicant who holds a Louisiana teaching certificate and meets all other requirements listed above may be issued an endorsement for Counselor K-12 or Professional Counselor K-12. Refer to Part VIII, Administrators, Supervisors and Special Service Personnel, of this Bulletin 746.

Counselor K-12

1. Counselor in the School Setting. An applicant who holds a valid Louisiana teaching certificate and meets the following requirements may be issued an endorsement for counselor in the school setting.

The applicant must hold a master's degree in school counseling from a regionally accredited institution or a master's degree with the equivalent hours and courses required for a master's degree in school counseling. The graduate training must include a total of 24 semester hours of professional courses distributed so that at least one course will be taken in each of the basic areas listed below.

- a. Principles and Administration of School Counseling Programs

- b. Career and Lifestyle Development
- c. Individual Appraisal
- d. Counseling Theory and Practice
- e. Group Processes
- f. Human Growth and Development
- g. Social and Cultural Foundations in Counseling
- h. Supervised Practicum in a School Setting

2. Professional Counselor in the School Setting. A professional endorsement may be issued to an applicant who has met the requirements for counselor in the school setting and holds current licensure as a Licensed Professional Counselor in Louisiana (LPC) in accordance with Act 892 L.S. 1987 et seq.

NOTE: An applicant who does not hold a Louisiana teaching certificate but meets all other requirements listed above may be issued an Ancillary Counselor K-12 or Professional Counselor K-12 certificate. Refer to Part IX, Ancillary Personnel, of this Bulletin 746.

Interested persons may submit comments on the proposed certification requirements until 4:30 p.m., April 14, 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—Ancillary Counselor
or K-12 Certification**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The adoption of this proposed Rule 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 the fiscal and economic impact statement in the *Louisiana Register* is approximately \$100. Funds are available.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed Rule will have no effect on revenue collections.

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

There will be no costs to directly affected persons or nongovernmental groups. The proposed Rule will enable counselors who meet the new requirements to be certified to serve in grades K-12.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

The proposed Rule will provide additional employment opportunities for counselors who will receive certification for grades K-12 rather than the current endorsements which are restricted to the elementary or secondary level. In addition, the ancillary certification will increase the supply of counselors by providing K-12 counselors who meet the course requirements in counselor education but are not certified as teachers.

Marlyn Langley
Deputy Superintendent
9702#048

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Particulate Matter Standards
(LAC 33:III.1311)(AQ148)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.1311 (AQ148).

This revision clarifies the requirements for all processes and the requirements for fluid catalytic cracking units. Section 1311 applies to all processes. Subsection D of §1311 applies to fluid catalytic cracking units and is identical to New Source Performance Standards. This revision is necessary in order to distinguish the requirements for fluid catalytic cracking units from the requirements for all other processes. It is also necessary in order to clarify that the opacity requirement for all fluid catalytic cracking units is 30 percent (consistent with NSPS), and not a more stringent 20 percent as the previous language stated.

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

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

**Chapter 13. Emission Standards for Particulate
Matter (Including Standards for Some
Specific Facilities)**

Subchapter B. Reserved

§1311. Emission Limits

[See Prior Text in A-B]

C. The emission of particulate matter from any source other than sources covered under Subsection D of this Section shall be controlled so that the shade or appearance of the emission is not denser than 20 percent average opacity (see Table 4, Chapter 15); except the emissions may have an average opacity in excess of 20 percent for not more than one six-minute period in any 60 consecutive minutes.

D. Fluid Catalytic Cracking Units. No owner or operator shall discharge or cause the discharge into the atmosphere from any new or existing fluid catalytic cracking unit catalyst regenerator gases exhibiting greater than 30 percent opacity, except for one six-minute average opacity reading in any one-hour period.

[See Prior Text in E-G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:

A public hearing will be held on March 27, 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 please contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ148. Such comments should be submitted no later than April 3, 1997, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70810 or to FAX (504)765-0486.

This proposed regulation is available for inspection from 8 a.m. until 4:30 p.m. at the following DEQ office locations: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first 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.

Gus Von Bodungen
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Particulate Matter Standards

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No costs or savings will accrue to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will not be any effect on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no cost or economic benefit to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will not be any effect on competition and employment.

Gus Von Bodungen
Assistant Secretary
9702#016

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Marathon Oil Delisting Petition
(LAC 33:V.105 and Chapter 49.Appendix E)
(HW057)

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 Hazardous Waste Division regulations, LAC 33:V.105.M and Chapter 49.Appendix E (HW057).

Marathon Oil is petitioning to exclude from the hazardous waste regulations (delist) the residual solids resulting from thermal desorption recycling of process solids generated at Marathon's refinery in Garyville, Louisiana. The department is required by the Administrative Procedure Act and the Louisiana hazardous waste regulations to process petitions for delisting by formal rulemaking.

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 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 of 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-M.1]

a. the petitioner must demonstrate to the satisfaction of the administrative authority that the waste produced by a particular generating facility does not meet any of the criteria under which the waste was listed as a hazardous or an acutely hazardous waste;

b. based on a complete application, the administrative authority must determine, where he has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the

waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A waste which is so excluded, however, still may be a hazardous waste by operation of LAC 33:V.4903; and

c. facilities that have successfully petitioned are listed in LAC 33:V.Chapter 49.Appendix E.

* * *

[See Prior Text in M.2-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:

Chapter 49. Lists of Hazardous Wastes

Appendix E. Wastes Excluded Under LAC 33:V.105.M

Table I - Wastes Excluded	
Facility	Address
Marathon Oil Co.	Garyville, LA
Waste Description	
Residual solids generated from the thermal desorption treatment of the following wastes: EPA Hazardous Waste Number K048, dissolved air flotation (DAF) float; K049, slop oil emulsion solids; K050, heat exchanger bundle cleaning sludge; K051, American Petroleum Institute (API) separator sludge; F037, primary oil/water/solids separation sludge; and F038, secondary emulsified oil/water/solids separation sludge. The constituents of concern for K048-K050, F037, and F038 wastes are listed as hexavalent chromium and lead (see LAC 33:V. 4901). Marathon must implement a testing program that meets the following conditions for the exclusion to be valid:	
(1) - Testing: Sample collection and analyzes, including quality control (QC) procedures, must be performed according to methodologies described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication Number SW-846, as incorporated by reference in LAC 33:V.110. If the department judges the desorption process to be effective under the operating conditions used during the initial verification testing, Marathon may replace the testing required in condition (1)(A) with the testing required in condition (1)(B). Marathon must continue to test as specified in condition (1)(A) until and unless notified by the department in writing that testing in condition (1)(A) may be replaced by condition (1)(B), or that testing requirements may be reduced or terminated as described in conditions(1)(C) and (1)(D) to the extent directed by the department.	

(1)(A) - Initial Verification Testing:

During at least the first four weekly operating periods of full-scale operation of the thermal desorption unit, Marathon must monitor the operating conditions of the thermal desorption unit to maintain a minimum residual solids temperature throughout the high temperature unit of 870 ° F. The residual solids must be analyzed as weekly composites. The weekly composites must be composed of a minimum of two representative grab samples from each operating day during each weekly period of operation. The samples must be analyzed for the constituents listed in condition (3) prior to disposal of the residual solids. Marathon must report the operational and analytical test data, including quality control information, obtained during this initial period, no later than 90 days after initiating full-scale processing.

(1)(B) - Subsequent Verification Testing:

Following notification of approval by the department, Marathon may substitute the following testing conditions for those in condition (1)(A). Marathon must continue to monitor operating conditions and analyze samples representative of each month of operation. The samples must be composed of eight representative samples from randomly chosen operating days during the four week period of operation of each month. These monthly representative composite samples must be analyzed for the constituents listed in condition (3) prior to the disposal of the residual solids. Marathon may, at its discretion, analyze composite samples gathered more frequently to demonstrate that smaller batches of waste are nonhazardous.

(1)(C) - Termination of Monthly Organic Testing:

Marathon must continue to monitor unit operating conditions and perform testing as required under condition (1)(B), for the constituents listed in condition (3)(B), until the analyzes submitted under condition (1)(B) show a minimum of three consecutive monthly representative samples with levels of constituents significantly below delisting levels listed in condition (3)(B). Following notification of approval by the department, Marathon may terminate monthly testing for the organic constituents found in condition (3)(B). Following termination of monthly testing for organic constituents, Marathon must test a representative composite sample, composited over a one week time period, for all constituents listed in condition (3)(B) on a quarterly basis. If delisting levels for any organic constituents listed in condition (3)(B) are exceeded in the quarterly sample, Marathon must re-institute testing as required in condition (1)(B).

(1)(D) - Termination of Monthly Inorganic Testing:

Marathon must continue to monitor unit operating conditions and perform testing as required under condition (1)(B), for the constituents listed in condition (3)(A), until the analyzes submitted under condition (1)(B) show a minimum of three consecutive monthly representative samples with levels of constituents significantly below delisting levels listed in condition (3)(A). Following notification of approval by the department, Marathon may terminate monthly testing for the inorganic constituents found in condition (3)(A). Following termination of monthly testing for inorganic constituents, Marathon must test a representative composite sample, composited over a one week time period, for all constituents listed in condition (3)(A) on a quarterly basis. If delisting levels for any inorganic constituents listed in condition (3)(A) are exceeded in the quarterly sample, Marathon must re-institute testing as required in condition (1)(B).

(2) - Waste Holding and Handling:

Marathon must store as hazardous wastes all residual solids generated until each batch has completed verification testing, as specified in conditions (1)(A) - (1)(D), and has satisfied the delisting criteria, as specified in condition (3). If the levels of constituents in the samples of residual solids are below all of the applicable levels set forth in condition (3), then the residual solids thereby become nonhazardous solid wastes and may be managed and disposed of in accordance with all applicable solid waste regulations. If constituent levels in any weekly composite or other representative sample equal or exceed any of the delisting levels set in condition (3), the residual solids generated during the corresponding period must be retreated to meet the delisting levels or managed and disposed of in accordance with subtitle C of RCRA.

(3) - Delisting Levels:

The following delisting levels have been determined safe by taking into account health-based criteria and limits of detection. Concentrations in conditions (3)(A) and (3)(B) must be measured in the extract from the samples by the method specified in LAC 33:V. 4903.E. Concentrations in the extract must be less than the following levels (all units are milligrams per liter):

(3)(A) - Inorganic Constituents:
 Antimony - 0.22; Arsenic - 0.40; Barium - 36; Beryllium - 0.0030;
 Cadmium - 0.18; Chromium - 1.8; Lead - 0.54; Mercury - 0.072; Nickel -
 2.5; Selenium - 0.36; Silver - 1.8; Vanadium - 7.2.

(3)(B) - Organic Constituents:
 Acenaphthene - 72; Benzene - 0.013; Benzo(a)anthracene - 0.050;
 Benzo(a)pyrene - 0.050; Benzo(b)fluoranthrene - 0.050; Bis(2-
 ethylhexyl)phthalate - 0.11; Chrysene - 0.33; Ethyl benzene - 25;
 Fluoranthrene - 36; Fluorene - 36; Naphthalene - 54; Pyrene - 36; Toluene -
 27.

(4) - Changes in Operating Conditions:
 After completing the initial verification test period in condition (1)(A), if
 Marathon significantly changes the operating conditions specified in the
 petition, Marathon must notify the department in writing. Following
 receipt of written approval by the department, Marathon must re-institute
 the testing required in condition (1)(A) for a minimum of four weekly
 operating periods. Marathon must report unit operating conditions and test
 data required by condition (1)(A), including quality control data, obtained
 during this period no later than 60 days after the changes take place.
 Following written notification by the department, Marathon may replace
 testing condition (1)(A) with (1)(B). Marathon must fulfill all other
 requirements in condition (1).

(4)(A) - Processing Equipment:
 Marathon may elect to change thermal desorption processing equipment
 based on operational performance and economic considerations. In the
 event that Marathon changes operating equipment, i.e., generic thermal
 desorption units, Marathon must re-institute processing and initiate testing
 required in condition (1)(A) for a minimum of four weekly operating
 periods. Marathon must report unit operating conditions and test data
 required in condition (1)(A), including quality control data, obtained during
 this period no later than 60 days after the changes take place. Following
 written notification by the department, Marathon may replace testing
 condition (1)(A) with (1)(B). Marathon must fulfill all other requirements
 in condition (1).

(4)(B) - Batch Processing:
 Marathon may periodically elect to change operating conditions to
 accommodate batch processing of single event waste generations. In the
 event that Marathon initiates batch processing and changes the operating
 conditions established under condition (1), Marathon must re-institute the
 testing required in condition (1)(A) during such batch processing events
 and monitor unit operating conditions and perform testing required by
 condition (1)(A), as appropriate. Following the completion of batch
 processing operations, Marathon must return to the operating conditions
 applicable prior to initiation of the batch processing and may return to the
 testing conditions that were applicable prior to the initiation of the batch
 processing activities.

(5) - Data Submittal:
 Marathon must notify the department in writing at least two weeks prior to
 initiating condition (1)(A). The data obtained during condition (1)(A) must
 be submitted to the Assistant Secretary of the Office of Solid and
 Hazardous Waste, LDEQ, 7290 Bluebonnet Road, Baton Rouge, LA 70810,
 within the specified 90 days. Records of operating conditions and
 analytical data from condition (1) must be compiled, summarized, and
 maintained on-site for a minimum of five years. These records and data
 must be furnished upon request by the department and made available for
 inspection. Failure to submit the required data within the specified time
 period or failure to maintain the required records on-site for the specified
 time will be considered by the department, at its discretion, sufficient basis
 to revoke the exclusion. All data must be accompanied by a signed copy
 of the following certification statement to attest to the truth and accuracy
 of the data submitted:

"I certify under penalty of law that I have personally examined and am
 familiar with the information submitted in this demonstration and all attached
 documents, and that, based on my inquiry of those individuals immediately
 responsible for obtaining the information, I believe that the submitted
 information is true, accurate, and complete. I am aware that there are
 significant penalties for submitting false information, including the possibility
 of fine and imprisonment.

In the event that any of this information is determined by the department,
 in its sole discretion, to be false, inaccurate, or incomplete, and upon
 conveyance of this fact to the company, I recognize and agree that this
 exclusion of waste will be void as if it never had been in effect."

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:

A public hearing will be held on March 27, 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 please contact Patsy Deaville at the address given
 below or at (504)765-0399.

All interested persons are invited to submit written
 comments on the proposed regulations. Commentors should
 reference this proposed regulation by HW057. Such
 comments should be submitted no later than April 3, 1997, at
 4:30 p.m., to Patsy Deaville, Investigations and Regulation
 Development Division, Box 82282, Baton Rouge, LA 70810
 or to FAX (504)765-0486.

This proposed regulation is available for inspection from 8
 a.m. until 4:30 p.m. at the following DEQ office locations:
 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA
 70810; 804 Thirty-first 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.

H. M. Strong
 Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
 FOR ADMINISTRATIVE RULES
 RULE TITLE: Marathon Oil Delisting Petition**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
 STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 Marathon Oil is requesting delisting of its wastewater
 sludges. There is no additional cost to state government to
 process this request since the personnel are already in place. If
 the request is approved, oversight will shift from the Hazardous
 Waste Division to the Solid Waste Division, so there will not be
 any implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
 STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 The state will lose \$45,000/year in hazardous waste disposal
 taxes if wastewater sludges are delisted.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
 TO DIRECTLY AFFECTED PERSONS OR
 NONGOVERNMENTAL GROUPS (Summary)
 Marathon Oil will save about \$130,000/year by being able to
 dispose of the wastewater sludges as solid waste rather than
 hazardous waste. However, since the waste would now be
 disposed of in a Subtitle D landfill, the landfill operator would
 enjoy an increase of \$55,000/year in business. (The waste is
 currently managed at Marathon Oil's land treatment unit so no
 outside hazardous waste disposer would be affected.) The lab
 that does Marathon's testing would get \$25,000/year less
 business since solid waste disposal would not require as much

testing. But transporters would enjoy an increase of \$25,000/year in hauling fees. Presumably, employees now working at the land-treatment unit would be shifted to other duties within the refinery.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Reducing operating costs makes Marathon Oil slightly more competitive. But the cost savings are so small in relation to the operating costs of the refinery that the effects are insignificant. There are marginal effects for the laboratory, the Subtitle D landfill, and the transporter industries. The effects on competition and employment are negligible.

H. M. "Mike" Strong
Assistant Secretary
9702#015

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Waste Tire Remediation Agreements (LAC 33:VII.10536)(SW023)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste Division regulations, LAC 33:VII.10536(SW023).

This Rule provides for a mechanism by which the state can enter into contracts with waste tire processors for the cleanup of promiscuous/unauthorized tire piles in parishes that have elected not to pursue contracts for these cleanups. These waste tire piles create environmental and health-related problems and pose a significant threat to the safety of the community should a fire occur. The elimination of breeding areas for mosquitoes caused by waste tire piles will reduce the exposure to these insects and the serious health problems associated therewith.

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 VII. Solid Waste

Subpart 2. Recycling

Chapter 105. Waste Tires

§10536. Cleanup of Promiscuous/Unauthorized Tire Piles

* * *

[See Prior Text in A-F]

G. The department may enter into agreements with processors holding either a standard waste tire processing permit or a mobile processor authorization certificate for the remediation of promiscuous/unauthorized waste tire sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), LR 23:

A public hearing will be held on March 27, 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 please contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by SW023. Such comments should be submitted no later than April 3, 1997, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70810 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 Thirty-first 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.

H. M. Strong
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Waste Tire Remediation Agreements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs to state governmental units, as the job functions are already being performed. No local governmental units with solid waste facilities will be affected by the Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated effect on revenue collections of the state governmental unit will be zero, as the Rule only provides the state a method by which promiscuous/unauthorized tire piles may be cleaned up.

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

There will be no estimated costs to directly affected persons, as the Rule is only providing a method by which the state may enter into contracts with processors to clean up promiscuous/unauthorized tire piles in parishes that have elected not to pursue these cleanups themselves.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition or employment to facilities or individuals within the state.

H. M. Strong
Assistant Secretary
9702#014

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Environmental Quality Office of Water Resources Water Pollution Control Division

Louisiana Pollutant Discharge Elimination System
(LPDES) Program (LAC 33:IX.Chapter 23)(WP020)

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 Water Pollution Control Division regulations, LAC 33:IX.Chapter 23 (WP020).

The existing regulations contain incorrect citations and inadequate cross-references. Additionally, the existing regulations do not contain a definition for waters of the state, and the definition of pollutant does not match the statutory definition. The proposed Rule will clarify existing regulations by correction of errors, addition of statutory definitions, and addition of cross-references to Subchapter V. Language has also been added which clarifies that the state may terminate LWDPs permits in certain cases when a facility has both an LPDES and an LWDPs permit. The original intent of the regulations was to allow for termination of LWDPs permits under certain conditions; however, this intent was not clearly stated. The proposed regulations clarify this situation.

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 IX. Water Quality Regulations

Chapter 23. The Louisiana Pollutant Discharge Elimination System (LPDES) Program Subchapter A. Definitions and General Program Requirements

§2301. General Conditions

* * *

[See Prior Text in A - D.1]

2. for facilities with both valid NPDES and valid LWDPs permits, the NPDES permit shall become the LPDES permit and become enforceable under these regulations. The LWDPs permit will also remain in effect and be enforceable under these regulations until such time as it expires or is terminated;

3. for facilities with valid LWDPs permits only, the LWDPs permit shall remain in effect and be enforceable under these regulations until such time as the LWDPs permit expires or is terminated and an LPDES permit is issued; and

* * *

[See Prior Text in D.4 - E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

§2313. Definitions

The following definitions apply to LAC 33:IX.Chapter 23.Subchapters A-G. Terms not defined in this Section have the meaning given by the CWA. When a defined term appears in a definition, the defined term is sometimes placed in quotation marks as an aid to readers.

* * *

[See Prior Text]

New Discharger—any building, structure, facility, or installation:

* * *

[See Prior Text in (a) - (c)]

(d) which has never received a finally effective permit for discharges at that site. This definition includes an indirect discharger which commences discharging into waters of the state after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a site for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979, at a site under EPA's permitting jurisdiction for which it is not covered by an individual or general permit and which is located in an area determined by the EPA regional administrator in the issuance of a final permit to be an area of biological concern. In determining whether an area is an area of biological concern, the EPA regional administrator shall consider the factors specified in 40 CFR 125.122(a) (1)-(10). An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a new discharger only for the duration of its discharge in an area of biological concern.

* * *

[See Prior Text]

Pollutant—for the purposes of the Louisiana Pollutant Discharge Elimination System, as defined in the act, dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, except those regulated under the Atomic Energy Act of 1954, 42 U.S.C. 2011 et seq., as amended, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. For the purposes of the Louisiana Pollutant Discharge Elimination System, as defined in the act, *Pollutant* does not mean:

(a) water, gas, waste, or other material that is injected into a well for disposal in accordance with a permit approved by the Department of Natural Resources or the Department of Environmental Quality; or

(b) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state in which the well is located, and if the state determines that the injection or disposal will not result in the degradation of ground or surface water resources.

[See Prior Text]

Waters of the State—for purposes of the Louisiana Pollutant Discharge Elimination System, all surface waters within the state of Louisiana and, on the coastline of Louisiana and the Gulf of Mexico, all surface waters extending therefrom three miles into the Gulf of Mexico. For purposes of the Louisiana Pollutant Discharge Elimination System, this includes all surface waters that are subject to the ebb and flow of the tide, lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, impoundments of waters within the state of Louisiana otherwise defined as "waters of the United States" in 40 CFR 122.2, and tributaries of all such waters. *Waters of the State* does not include waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act, 33 U.S.C. 1251 et seq.

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

§2319. Effect of a Permit

A.1. Except for any toxic effluent standards and prohibitions imposed under Section 307 of the CWA and standards for sewage sludge use or disposal under 405(d) of the CWA, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with Sections 301, 302, 306, 307, 318, 403, and 405 (a)-(b) of the CWA. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in LAC 33:IX.2383, 2387, and 2769.

[See Prior Text in A.2 - C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

§2323. Confidentiality of Information

[See Prior Text in A - B]

C. Additional information concerning nondisclosure of confidential information is found in LAC 33:I.Chapter 5 and LAC 33:IX.2763.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), as amended LR 23:

Subchapter B. Permit Application and Special LPDES Program Requirements

§2331. Application for a Permit

[See Prior Text in A - F.6.i]

7. a topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste

treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area;

8. a brief description of the nature of the business; and

9. additional application requirements in LAC 33:IX.2765.A.

G. Application Requirements for Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers. Existing manufacturing, commercial mining, and silvicultural dischargers applying for LPDES permits, except for those facilities subject to the requirements of Subsection H of this Section, shall provide the following information to the state administrative authority, using application forms provided by the state administrative authority:

1. Outfall Location. The latitude and longitude to the nearest 15 seconds and the name of the receiving water. Additional outfall location requirements are found in LAC 33:IX.2765.B.

[See Prior Text in G.2 - G.13]

H. Application Requirements for Manufacturing, Commercial, Mining and Silvicultural Facilities Which Discharge Only Nonprocess Wastewater. Except for stormwater discharges, all manufacturing, commercial, mining and silvicultural dischargers applying for LPDES permits which discharge only nonprocess wastewater not regulated by an effluent limitations guideline or new source performance standard shall provide the following information to the state administrative authority, using application forms provided by the state administrative authority:

1. Outfall Location. Outfall number, latitude and longitude to the nearest 15 seconds, and the name of the receiving water. Additional outfall location requirements are found in LAC 33:IX.2765.B.

[See Prior Text in H.2 - J.4]

K. Application Requirements for New Sources and New Discharges. New manufacturing, commercial, mining and silvicultural dischargers applying for LPDES permits (except for new discharges of facilities subject to the requirements of Subsection H of this Section or new discharges of storm water associated with industrial activity which are subject to the requirements of LAC 33:IX.2341.C.1 and this Section [except as provided by LAC 33:IX.2341.C.1.b]) shall provide the following information to the state administrative authority, using the application forms provided by the state administrative authority:

1. Expected Outfall Location. The latitude and longitude to the nearest 15 seconds and the name of the receiving water. Additional outfall location requirements are found in LAC 33:IX.2765.B.

[See prior Text in K.2 - Footnote 1]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

Subchapter C. Permit Conditions

§2355. Conditions Applicable to All Permits

The following conditions apply to all LPDES permits. Additional conditions applicable to LPDES permits are in LAC 33:IX.2357. All conditions applicable to LPDES permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved state regulations) must be given in the permit.

[See Prior Text in A - C]

D. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. Additional requirements are found in LAC 33:IX.2771.

[See Prior Text in E - I.4]

5. perform such additional requirements for inspection and entry as are found in LAC 33:IX.2773.

[See Prior Text in J - J.3.d]

- e. the analytical techniques or methods used;
- f. the results of such analyses; and
- g. additional information found in LAC 33:IX.2775.

[See Prior Text in J.4 - L.6.a]

- b. The following shall be included as information which must be reported within 24 hours under this Paragraph:
 - i. any unanticipated bypass which exceeds any effluent limitation in the permit (see Subsection M.3.b of this Section);
 - ii. any upset which exceeds any effluent limitation in the permit; and

[See Prior Text in L.6.b.iii - M.3.a]

b. Unanticipated Bypass. The permittee shall submit notice of an unanticipated bypass as required in LAC 33:IX.2355.L.6 (24-hour notice). Additional reporting requirements are found in LAC 33:IX.2777.A.

[See Prior Text in M.4 - N.3.b]

c. the permittee submitted notice of the upset as required in LAC 33:IX.2355.L.6.b.ii (24-hour notice). (Additional reporting requirements are found in LAC 33:IX.2777.B); and

[See Prior Text in N.3.d - N.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

§2361. Establishing Limitations, Standards, and Other Permit Conditions

In addition to the conditions established under LAC 33:IX.2359.A, each LPDES permit shall include conditions meeting the following requirements when applicable.

[See Prior Text in A - H]

I. Monitoring Requirements. In addition to LAC 33:IX.2369, the following monitoring requirements:

[See Prior Text in I.1 - Q]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

Subchapter D. Transfer, Modification, Revocation and Reissuance, and Termination of Permits

§2383. Modification or Revocation and Reissuance of Permits

When the state administrative authority receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see LAC 33:IX.2355), receives a request for modification or revocation and reissuance under LAC 33:IX.2407, or conducts a review of the permit file) he or she may determine whether or not one or more of the causes listed in Subsections A and B of this Section for modification or revocation and reissuance or both exist. If cause exists, the state administrative authority may modify or revoke and reissue the permit accordingly, subject to the limitations of LAC 33:IX.2407.C and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term (see LAC 33:IX.2407.C.2). If cause does not exist under this Section or LAC 33:IX.2385, the state administrative authority shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in LAC 33:IX.2385 for minor modifications the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in 40 CFR part 124 (or procedures of an approved state program) followed.

[See Prior Text in A - A.6]

7. Reopener. When required by the reopener conditions in a permit, which are established in the permit under LAC 33:IX.2361.C (for CWA toxic effluent limitations and standards for sewage sludge use or disposal, see also LAC 33:IX.2361.B) or 2719.E (pretreatment program).

[See Prior Text in A.8 - A.18]

B. Causes for Modification or Revocation and Reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit:

1. cause exists for termination under LAC 33:IX.2387 or 2769, and the state administrative authority determines that modification or revocation and reissuance is appropriate;

[See Prior Text in B.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

§2387. Termination of Permits

[See Prior Text in A - A.2]

3. a determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination;

4. a change in any condition that requires either a temporary or a permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW); or

5. additional causes of termination contained in LAC 33:IX.2769.

[See Prior Text in B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

Subchapter E. General Program Requirements

§2407. Modification, Revocation and Reissuance, or Termination of Permits

A. Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the state administrative authority's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in LAC 33:IX.2383, 2387, or 2769. All requests shall be in writing and shall contain facts or reasons supporting the request.

[See Prior Text in B.1 - B.3]

C. If the state administrative authority tentatively decides to terminate a permit under LAC 33:IX.2387 or 2769, he or she shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under LAC 33:IX.2409. In the case of EPA-issued permits, a notice of intent to terminate shall not be issued if the EPA regional administrator and the permittee agree to termination in the course of transferring permit responsibility to an approved state under 40 CFR 123.24(b)(1) (NPDES), or 501.14(b)(1)(Sludge).

[See Prior Text in D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

§2413. Fact Sheet

[See Prior Text in A - B.7]

8. provisions satisfying the requirements of LAC 33:IX.2445; and

9. additional requirements found in LAC 33:IX.2779.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

§2415. Public Notice of Permit Actions and Public Comment Period

[See Prior Text in A - E]

F. Additional public notice requirements are found at LAC 33:IX.2781.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

Subchapter P. Criteria and Standards for Best Management Practices Authorized Under Section 304(e) of the Act

§2569. Best Management Practices Programs

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

[Comment: Additional technical information on BMPs and the elements of a BMP program is contained in a publication entitled "Guidance Manual for Developing Best Management Practices (BMP)." Copies may be obtained by written request to Office of Water Resource Center (mail code: 4100) Environmental Protection Agency, Washington, DC. 20460.]

[See Prior Text in C - F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

Subchapter S. Secondary Treatment Under the LPDES Program

§2651. Treatment Equivalent to Secondary Treatment

This Section describes the minimum level of effluent quality attainable by facilities eligible for treatment equivalent to secondary treatment (LAC 33:IX.2643. *Facilities Eligible for Treatment Equivalent to Secondary Treatment*) in terms of the parameters BOD₅, TSS and pH. All requirements for the specified parameters in LAC 33:IX.2651.A, B, and C shall be achieved except as provided for in LAC 33:IX.2647, or 2651.D, E, or F.

[See Prior Text in A - F.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

Subchapter T. General Pretreatment Regulations for Existing and New Sources of Pollution

§2727. Confidentiality

[See Prior Text in A - C]

D. Additional information concerning nondisclosure of confidential information is found in LAC 33:I.Chapter 5 and LAC 33:IX.2763.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

Subchapter V. Additional Requirements Applicable to the LPDES Program

§2767. Enforcement Actions

[See Prior Text in A - A.4]

5. fails to comply with any condition of the permit; or
6. fails to pay applicable fees under the provisions of LAC 33:IX.Chapter 13.

[See Prior Text in B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

§2769. Additional Requirements for Permit Renewal and Termination

[See Prior Text in A - C]

D. If a permittee has a valid LPDES permit, the state administrative authority may terminate the permittee's LWDPs permit upon its own initiative or at the request of the permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

§2777. Additional Requirements for Bypass and Upset Conditions

[See Prior Text in A]

B. Upset. Upon becoming aware of an upset, notice shall be submitted within 24 hours (LAC 33:IX.2355.N.3.c) unless an earlier notice is required in R.S. 30:2025(J) and/or 30:2076(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

§2781. Public Notice and Availability of Information

A. In addition to the requirements in LAC 33:IX.2415, publication of the notice one time in the newspaper(s) specified by the office and submission of proof of publication will be required. The costs of publication shall be borne by the applicant.

B. All recorded information (completed permit application forms, fact sheets, draft permits, or any public document) not classified as confidential information under R.S. 30:2030(A) and 30:2074(D) and designated as such in accordance with these regulations (LAC 33:IX.2323 and 2763) shall be made available to the public for inspection and copying in accordance with the Public Records Act, R.S. 44:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

Appendix N

Pollutants Eligible for a Removal Credit

I. Regulated Pollutants in 40 CFR Part 503 Eligible for a Removal Credit

[See Prior Text in Appendix N]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

A public hearing will be held on March 27, 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 please contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by WP020. Such comments should be submitted no later than April 3, 1997, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70810 or to FAX (504) 765-0486.

Assistant Secretary
Linda Korn Levy

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Louisiana Pollutant Discharge
Elimination System (LPDES) Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The purpose of the proposed Rule is to correct erroneous citations in existing language, to clarify the original intent of the regulation, and to add existing statutory definitions. There will be no costs or savings to state or local governmental units as a result of this Rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units as a result of this Rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefit to directly affected persons or nongovernmental groups as a result of this Rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposal will not have any known effect on competition or employment.

Linda Korn Levy
Assistant Secretary
9702#013

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Sanitary Code—Childhood Immunizations for Day Care and School Entry (Chapter II)

As mandated by Act Number 998 of the 1995 Regular Session, and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:953(B), under the authority of R.S. 40:5, the Department of Health and Hospitals, Office of Public Health proposes to amend the Louisiana Sanitary Code, Chapter II, as follows:

Chapter II Control of Diseases

2:025 Appropriate immunizations for age for regulatory purposes shall be determined using the current immunization schedule from the Advisory Committee for Immunization Practice (ACIP) of the United States Public Health Service. Compliance will be based on the individual having received an appropriate number of immunizations for his/her age of the following types:

a. vaccines which contain tetanus and diphtheria toxoids, including DTP, DtaP, DT, Td or combinations which include these components;

b. Polio vaccine, including OPV, eIPV, IPV, or combinations which include these components;

c. vaccines which contain measles antigen, including MMR and combinations which include these components.

A two-month period will be allowed from the time the immunization is due until it is considered overdue. Medical, religious, and philosophic exemptions will be allowed for compliance with regulations concerning day care attendees and school enterers. Only medical and religious exemptions will be allowed for compliance with regulations concerning public assistance recipients. A copy of the current Office of Public Health immunization schedule can be obtained by writing to the Immunization Program, Office of Public Health, 4747 Earhart Boulevard, Suite 107, New Orleans, Louisiana 70125 or by calling (504)483-1905 or toll free 1-800-251-2229.

2:025-1 Any child 18 years or under admitted to any day care center or residential facility shall have verification that the child has had all appropriate immunizations for age of the child according to the Office of Public Health schedule unless presenting a written statement from a physician stating that the procedure is contraindicated for medical reasons, or a written dissent from parents. The operator of any day care center shall report to the state health officer through the health unit of the parish or municipality where such day care center is located any case or suspected case of reportable disease. Health records, including immunization records, shall be made available during normal operating hours for inspection when requested by the state health officer. When an outbreak of a communicable disease occurs in a day care center or residential facility, the operator of said day care

center or residential facility shall comply with outbreak control procedures as directed by the state health officer.

2:025-2 On or before October 1 of each year, the operator of each day care center, nursery school, or residential facility enrolling or housing any child 18 years or under, shall submit a preliminary immunization status report of all children enrolled or housed as of that date. Forms for submittal shall be provided by the state health officer, and shall include identifying information for each child, and for each dose of vaccine received by the child since birth. Any child exempt from the immunization requirement shall also be identified, and the reason for exemption given on the form. After review of the form(s) by the state health officer or his or her designee, the day care center, nursery school, or residential facility operator will notify, on or before December 31 of each year, the parent or guardian of all enrolled or housed children who are not compliant with the immunization requirement of Sections 2:025 and 2:025-1 of this Code.

Interested persons may submit written comments or questions to Dr. Meg Lawrence, Medical Director, Immunization Program, Office of Public Health, Box 60630, New Orleans, LA 70160.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Determining Appropriate Childhood Immunizations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The total estimated implementation costs will be \$810 which includes \$60 for printing associated with publication of this Rule. Additional costs for FY 96-97 will be \$750 which includes \$150 for informational handouts to be paid by DSS and \$600 for staff time to be paid by OPH, FY 97-98 and FY 98-99 costs will be \$250 which includes \$150 for informational handouts to be paid by DSS and \$100 for staff time to be paid by OPH.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

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

Children of public assistance recipients will be immunized in a more timely manner. No significant decrease in public assistance payments are expected, since parents in other states with similar laws have chosen to have children immunized on time rather than lose benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Bobby P. Jindal
Secretary
9702#068

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

Eligibility of Aliens

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

The Personal Responsibility and Work Opportunity Act of 1996 (PL. 104-193) significantly changed Medicaid eligibility for individuals who are not citizens of the United States. Medicaid must be provided to eligible citizens or nationals, but certain noncitizens may be eligible to receive only treatment for an emergency medical condition. This proposed Rule adopts the mandatory provisions of P.L. 104-193 and states the options chosen by the state. This proposed Rule addresses only the citizenship requirement: every applicant for Medicaid under any classification addressed in this Rule must meet all requirements for eligibility. Previous regulations for Medicaid eligibility of lawful permanent residents and aliens Permanently Residing in the United States Under Color of Law (PRUCOL) no longer apply and are replaced by this Rule.

All noncitizens are classified as qualified aliens or nonqualified aliens (which includes illegal aliens). Nonqualified aliens are eligible only for emergency services. Some specifically defined qualified aliens are eligible for regular Medicaid benefits. Those qualified aliens who are not eligible for regular Medicaid benefits are eligible only for emergency services.

In general, aliens who are (a) refugees, (b) asylees, or (c) deportees being withheld, (d) veterans, and (e) those on active duty in the Armed Services and their families are eligible for consideration of Medicaid Eligibility until five years after the date of entry into the United States regardless of when they entered the country.

Mandatory qualified alien groups eligible for regular Medicaid benefits are:

1. aliens receiving Medicaid on August 22, 1996 (until January 1, 1997);
2. aliens receiving SSI (until SSA notifies Medicaid that SSI benefits have stopped);
3. qualified aliens who were in the United States prior to August 22, 1996, who are members of these groups, whether or not receiving Medicaid on that date and meet any of these criteria:
 - a. lawful permanent residents to whom 40 qualifying quarters of Social Security can be credited;
 - b. refugees until five years after the date of the alien's entry into the United States;
 - c. asylees until five years after the grant of asylum;

d. aliens who have had deportation withheld under Section 243(h) of the INA until five years after the grant of withholding; and

e. honorably discharged veterans and aliens on active duty in the United States armed forces, and the spouse or dependent child(ren) of such individuals;

4. qualified aliens entering the United States on or after August 22, 1996, who are members of the groups below:

- a. refugees for five years from date of entry;
- b. asylees for five years from date of entry;
- c. aliens whose deportation has been withheld under Section 423(h) of the INA for five years from grant of withholding;

d. veterans and aliens on active duty in the United States' armed forces, and the spouse or dependent child(ren) of such individuals;

5. American Indians born in Canada who have at least 50 percent Indian blood who enter and reside in the United States.

The state has determined that the following optional groups of qualified aliens are not eligible for regular Medicaid services under this Rule, but may be eligible for emergency services if they meet all eligibility criteria other than citizenship:

1. Aliens receiving Medicaid benefits on August 22, 1996, but not receiving SSI, are not eligible January 1, 1997 and afterward.

2. Aliens who were in the United States prior to August 22, 1996, who are included in the definition of qualified alien, but not included in the mandatory group of qualified aliens living in the United States before August 22, 1996 are not eligible for Medicaid.

Definitions

Illegal Aliens either were never legally admitted to the United States for any period of time, or were admitted for a limited period of time and did not leave the United States when their period of time expired. Illegal aliens are eligible only for emergency services if they meet all eligibility criteria other than citizenship.

Ineligible Aliens are aliens lawfully admitted to the United States but only for a temporary or specified period of time as legal nonimmigrants. Ineligible aliens are eligible only for emergency services if they meet all eligibility criteria other than citizenship. The following categories of individuals are ineligible aliens:

1. foreign government representatives on official business and their families and servants;
2. visitors for business or pleasure, including exchange visitors;
3. aliens in travel status while traveling directly through the U.S.;
4. crewmen on shore leave;
5. treaty traders and investors and their families;
6. foreign students;
7. international organization representation and personnel and their families and servants;
8. temporary workers including agricultural contract workers; and

9. members of foreign press, radio, film, or other information media and their families.

Qualified Aliens are eligible for regular Medicaid if they also meet additional criteria described above for mandatory Medicaid eligibility, or are eligible only for emergency services if they do not. An alien must meet all eligibility requirements for Medicaid other than citizenship to receive either regular Medicaid eligibility or emergency services. Qualified aliens are aliens who are:

1. lawful permanent residents;
 2. refugees;
 3. asylees;
 4. aliens who have had deportation withheld under Section 243(h) of the Immigration and Nationality Act (INA);
 5. aliens granted parole for at least one year by the INS;
- or
6. aliens granted conditional entry under immigration law in effect before April 1, 1980.

Emergency Medical Services are not related to either an organ transplant procedure or routine prenatal or post-partum care. The alien has, after sudden onset, a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

Proposed Rule

Louisiana Medicaid adopts the provisions of Section 401 of the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) regarding Medicaid eligibility for noncitizens. The following optional groups of qualified aliens are not eligible for regular Medicaid services under this Rule, but may be eligible for emergency services if they meet all eligibility criteria other than citizenship:

1. Aliens receiving Medicaid benefits on August 22, 1996, but not receiving SSI, are not eligible January 1, 1997 and afterward.

2. Aliens who were in the United States prior to August 22, 1996, who are included in the definition of qualified alien, but not included in the mandatory group of qualified aliens living in the United States before August 22, 1996 are not eligible for Medicaid.

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 for this proposed Rule is scheduled for Tuesday, March 25, 1997, at 8:30 a.m., in the auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At this time, all interested parties will be afforded an opportunity to submit views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Eligibility of Aliens

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed Rule will increase state program costs by \$160 for SFY 1997 for promulgation of this proposed Rule. No costs are anticipated for SFY 1998 and for SFY 1999.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no increase in federal revenue collections expected from the expense of promulgating this proposed Rule due to the capped federal funding for the state's administration of the Medicaid Program. The federal share of the expense of promulgating this proposed Rule is \$80.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The estimated costs and/or economic benefits to directly affected persons or nongovernmental groups cannot be determined as those aliens who become ineligible for cash benefits must be individually redetermined for Medicaid eligibility. There is no known estimated revenue impact resulting from this Rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Thomas D. Collins
Director
9702#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**

Low-Income Families Eligibility Group

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule shall be adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) eliminated the Aid to Families with Dependent Children (AFDC) program which provided financial assistance to families meeting certain requirements, and replaced it with a block grant program for Temporary Assistance for Needy Families (TANF) effective July 1, 1997, or such earlier date as the secretary of DHHS receives the TANF State Plan. Receipt of TANF does not entitle the recipient to Medicaid. TANF provisions were adopted in Louisiana by Department of Social Services effective October 1, 1996.

Also, P.L. 104-193 establishes criteria for a new category of Medicaid recipients. According to that regulation, low-income families are defined as follows:

1. the family includes a dependent child who is living with a caretaker relative;
2. the family income does not exceed the 185 percent gross income test limit; and
3. the family's countable income and resources do not exceed the applicable AFDC income and resource standards (including any special needs) established in the Medicaid State Plan. This description is now found in Section 1931 of the Social Security Act. The state has elected to maintain income and resource criteria in effect on July 16, 1996 as the basis for determining eligibility for this new classification of Medicaid recipients.

Among those who will meet the income and resource criteria for low-income families are persons who are eligible for TANF financial assistance because TANF criteria are currently more restrictive than low-income family criteria. Other families who meet the criteria for low-income family but are not TANF-eligible will be eligible for Medicaid under this definition. This proposed Rule provides notification that the population described in Section 1931 of the Social Security Act constitutes an eligibility group covered by Medicaid and establishes the income and resource limitations applicable.

Proposed Rule

Medicaid establishes a new Medicaid eligibility group for low-income families with children who meet eligibility requirements described in Section 1931 of the Social Security Act. Eligibility criteria under the AFDC State Plan in effect on July 16, 1996 will be used to determine eligibility. Additionally, recipients of TANF are deemed to meet these criteria so long as TANF requirements are more restrictive than eligibility requirements under the AFDC State Plan in effect on July 16, 1996.

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 on Tuesday, March 25, 1997 at 8:30 a.m. in the auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At that time, all interested parties will be afforded an opportunity to submit data, view, or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Low-Income Families Eligibility Group

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed Rule will increase state program costs by \$80 for SFY 1997 for

promulgation of this proposed Rule. No costs are anticipated for SFY 1998 and for SFY 1999.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no increase in federal revenue collections expected from the expense of promulgating this proposed Rule due to the capped federal funding for the state's administration of the Medicaid Program. The federal share of the expense of promulgating this proposed Rule is \$40.
- 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 as the new Medicaid eligibility group for low-income families with children essentially continues Medicaid coverage for those recipients who do not meet new TANF eligibility requirements, but do meet the eligibility criteria under the AFDC State Plan in effect on July 16, 1996. There is no known estimated revenue impact resulting from this Rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Thomas D. Collins
Director
9702#066

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

Temporary Assistance for Needy Families (TANF) Work Requirements

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following proposed 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 shall be adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) eliminated the Aid to Families with Dependent Children (AFDC) program which provided financial assistance to families meeting certain requirements, and replaced it with a block grant program for Temporary Assistance for Needy Families (TANF) effective July 1, 1997, or such earlier date as the Secretary of DHHS receives the TANF State Plan. TANF provisions were adopted in Louisiana by Department of Social Services effective October 1, 1996. This proposed Rule provides notification that Medicaid coverage will not be available to persons who fail to meet the work requirement associated with TANF, with the following exceptions: a pregnant woman; infant; or child

under one of the poverty level related groups; or a minor child who is not the head of the household under TANF.

Proposed Rule

Effective concurrently with implementation of the Personal Responsibility and Work Opportunity Act of 1996 provisions for financial assistance by Department of Social Services, eligibility for Medicaid as a TANF recipient is terminated for failure to meet work requirements as described in Section 1931(b)(3) of the Social Security Act.

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 on Tuesday, March 25, 1997 at 8:30 a.m. in the auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At that time, all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Eligibility-TANF Work Requirements

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed Rule will decrease state program costs by (\$328,676) for SFY 1997, (\$690,388) for SFY 1998, and (\$724,907) for SFY 1999. An \$80 operating expense is included in the above state cost for promulgation of this proposed Rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this proposed Rule will reduce federal revenue collections by (\$267,765) for SFY 1997, (\$538,640) for SFY 1998, and (\$565,572) for SFY 1999 as a result of decreased state expenditures.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Eligibility for Medicaid as a TANF recipient will be terminated for failure to meet work requirements as described in Section 1931(b)(3) of the Social Security Act.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Thomas D. Collins
Director
9702#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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 proposes to amend 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:

§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:

§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 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 Orders, Rules and Regulations, however, the provisions of this 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:

Interested persons may submit oral or written comments on the proposed Rule until 4:30 p.m., March 20, 1997, to Felix Boudreaux, Box 94275, Baton Rouge, LA 70804-9275; telephone (504)342-5540.

George L. Carmouche
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Automatic Custody Transfer**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections.
- 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 will be no effect on competition and employment.

George L. Carmouche
Commissioner
9702#079

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**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 proposes to amend 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:

§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 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:

§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:

$$Q_o (2000+) = Q_o \left[\frac{V(R_p - R_o) + B}{V(R_i - R_o) + B} \right]$$

Definition of Nomenclature:

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:

$$Q_g = A_g \frac{Q_o}{A_o} \left[\frac{V(R_p - R_o) + B}{V} \right]$$

Definition of Nomenclature

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:

§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:

§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 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:

§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 Order. However, any venting which contradicts the spirit or intent of this 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:

Interested persons may submit oral or written comments on the proposed Rule until 4:30 p.m., March 20, 1997, to Felix Boudreaux, Box 94275, Baton Rouge, LA 70804-9275; telephone (504)342-5540.

George L. Carmouche
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Gas/Oil Ratios, Allowables and Venting Natural Gas

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections.
- 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 will be no effect on competition and employment.

George L. Carmouche
Commissioner
9702#080

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**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 proposes to amend 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:

§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 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:

§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 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 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);
- c. fees (as prescribed by Part XIX, Subpart 2 or successor regulation);

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 and include the following:

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:

- 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:

Interested persons may submit oral or written comments on the proposed Rule until 4:30 p.m., March 20, 1997, to Felix Boudreaux, Box 94275, Baton Rouge, LA 70804-9275; telephone (504)342-5540.

George L. Carmouche
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Multiple Completions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections.
- 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 will be no effect on competition and employment.

George L. Carmouche
Commissioner
9702#077

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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 proposes to amend 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:

§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:

1. Combination of lease production with production from a unit which is wholly contained geographically within that lease is not considered commingling.

2. 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.

3. 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:

§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 has been obtained; 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 Order shall govern. In case of any conflict between this 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:

Interested persons may submit oral or written comments on the proposed Rule until 4:30 p.m., March 20, 1997, to Felix Boudreaux, Box 94275, Baton Rouge, LA 70804-9275; telephone (504)342-5540.

George L. Carmouche
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Oil and Gas Commingling

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections.
- 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 will be no effect on competition and employment.

George L. Carmouche
Commissioner
9702#078

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**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 proposes to amend 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:

Interested persons may submit written comments for 40 days from the date of this publication to Shirley B. Goodwin, Assistant Secretary, Box 3318, Baton Rouge, LA 70821. She is responsible for responding to inquiries.

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Central Registry—Child Abuse
and Neglect Cases**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The only cost in FY 96/97 will be \$500 to print manual material. There will be no saving as a result of the revision to agency policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will not be any costs or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Robert J. Hand
Director
9702#074

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Food Stamp Disqualification (LAC 67:III.1988)

The Department of Social Services, Office of Family Support proposes to amend 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. An Emergency Rule incorporated this revision effective January 1, 1997.

**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. 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:

Interested persons may submit written comments within 30 days to the following address: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-9065. She is the person responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on March 27, 1997 at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Food Stamp Disqualification**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs or savings to state or local governmental units associated with this Rule. Food stamp benefits are 100 percent federally funded.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is 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)

This action will affect a small number of current and future food stamp recipients as persons convicted of a felony

involving a controlled substance will be permanently disqualified from receiving food stamps. The agency is unable to give an estimate as there is no way to determine the number of persons that would be involved. There are no costs or benefits to nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule will have no effect on competition and employment.

Vera W. Blakes
Assistant Secretary
9702#071

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**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, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 10, Individual and Family Grant (IFG) Program.

This Rule is necessary only to correct 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:

Interested persons may submit written comments within 30 days to Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-9065.

A public hearing on the proposed Rule will be held on March 27, 1997, at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Individual and Family
Grant—Correction of LAC**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no costs or savings to state or local governmental units associated with this Rule; it is being published to correct an error in codification.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is 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 is no cost or economic benefit to any individuals or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

This Rule has no impact on competition or employment.

Vera W. Blakes
Assistant Secretary
9702#070

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Support Enforcement Services—Authority and
Enforcement Policies (LAC 67:III.Chapters 23, 25, and 27)

The Department of Social Services, Office of Family Support proposes to amend LAC 67:III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, changes in the administration of SES are mandated. Most significant is the delegation of authority to state programs to take action on matters that previously required orders under/by the state judicial system. This Rule proposes new and revised policy in areas of authority, adjustment and enforcement of support obligations and general program administration which will further improve the purpose and scope of SES.

Previous §2543 is being renumbered as §2575 in order to improve and expand codification of Subchapters L and M. Where LAC policy previously cited the SES relationship to "AFDC", the Aid to Families with Dependent Children Program, policy now cites "FITAP", the Family Independence Temporary Assistance Program, which has replaced state AFDC Program.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 23. Single State Agency Organization

**Subchapter A. Designation, Authority, Organization
and Staffing**

§2304. Expedited Administrative Process

SES will have administrative authority to order the following activities:

1. order genetic testing;
2. subpoena financial or other information needed to establish, modify, or enforce orders, and impose penalties for failure to respond to such subpoenas;

3. direct the noncustodial parent to make his payments to the state;
4. order income withholding;
5. initiate liens;
6. seize and sell assets;
7. increase the monthly support amounts for the liquidation of arrears;
8. transfer cases between jurisdictions;
9. establish paternity;
10. establish support orders; and
11. modify support orders.

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:

Chapter 25. Support Enforcement

Subchapter B. Support Obligation

§2509. Income Assignment

A. ...

1. Orders issued in the state before October 1, 1996, if not previously subject to income assignment, shall become subject to withholding if arrearages occur, without the need for a judicial or administrative hearing. Orders enforced by SES will be subject to withholding without advance notice to the obligor.

A.2 - B.2. ...

3. Employers shall remit any amounts withheld through income assignment within seven days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:236.3 and 45 CFR 303.100, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1083 (November 1985), amended by the Department of Social Services, Office of Eligibility Determinations, LR 15:809 (October 1989), LR 16:33 (January 1990), amended by the Department of Social Services, Office of Family Support, LR 23:

Subchapter C. Formula for Support Obligation

§2512. Adjustment of Child Support Orders

SES will review orders on FITAP cases every three years, and will make adjustments if appropriate. SES will send a notice to non-FITAP cases every three years advising both parties of the right to request a review. If either party requests a review, SES will conduct the review, and will make adjustments if appropriate.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.8, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19:1178 (September 1993), amended LR 23:

Subchapter L. Enforcement of Support Obligations

§2540. Suspension of License(s) for Nonpayment of Child Support

A - B. ...

C. In cases in which a noncustodial parent fails to respond to a subpoena or a warrant involving support or paternity matters SES may petition the court to suspend all licenses of the parent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:315.30 through 315.35; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:118 (February 1996), amended LR 23:

§2542. Voiding of Fraudulent Transfers

In cases in which a noncustodial parent transfers income or property to avoid payment of support, SES shall seek to void such transfer.

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:

Subchapter M. Cooperation with Other State Agencies

§2575. Department of Revenue and Taxation

* * *

[Editor's Note: Text of this Section was previously promulgated as §2543.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:236.9, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:223 (March 1996), amended LR 23:

§2576. Department of Motor Vehicles and Law Enforcement Agencies

SES may obtain information relating to motor vehicle and law enforcement files for purposes of locating a noncustodial parent and for purposes of enforcing orders.

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:

Chapter 27. General Program Administration

Subchapter C. Establishment and Modification of Support Orders

§2754. Obtaining Consumer Reports for Purposes Related to Child Support

SES will obtain credit reports on noncustodial parents from consumer reporting agencies to be used in determining ability to pay child support and the appropriate level of such payments. Such information will be obtained only after the parent has been given 10-day notice, or the parent waives the 10-day notice.

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:

§2755. Cooperative Agreements with Financial Institutions

SES will enter into cooperative agreements with financial institutions to match data in an effort to locate assets of noncustodial parents who are delinquent in payment of support, and to place liens or to encumber such assets.

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:

Interested persons may submit written comments within 30 days to Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-9065. She is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on March 27, 1997, at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in

writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, telephone (504)342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Support Enforcement Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Form and policy revisions will be required but the program is unable to determine at this time how many will require revision. The effect on printing costs will be within normal budget constraints. It is anticipated, however, that Section 2304 of the proposed Rule will require additional personnel: 18 new positions are projected. The FY 97/98 implementation costs will be \$712,771, \$687,787 in FY 98/99 and \$714,116 in FY 99/00. There are no anticipated costs or savings to local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this Rule will increase federal revenue collections by \$470,429 in FY 97/98, \$453,939 in FY 98/99 and \$471,317 in FY 99/00. These amounts represent 66 percent of the total amounts which are federal funds. There is no effect on revenue collections of 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, although the measures are designed to increase payment/collection of child support from responsible persons.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9702#072

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of the Secretary**

**Child Care Eligibility Requirements
Aliens (LAC 67:1.101)**

The Department of Social Services, Office of the Secretary proposes to amend 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:

Interested persons may submit written comments by April 1, 1997 to Linda Beauvais, Director, Child Care Assistance Program, Department of Social Services, Box 91193, Baton Rouge, LA 70821. She is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on April 1, 1997 in the Second Floor Auditorium, 755 Third Street, Baton Rouge, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504)342-4120 (voice and TDD).

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Child Care Eligibility
Requirements—Aliens**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This Rule limits the eligibility of nonqualified aliens in the Child Care Assistance Program, and establishes rules for the consideration of income of the alien's sponsor in those situations where a qualified alien may be eligible for program benefits. This Rule is based on federal law and must be implemented regardless of changes in the amount of allocated funding; therefore, if funding remains unchanged, nonqualified alien families will not be eligible, leaving funds available to serve other families.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This Rule will have no effect on revenue collections. The Child Care Assistance Program is allocated funds under the federal Child Care and Development Block Grant. The Child Care and Development Block Grant is 100% federal funds. Revenues available to Louisiana are as follows:

Fiscal Year	Federal Funds
96/97	\$24,686,739
97/98	\$26,680,153
98/99	\$26,680,153

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

This change may result in a decrease in the number of alien families receiving benefits from the Child Care Assistance Program for the care of their children. It is not anticipated that any providers will receive decreased payments. There will be

no impact on the number of children receiving program benefits, or the number of children found eligible for program benefits and placed on waiting lists.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

By providing a large and steady source of funding for child care services, the Child Care Assistance Program has had the effect of increasing employment and competition in the child care industry. This effect is expected to continue as long as the federal funding is available.

Madlyn B. Bagneris
Secretary
9702#073

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Plan Document—Infertility Exclusion

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 gives Notice of Intent to amend the Plan Document of Benefits.

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. Accordingly, the board intends to amend the Plan Document of Benefits for the State Employees Group Benefits Program 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;

* * *

Interested persons may present their views, in writing, to James R. Plaisance, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Monday, March 24, 1997.

James R. Plaisance
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Plan Document—Infertility Exclusion**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs to state or local governmental units as this Rule change is being made to update the terminology that is currently used with infertility treatment and diagnosis.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections of state or local governmental units will not be affected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This Rule is being made at the direction of the Board of Trustees to clarify provisions related to the exclusion of benefits for treatment of infertility. Program staff is currently excluding these treatment plans from payment and it is necessary to adopt this Rule to update the current plan document.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition and employment will not be affected.

James R. Plaisance
Executive Director
9702#030

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Prescription Drugs 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 amend Rules with respect thereto, the Board of Trustees hereby gives Notice of Intent to amend 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 board intends to amend the Plan Document of Benefits for the State Employees Group Benefits Program as follows:

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.

* * *

Interested persons may present their views, in writing, to James R. Plaisance, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Monday, March 24, 1997.

James R. Plaisance
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Prescription Drugs Exclusions and
Limitations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs to state or local governmental units due to these benefit modifications being made to the current prescription drug plan in effect for state employees.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections of state or local governmental units will not be affected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
These benefit modifications will result in a net annual decrease in prescription drug reimbursement to plan members in an amount in excess of \$109,000. This is a minimal amount of change and should not have any impact on the rates currently being charged for the Program.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition and employment will not be affected.

James R. Plaisance
Executive Director
9702#031

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Housing Finance Agency**

**HOME Affordable Rental Housing
(LAC 16:II.Chapter 1)**

In accordance with R.S. 49:51 et seq., the Housing Finance Agency is proposing to amend the regulations governing the criteria used to award HOME Funds to Affordable Rental Housing Projects.

The purpose of the amendment is to increase the categories in which the projects may be awarded points toward selection for the award of HOME Funds.

**Title 16
COMMUNITY AFFAIRS**

Part II. Housing Finance Agency

Chapter 1. HOME Investment Partnership Program

**§105. Selection Criteria to Award HOME Funds for
Affordable Rental Housing**

Applications for HOME Funds will be rated in accordance with the selection criteria (Appendix IX) for which the applicant must initially indicate that the project qualifies.

APPENDIX IX

**Selection Criteria to Award Home Funds
to Affordable Rental Housing Projects**

The applicant hereby requests priority consideration based upon the Project satisfying one or more of the following conditions (minimum threshold of 115 points required):

- | | |
|---|---------------|
| A. Ratio of Project's Intermediary Cost to Development Costs | POINTS |
| (i) Less than or equal to 10 percent | 20 _____ |
| (ii) More than 10 percent but less than or equal to 15 percent | 15 _____ |
| (iii) More than 15 percent but less than or equal to 20 percent | 10 _____ |
| (iv) More than 20 percent | 0 _____ |
| B. Thirty Percent or more of Project Units serve Households whose Incomes are the Following Percentages of Median Income | |
| (i) 20 percent or less | 25 _____ |
| (ii) More than 20 percent but less than 30 percent | 20 _____ |
| (iii) More than 30 percent but less than 40 percent | 15 _____ |
| (iv) More than 40 percent but less than 45 percent | 10 _____ |
| C. Project Involves Extended Low Income Use Years of Compliance Period | |
| (i) 18 years to 20 years | 10 _____ |
| (ii) More than 20 years to 25 years | 15 _____ |
| (iii) More than 25 years to 30 years | 20 _____ |
| (iv) More than 30 years | 25 _____ |
| D. Project Located in Qualified Census Tract/
Difficult Development Area/RD Target Area | 50 _____ |

- | | |
|--|----------|
| E. Project Serves Special Needs Groups [Check one or more] | |
| (i) Elderly | _____ |
| (ii) Homeless | _____ |
| (iii) Handicapped | _____ |
| (a) 100 percent of units or 50 units serve special needs group | 20 _____ |
| (b) 50 percent or 25 units serve special needs group | 15 _____ |
| (c) 25 percent or 15 units serve special needs group | 10 _____ |
| F. Project contains Handicapped Equipped Units | |
| (i) 5 percent but less than 10 percent | 5 _____ |
| (ii) 10 percent but less than 15 percent | 10 _____ |
| (iii) 15 percent or more | 15 _____ |
| G. Project Serves Large Families
Percentage of Units having Four or more Bedrooms | |
| (i) 5 percent but less than 10 percent | 5 _____ |
| (ii) 10 percent but less than 15 percent | 10 _____ |
| (iii) 15 percent but less than 20 percent | 15 _____ |
| H. Project to Provide Supportive Services (attach description of Supportive Services to be provided the costs thereof and the source of funding such services) | 50 _____ |
| I. Project is Single Room Occupancy (SRO) | 10 _____ |
| J. Project is Scattered Site | 20 _____ |
| K. Developer submitted an executed Referral Agreement with Local PHA pursuant to which Developer agrees to rent low income units to households at the top of PHA's waiting list or if Project located in area without PHA, Project has RD Commitment Letter | 10 _____ |
| L. Project involves New Construction in Areas with 95 percent or more residential rental occupancy | 10 _____ |
| M. Local Nonprofit Sponsor of Project | 10 _____ |
| N. Distressed Properties (written certification from HUD or RD that property is distressed must be included in application) | 20 _____ |
| O. Project Receives Historic Tax Credits or involves Substantial Rehabilitation (Rehabilitation Hard Costs greater than \$5,000 per unit) | 25 _____ |
| P. All Units in Project are Vacant or Abandoned | 25 _____ |
| Q. Project involves Low Income Units which do not exceed: | |
| (i) 60 percent of the Total Project units | 10 _____ |
| (ii) 50 percent of the Total Project units | 15 _____ |
| (iii) 40 percent of the Total Project units | 20 _____ |
| R. Leverage Ratio for each HOME Dollar | |
| \$1 | 0 _____ |
| \$2 | 5 _____ |
| \$3 | 10 _____ |
| \$4 | 15 _____ |
| \$5 | 20 _____ |
| \$6 | 25 _____ |
| \$7 | 30 _____ |
| \$8 | 35 _____ |

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: HOME Affordable Rental Housing**

S. <i>Project to Reconstruct or Rehabilitate Substandard Housing Units to Minimum Housing Quality Standard with Total HOME Funds per Unit not Exceeding:</i>	
\$ 2,500	50 _____
\$ 5,000	40 _____
\$ 7,500	30 _____
\$10,000	20 _____
\$15,000	10 _____
T. <i>Project Involves Lease-to-Own of one unit buildings, including town homes</i>	50 _____
U. <i>Economic Development Benefits. Project located in geographic area certified by Department of Economic Development to benefit from location of new facilities or expansion of existing facilities which will generate additional jobs and housing needs.</i>	50 _____
V. <i>Developer Fees (including Builder Profit and Builder Overhead when there exists Identity of Interest between Builder and Developer) are 10 percent or less under Subsidy Layering Review Guidelines</i>	25 _____
W. <i>Matching Certification Exceeds \$50,000</i>	50 _____
X. <i>Penalty Points</i> <i>Net Syndication Proceeds ≤ 110 percent Developer Fee</i>	50 _____
TOTAL:	_____

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This change will have no measurable impact to state agency fiscal operations.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This change will have no effect on revenue collections for state or local government.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Low income persons and families will receive the economic benefit of more affordable housing.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect of this proposed Rule on competition and employment is anticipated.

V. Jean Butler President 9702#076	Richard W. England Assistant to the Legislative Fiscal Officer
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Formula to Calculate Ration of Project's Intermediary Cost to Development Costs:

Step 1: Add following amounts from Appendix II	
Line II. B (Land Improvements)	\$ _____
Line II. C(ii)(Demolition)	\$ _____
Line II. C(ii)(Rehab or New Construction)	\$ _____
TOTAL:	\$ _____
Step 2: Add following amounts from Appendix II	
Line II. D (Subtotal)	\$ _____
Line II. F (Subtotal)	\$ _____
Line II. G (Subtotal)	\$ _____
TOTAL:	\$ _____
Step 3: Divide Total of Step 1 by Total of Step II and specify percentage:	_____ %

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Housing Finance Agency, LR 19:908 (July 1993), amended LR 21:959 (August 1996), LR 22:717 (August 1996), LR 23:

Any interested person may submit written comments regarding the contents of the proposed Rule to V. Jean Butler, President, Louisiana Housing Finance Agency, 200 Lafayette Street, Third Floor, Baton Rouge, LA 70802. All comments must be received no later than 4:30 p.m., March 20, 1997.

V. Jean Butler
President

Potpourri

POTPOURRI

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Boll Weevil Eradication Commission**

**Boll Weevil Eradication
Hearing—1997 Assessment**

The Boll Weevil Eradication Commission will hold an adjudicatory hearing beginning at 10 a.m., March 13, 1997 at the Louisiana Department of Agriculture and Forestry, Commissioner's Conference Room, located at 5825 Florida Boulevard, Baton Rouge, LA, relative to the setting of the amount of the 1997 assessment pursuant to R.S. 3:1613 and LAC 7:XV.9921. Said assessment shall not exceed \$10 per acre of cotton planted for 1997.

All interested persons are invited to attend and will be afforded an opportunity to participate in the adjudicatory hearing.

Dan P. Logan, Jr.
Chairman

9702#035

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	Well Name	Well No.	Serial No.
Consolidated Minerals, Inc.	Caddo-Pine Island	Roberson	001	206718
Consolidated Minerals, Inc.	Caddo- Pine Island	McCain	001	207943
Deblin Operating, Ltd.	Ross Bayou	VUA; Farrar	001	186893
Deblin Operating, Ltd.	Ross Bayou	Farrar SWD	001	190081
Deblin Operating, Ltd.	Frogmore	Krauss	001	106215
Fred Hargraves, et al	Caddo-Pine Island	Muslow	001	040829
H. H. McBride	Caddo-Pine Island	J S Jolly Texas	001	031268
RL&D Oil Co. Inc.	Caddo-Pine Island	Exxon Stiles	001	171076
RandM Oil Co.	Livonia	VUA: Ringo	001	123921
C. R. Schuster	Caddo-Pine Island	Caddo Levee Board A	012	056386
Unitech Management Corp.	Caddo-Pine Island	Roberson	001	207451
John R. Vitale	Greenwood-Waskom	Bell C	001	056132
John R. Vitale	Greenwood-Waskom	Bell D	002	058460
John R. Vitale	Greenwood-Waskom	M G Bell A	001	058801
John R. Vitale	Greenwood-Waskom	M G Bell A	003	060118
John R. Vitale	Greenwood-Waskom	M G Bell B SWD	002	060479

John R. Vitale	Greenwood-Waskom	Bell B	001	062044
John R. Vitale	Greenwood-Waskom	Bell B	003	063023
John R. Vitale	Greenwood-Waskom	M G Bell A	006	063049
John R. Vitale	Greenwood-Waskom	M G Bell B	003	063102
John R. Vitale	Greenwood-Waskom	Minnie Bell	001	102333
John R. Vitale	Greenwood-Waskom	Minnie Bell	002	105137
John R. Vitale	Greenwood-Waskom	M G Bell A	005	105469
John R. Vitale	Greenwood-Waskom	Bell C	002	106423
John R. Vitale	Greenwood-Waskom	Bell C	003	106424
John R. Vitale	Greenwood-Waskom	M G Bell B	001	106568
John R. Vitale	Greenwood-Waskom	M G Bell B	002	107007
John R. Vitale	Greenwood-Waskom	M G Bell B	005	120520
John R. Vitale	Greenwood-Waskom	M G Bell B	004	120521
John R. Vitale	Greenwood-Waskom	Bell	001	216503
John R. Vitale	Greenwood-Waskom	Bell	002	216504

George L. Carmouche
Commissioner

9702#069

POTPOURRI

**Department of Revenue and Taxation
Tax Commission**

1996 Commercial Improvements Ratio Study

Pursuant to R.S. 47:1837 the following is the result of the Tax Commission's measurement of the level of appraisal and/or assessment and the degree of uniformity for Commercial Improvements Ratio Study for the year 1996 (1997 Orleans Parish). This data shall constitute prima facie evidence of the uniformity or lack of uniformity with constitutional and/or statutory requirements of each parish in the state.

Parish	Mean (%)	Median (%)	Coefficient of Dispersion (%)
Acadia	13.4	14.7	11.8
Allen	13.8	14.2	10.3
Ascension	14.1	14.7	10.1
Assumption	14.1	14.6	11.6
Avoyelles	14.1	14.4	8.0
Beauregard	13.8	13.6	13.4
Bienville	14.1	14.3	18.7
Bossier	13.4	14.8	16.1
Caddo	14.1	14.1	18.7
Calcasieu	15.4	15.6	8.5
Caldwell	14.8	15.1	5.6
Cameron	13.5	14.2	11.5
Catahoula	13.3	13.7	10.7
Claiborne	13.7	14.0	11.7
Concordia	14.1	14.2	7.9
DeSoto	13.9	14.8	13.9
East Baton Rouge	13.4	13.9	18.6
East Carroll	14.7	14.6	7.9
East Feliciana	14.3	14.6	11.8
Evangeline	13.9	14.0	8.9
Franklin	14.7	15.0	7.9
Grant	14.1	14.1	11.4
Iberia	15.2	15.4	17.3
Iberville	14.0	14.5	14.5
Jackson	13.8	14.0	13.8
Jefferson	13.6	13.5	18.6
Jefferson Davis	14.5	14.1	11.3
Lafayette	15.8	15.7	11.7
Lafourche	13.6	13.8	18.6
LaSalle	13.9	14.1	12.0
Lincoln	14.3	14.7	17.1
Livingston	13.7	13.5	11.6
Madison	14.6	14.5	9.1
Morehouse	14.0	14.2	7.4
Natchitoches	14.3	14.3	14.2
Orleans - 1st M.d.	13.9	15.0	17.6
2nd M.d.	13.1	14.2	19.1

3rd M.d.	13.4	14.2	16.6
4th M.d.	13.9	14.8	13.4
5th M.d.	13.9	14.7	15.1
6th M.d.	15.0	15.0	10.7
7th M.d.	15.4	15.0	15.7
Ouachita	13.9	14.1	9.8
Plaquemines	15.1	15.1	3.7
Pointe Coupee	14.1	14.6	13.4
Rapides	14.0	14.0	14.1
Red River	13.8	14.4	15.0
Richland	15.2	14.9	9.7
Sabine	15.5	14.8	18.5
St. Bernard	15.0	14.8	5.6
St. Charles	15.0	14.9	8.0
St. Helena	14.3	14.7	7.3
St. James	15.0	14.9	11.2
St. John the Baptist	13.9	14.4	12.4
St. Landry	14.3	14.4	6.3
St. Martin	15.4	15.2	12.8
St. Mary	14.7	14.5	9.5
St. Tammany	15.2	16.0	9.4
Tangipahoa	14.6	14.5	7.4
Tensas	14.7	14.4	7.5
Terrebonne	14.7	14.7	12.4
Union	14.4	14.6	5.9
Vermilion	13.2	13.8	16.3
Vernon	14.7	14.4	11.0
Washington	13.1	14.5	17.8
Webster	14.2	14.2	7.0
West Baton Rouge	15.9	16.5	11.8
West Carroll	15.0	15.1	7.6
West Feliciana	13.6	13.8	17.7
Winn	13.4	13.7	18.4

Malcolm B. Price, Jr.
Chairman

9702#029

POTPOURRI

Department of Social Services Office of Community Services

1997-1998 Weatherization Assistance Public Hearing

The Department of Social Services, Office of Community Services is submitting a State Plan to the U.S. Department of Energy (DOE) for funding of the 1997-98 Weatherization Assistance Program (WAP). Pursuant to federal regulations (10 CFR 440), a public hearing is required prior to DOE's approval of the plan.

The Weatherization Assistance Program provides services to low-income households and, in particular, households in which elderly, handicapped and/or children reside. The purposes of weatherization activities are:

- a) to reduce home heating and cooling costs of low-income households;
- b) to provide a more comfortable and safe home environment for low-income residents; and
- c) to help reduce the consumption of fossil fuels.

The public hearing is scheduled for Monday March 17, 1997 at 1:30 p.m. in Baton Rouge, LA at 333 Laurel Street, Room 803 (eighth floor conference room). Louisiana's grant for the 1997-98 program year is \$921,983. Any additional Department of Energy funds which may become available during the 1997-98 program year will be expended according to the approved State Plan.

Copies of the plan can be obtained prior to the hearing by contacting the Department of Social Services, Office of Community Services at (504)342-2763 or by writing to Box 3318, Baton Rouge, LA 70821. Written comments will be accepted through April 1, 1997.

Madlyn B. Bagneris
Secretary

9702#075

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