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EXECUTIVE ORDERS

EXECUTIVE ORDER EWE 93-24

WHEREAS: the cost of health care has been increasing at a rate three times that of general inflation; and

WHEREAS: these costs have been particularly accelerated in the State Employees Group Benefits Program; and

WHEREAS: there is a potential for significant cost savings in the integration of occupational medical benefits with nonoccupational medical benefits; and

WHEREAS: Act No. 656 of 1993 authorizes the Department of Labor and the Department of Insurance, conjunctively, to conduct two-year pilot programs for 24 hour health insurance coverage:

Now, therefore I, Edwin W. Edwards, Governor of the State of Louisiana, by virtue of the authority vested in me through the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Pursuant to the provisions of Act 656 of 1993, and other constitutional and statutory authority, the Louisiana Medical Benefits Council is established to study the feasibility of creating a 24-hour medical coverage program through the State Employees Group Benefits Program.

SECTION 2: The membership of the Louisiana Medical Benefits Council to be appointed by the governor, shall be as follows:

the Commissioner of Insurance, or his designee, who shall serve as chair of the council;

a member of the Board of Directors of the Louisiana Workers' Compensation Corporation;

the chairman of the Senate Health and Welfare Committee;

the chairman of the House Health and Welfare Committee;

the chairman of the Senate Insurance Committee;

the chairman of the House Insurance Committee;

three members of the Board of Trustees of the State Employees Group Benefits Program;

the secretary of the Department of Labor, or her designee;

one member representing the Office of Risk Management;

one member representing the Louisiana Health Care Authority;

one member representing the Division of Administration;

three appointed members at large.

SECTION 3: This executive order shall be effective upon signature of the governor.

In Witness Whereof, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of

Louisiana, at the Capitol, in the City of Baton Rouge, on this 31st day of August, 1993.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
SECRETARY OF STATE

EMERGENCY RULES

DECLARATION OF EMERGENCY

Department of Economic Development Office of Financial Institutions

Capital Companies Tax Credit Program (LAC 13:I.701-727)

The Department of Economic Development, Office of Financial Institutions, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) and pursuant to authority granted by R.S. 51:1929, to amend LAC 13:I.701-721, and to repeal LAC 13:I.723-727 of LAC 13.I.Chapter 7, "Louisiana Capital Companies Tax Credit Program."

This emergency rule is necessary in order to implement changes enacted by Acts 1993, Nos. 279 and 724.

This rule provides for the transfer of administration of the program from the Office of Commerce and Industry to the Office of Financial Institutions.

This rule places more stringent guidelines on and provides greater guidance to those groups interested in becoming Certified Louisiana Capital Companies.

Clarification provided in the proposed rule will enhance the regulation of the Certified Louisiana Capital Companies and should promote investment in such companies, since the terms of the statute are clarified in a more objective and measurable manner.

This emergency rule is effective October 20, 1993, for 120 days or until a permanent rule takes effect through the normal promulgation process, whichever is shortest.

Title 13

ECONOMIC DEVELOPMENT

Part I. Commerce and Industry

Subpart 1. Finance

Chapter 7. Louisiana Capital Companies Tax Credit Program

§701. Description of Program

These rules implement the Louisiana Capital Companies Tax

Credit Program pursuant to R.S. 51:1921 et seq. and R.S. 22:1068(E). This program was created by Act 642 of the 1983 Legislature, amended by Act 891 in 1984, Acts 695 and 915 in 1986, Act 496 in 1989 and Acts 279 and 724 of 1993.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1932.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Office of Financial Institutions, LR 20:

§703. Definitions Provided by Rule

The following terms shall have the meanings provided herein, unless the context clearly indicates otherwise:

Affiliated Companies or *Affiliate*—for purposes of the transfer or sale of income and premium tax credits, pursuant to R.S. 51:1924(F) and R.S. 22:1068(E)(4):

1. two or more corporations, partnerships or juridical entities closely related through common ownership or stock ownership;

2. the surviving entity after a merger into that entity of an insurance company; or

3. the transferee from an insurance company in rehabilitation, receivership or liquidation.

Allowable Organization Costs—are those direct costs incurred to incorporate and charter an entity; however, such costs are limited to 25 percent of capitalization, before any reduction for disallowed organization costs.

1. Direct organization costs include, but are not limited to legal, accounting, consulting fees and printing costs directly related to the chartering or incorporation process, and filing fees paid to chartering authorities. Allowable organization costs may be capitalized and amortized over a period not to exceed five years.

2. Pre-opening and development stage enterprise costs, such as salaries and employment benefits, rent, depreciation, supplies, directors' fees, training, travel, expenses associated with the establishment of business relationships, postage and telephone fees are examples of costs that shall be expensed and not capitalized. Similarly, direct costs associated with the offering and issuance of capital stock are not considered to be organization costs and shall not be capitalized; these costs shall be deducted from the proceeds in recording initial capitalization.

BIDCO—a business and industrial development corporation licensed pursuant to the Louisiana Business and Industrial Development Corporation Act, R.S. 51:2386 et seq.

CAPCO—a certified Louisiana capital company certified pursuant to the Louisiana Capital Companies Tax Credit Program, R.S. 51:1921 et seq.

Capitalization—for purposes of initial certification, pursuant to R.S. 51:1925(B):

1. generally accepted accounting principles (GAAP) capital: common stock, preferred stock, general partnership interests, and limited partnership interests, all of which shall be exchanged for cash; surplus; undivided profits or loss which shall be reduced by a fully-funded loan loss reserve; contingency or other capital reserves and minority interests; reduced by disallowed organization costs.

2. *LESS*: the following, when any preferred or common stock, or partnership interests are subject to redemption or repurchase by the CAPCO:

Preferred stock, common stock, partnership interests, or limited partnership interests shall be multiplied by the following percentage reductions and deducted from capital:

| | |
|--|------|
| Within 5 years from redemption or repurchase | 20% |
| Within 4 years from redemption or repurchase | 40% |
| Within 3 years from redemption or repurchase | 60% |
| Within 2 years from redemption or repurchase | 80% |
| Within 1 year from redemption or repurchase | 100% |

Notwithstanding the foregoing, there will be no reduction for a withdrawal within five years after certification, provided the withdrawal is contemplated by all governing documents and disclosed to all prospective investors and any such withdrawal is concurrently replaced by an equal amount of cash GAAP capital. Moreover, the amount contemplated to be withdrawn shall not be the basis for any income tax credit or premium tax reduction.

Commissioner—the commissioner of the Office of Financial Institutions.

Control—owning, controlling, or having the power to vote, directly or indirectly, ten percent or more of any class of voting securities; or controlling in any manner the election of a majority of the directors or trustees; or after notice and opportunity for hearing, the commissioner determines that such company or shareholder, directly or indirectly, exercises a controlling influence over the management or policies of the other company.

Date Certified, Newly Certified or *Designated as a Certified Louisiana Capital Company*—the date that a CAPCO is notified of the certification or recertification by the commissioner.

Equity Investment—shall include [pursuant to R.S. 51:1923(4) and *Qualified Investment* as hereinafter defined pursuant to R.S. 51:1923(5)] common stock, preferred stock and debt, provided such debt is convertible into common stock or preferred stock at the option of either the CAPCO or the CAPCO and the borrower. The dominant feature of the conversion right shall be the right to acquire, or the acquisition of, an equity position, i.e., an ownership interest. Such debt, common stock or preferred stock may include the following features or elements: royalty rights, net profit interests, warrants for future ownership, or equity sale participation rights, all as hereinafter defined, and such other conceptually similar rights and elements as the OFI may approve.

1. *Royalty Right*—a right to receive a percent of gross or net revenues, may be either fixed or variable, may provide for a minimum or maximum dollar amount per year or in total, may be for an indefinite or fixed period of time, and may be based upon revenues in excess of a base amount.

2. *Net Profit Interest*—a right to receive a percent of operating or net profits, may be either fixed or variable, may provide for a minimum or maximum dollar amount per year or in total, may be for an indefinite or fixed period of time, and may be based upon operating or net profits in excess of a base amount.

3. *Warrant for Future Ownership*—an option on the stock

of the qualified Louisiana business. The qualified Louisiana business may repurchase a warrant (a "call") or the qualified Louisiana business may be required to repurchase a warrant (a "put") at some fixed amount or an amount based on a pre-agreed upon formula.

4. *Equity Sale Participation Right*—a conversion option of debt, to convert all or a portion of the debt to the qualified Louisiana business's stock, then to participate in the sale of the stock of the qualified Louisiana business.

Office and OFI—the Office of Financial Institutions.

Permissible Investments—for purposes of R.S. 51:1926(B), cash deposited with a federally-insured financial institution; certificates of deposit in federally-insured financial institutions; investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest by the United States; investment-grade instruments (rated in the top four rating categories by a nationally recognized rating organization); obligations of any state, municipality or of any political subdivision thereof; or any other investments approved in advance, in writing, by the commissioner.

Primary Business Activity—at all times, a minimum of 50% of total certified capital, which has been collected in cash, will be available for investment in or has been invested as a qualified investment.

Qualified Investment—as defined in R.S. 51:1923(5), shall not include:

1. any investment in a business engaged primarily in lending or investing activities, long-term leasing activities or any passive business activities. A passive business is one that is not engaged in a regular or continuous operation or derives substantially all of its income from passive investments that generate interest, dividends, royalties or capital gains;

2. any portion of a purchased qualified investment which is reflected as a qualified investment on another CAPCO's books;

3. reciprocal investments or loans made between CAPCOs;

4. an investment in a subsidiary of a CAPCO;

5. an investment in an affiliate of the CAPCO, unless approved in writing by the commissioner. For purposes of this subsection, *affiliate* means a person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with the CAPCO or its management or directors.

Qualified Louisiana Business—a business that will use substantially all of the proceeds from a qualified investment in the furtherance of economic development within Louisiana, as may be demonstrated by one or more of the following economic indicators resulting from such qualified investment:

1. an increase in the number of Louisiana jobs or the retention of existing Louisiana jobs;

2. an increase or expansion in production facilities or operating facilities within Louisiana;

3. an increase in export trade directed through Louisiana ports;

4. an increase in overall sales or production volume in the qualified Louisiana business; or

5. any other economic benefits to the state of Louisiana.

Total Certified Capital Under Management —for purposes of investment limits, pursuant to R.S. 51:1926(B):

1. GAAP capital: common stock, preferred stock, general partnership interests, and limited partnership interests, all of which shall be exchanged for cash; surplus; undivided profits or loss which shall be reduced by a fully-funded loan loss reserve; contingency or other capital reserves and minority interests; reduced by disallowed organization costs.

2. PLUS Qualified NON-GAAP Capital: the portion of any certified capital in the form of debentures, notes or any other quasi-equity/debt instruments with a maturity of at least five years which is available for investment in Qualified Investments.

3. LESS: the following, when any GAAP Capital or Qualified NON-GAAP Capital is subject to redemption or repurchase by the CAPCO:

The GAAP Capital and Qualified NON-GAAP Capital subject to redemption or repurchase shall be multiplied by the following percentage reductions and deducted from capital:

| | |
|--|------|
| Within 5 years from redemption or repurchase | 20% |
| Within 4 years from redemption or repurchase | 40% |
| Within 3 years from redemption or repurchase | 60% |
| Within 2 years from redemption or repurchase | 80% |
| Within 1 year from redemption or repurchase | 100% |

Total Certified Capital or Certified Capital—for purposes of R.S. 51:1926, 1927 and 1928 means the total of all investments into a CAPCO pursuant to R.S. 51:1924(A) and (B) and R.S. 22:1068(E), and includes any investments made by an agency of the state of Louisiana or a political subdivision of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1932.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:

§705. Income and Premium Tax Credit

A. In order to be eligible for any income or premium tax credits, debentures, notes or any other quasi-equity/debt instruments shall have an original maturity date of at least five years from the date of issuance. If an investment is in the form of stock or a partnership interest, the stock or partnership interest shall not be subject to redemption or repurchase within five years from the date of issuance. Except in the case where a CAPCO voluntarily decertifies and preserves all income and premium tax credits, if debentures, notes or any other quasi-equity/debt instruments or stock or partnership interests are redeemed or repurchased within five years from issuance, any income or premium tax credits previously taken, to the extent applicable to the investment redeemed or repurchased, shall be repaid to the Department of Insurance or the Department of Revenue and Taxation at the time of redemption, and any remaining tax credits shall be forfeited. Amortization of a note over its stated maturity does not constitute a redemption or repurchase under this Subpart.

B. The transfer or sale of income or premium tax credits will be allowed, subject to the following conditions:

1. The transfer or sale of income and premium tax credits, pursuant to R.S. 51:1924(F) and R.S. 22:1068(E)(4), will be restricted to transfers or sales between affiliated companies.

2. All transactions involving the sale or transfer of income and premium tax credits shall be subject to the approval of the commissioner. Companies shall submit, in writing, to the commissioner, a notification of any transfer or sale of income and premium tax credits within 30 days of the transfer or sale of such credits. The notification shall include a copy of a proposed act of transfer or sale. The act of transfer or sale shall contain the original investors' income and premium tax credit balance prior to transfer, the remaining balance after transfer, all tax identification numbers for both seller and purchaser, the date of transfer, and the amount of the transfer.

3. If an insurance company transfers credits between affiliated companies, the notification submitted to the office must include a worksheet, which the company shall also attach to the premium tax returns for any affiliates claiming credits, that shall contain the following information for each affiliate:

- a. name of each affiliate,
- b. the gross premium tax liability,
- c. credits taken under R.S. 22:1068 (A),
- d. credits taken under R.S. 22:1068 (B),
- e. credits taken under R.S. 22:1068 (C),
- f. credits taken under R.S. 22:1068 (D),
- g. Louisiana Insurance Guaranty Association (LIGA) credits,
- h. Louisiana Life and Health Insurance Guaranty Association (LHIGA) Credits,
- i. net premium tax liability before CAPCO premium tax reductions,
- j. credits taken under R.S. 22:1068 (E), and
- k. net premium tax liability after all credits.

Letters a through k shall be reflected as columns and the entire worksheet shall be totalled, in order for the office and the Department of Insurance to verify the amount of total credits taken among affiliated companies.

4. If income tax credits are transferred between affiliates, the notification submitted to the office must include a worksheet, which the transferor shall also attach to the Louisiana corporate and individual income tax returns for all affiliates claiming credits, which shall contain the following information, for each corporation or individual involved:

- a. name of each affiliate,
- b. the gross Louisiana Corporation or individual income tax liability of each affiliate, and
- c. credits taken under R.S. 51:1924(A) and (B).

5. Failure to comply with this rule may jeopardize the income and premium tax credit transferred.

6. The office will notify the Department of Revenue and Taxation and the Department of Insurance of all transactions involving the transfer or sale of premium and income tax credits granted under R.S. 51:1924 and R.S. 22:1068, and reported pursuant to R.S. 51:1925(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1924(F) and 1929, and R.S. 22:1068(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November, 1984), amended LR 12:664 (October, 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December, 1989), LR 16:762 (September, 1990), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:

§707. Application Fees, Other Fees

A. An "Advance Notification" of intent to seek certification shall be filed by a company or entity, "the applicant," prior to filing an application. An advance notification fee of \$100 shall be submitted with the advance notification form.

B. An application fee shall be submitted with the application based on 0.2 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be smaller than \$200 and in no case shall a fee exceed \$5,000. If, at the close of the 12-month funding period, 0.2 percent of the total taxes to be exempted exceeds the amount of the application fee originally submitted, the CAPCO shall submit the difference, up to the \$5,000 maximum, to the office. Checks should be payable to: Louisiana Office of Financial Institutions.

C. The office reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the estimated exemption or the fee submitted is incorrect. The document may be resubmitted with the correct fee. The document will not be considered officially received and accepted until the appropriate fee is submitted. Processing fees, for advance notifications and applications which have been accepted, will not be refundable.

D. The commissioner shall conduct an annual review of each CAPCO to determine the company's compliance with the rules and statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1925 and 1929.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:

§709. Application Process

A. A company organized and existing under the laws of Louisiana, created for the purpose of making qualified equity investments, or financing assistance as a licensed BIDCO, as required in R.S. 51:1921 et seq., shall make written application for certification to the commissioner on application forms provided by the office.

B. The form for applying to become a CAPCO may be obtained from the Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095, and shall be filed at the same address. The time and date of filings shall be recorded at the time of filing in the office and shall not be construed to be the date of mailing.

C. Said application and all submissions of additional information reported to the Office, shall be forwarded via United States mail, properly addressed and postmarked and signed by a duly authorized officer, manager, member or

partner, and contain the following information and evidence:

1. the full legal name of the applicant;
2. the street address of the applicant's principal office in Louisiana;
3. each individual director, officer, general or managing officer, manager member, or shareholder with a five percent or greater stock or partnership interest and each investor with a five percent or greater investment in the total certified capital under management, shall provide the following: names, street addresses, Social Security numbers, date of birth, personal financial statements, resumés indicating employment experience, an affidavit listing any outstanding federal, state, or local tax liens against them and disposition thereof, and a signed "Authority to Obtain Information" form. The name, federal employer identification number and most recent financial statement shall be provided for each corporate investor with a five percent or greater interest in the total certified capital under management;
4. a certified copy of the certificate of incorporation, articles of organization, articles of incorporation, or a certified copy of the certificate of formation of a limited partnership, or trust documents, or other evidence that the applicant is organized and existing under the laws of Louisiana, as required by the Secretary of State;
5. information and evidence that the applicant's purpose is to encourage and assist in the creation, development, and expansion of Louisiana businesses and to provide maximum opportunities for the employment of Louisiana residents, by making equity investments, or financing assistance as a licensed BIDCO, available to Qualified Louisiana Businesses;
6. information and evidence that the applicant has disclosed or will disclose to all investors that a tax credit is not available for an investment in a company until the company has been designated a certified Louisiana capital company;
7. information and evidence that the applicant has disclosed or will disclose to all investors that all statutory limits on tax credits are disclosed;
8. information and evidence that the applicant has disclosed or will disclose to all investors that the state of Louisiana is not liable for damages to an investor in a Louisiana capital company that fails to become designated as a certified Louisiana capital company;
9. a statement that if the investors in the company or partnership receive a tax credit under R.S. 51:1921 et seq., or R.S. 22:1068, the company or partnership will use its certified capital to make qualified investments as required in R.S. 51:1926;
10. a statement that the company will comply with all requirements of R.S. 51:1921 et seq., including the filing of quarterly reports of new investors and qualified investments that include the name of each investor in a CAPCO who has applied for a tax credit, the amount of each investor's investment, the amount of tax credit allowed to the investor and the date on which the investment was made;
11. information stating the estimated total certified capital of the applicant and how the value has been determined;
12. information showing that the applicant's GAAP capital, as of the date certified will be \$200,000 or more;

13. proforma statements of income and condition for the first day of operation and for the following three years, with a listing of organization and pre-operating costs and evidence of availability of capital funds;

14. the CAPCO shall include in any offering involving the sale of shares or debentures to an investor, the following statement:

"The State of Louisiana is not liable for damages to an investor in a Certified Louisiana Capital Company. Use of the words "certified" or "Louisiana" in an offering does not constitute a recommendation or endorsement of the investment by the Louisiana Department of Economic Development."

15. a statement disclosing any existing or potential conflicts of interest between the applicant, members, managers, associates or affiliates;

16. any other information deemed relevant to the commissioner.

D. The commissioner shall cause all applications to be reviewed by the office and designate those he determines to be complete. In the event that an application is deemed to be incomplete in any respect, the applicants will be notified within 15 days of receipt. An incomplete application shall be resubmitted, either in a partial manner or totally, as deemed necessary by the commissioner. A previously incomplete application may be resubmitted, which will establish a new time and date received for that application.

E. The submission of any false or misleading information in the application documents will be grounds for rejection of the application and denial of further consideration, as well as decertification, if such information discovered at a subsequent date would have resulted in the denial of such license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1925 and 1929.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:

§711. Conditions of Certification

A. All CAPCOs, through a resolution signed by every board member, shall acknowledge and approve the following conditions for certification as a certified Louisiana capital company:

1. a statement certifying that the CAPCO has an initial capitalization of not less than \$200,000. If any capitalization is repurchased or contemplated to be repurchased by the CAPCO within five years after certification, the CAPCO will concurrently replace any repurchased capital with cash capital, as defined under *Generally Accepted Accounting Principles*. Furthermore, any contemplated repurchases shall be disclosed in all governing documents to all prospective investors. The amount repurchased shall not be the basis for any income tax credits or premium tax reductions;

2. a statement that the CAPCO will notify, in writing, the office prior to the sale or redemption of stock, partnership interests or debentures constituting 10 percent or more of the

then outstanding shares, partnership interests or debentures;

3. a statement that the board of directors may not elect new or replace existing board members or declare dividends without prior written consent of the office for the first two years of business;

4. a statement that the CAPCO will immediately notify the office when its total certified capital under management is not sufficient to enable the CAPCO to operate as a viable going concern;

5. a statement that the CAPCO will not engage in any activity which represents a material difference from the business activity described in its application without first obtaining prior written approval by the office;

6. a statement that the CAPCO will comply with the CAPCO Act and all applicable rules, regulations and policies that are currently in effect or enacted after the date of certification;

7. if a CAPCO contemplates any public or private securities offerings, prior to the certification of any tax benefits resulting from the certified capital raised through such offerings, the CAPCO shall have a securities attorney provide a written opinion that the company is in compliance with Louisiana Securities Laws, Federal Securities Laws, and the securities laws of any other states where the offerings have been made. Copies of all offering materials to be used in investor solicitations must be submitted to the office, prior to investor solicitation;

8. any other conditions deemed relevant to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1925 and 1929.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:

§713. Requirements for Continuance of Certification and Voluntary Decertification

A. In calculating the percentage requirements for continued certification under R.S. 51:1926(A), and voluntary decertification under R.S. 51:1928, the numerator shall be the sum of all qualified investments held or intended to be held for one year or greater, and 50 percent of all qualified investments held or intended to be held less than one year; the denominator shall be total certified capital.

B. If a CAPCO invests a portion of its total certified capital in a wholly-owned subsidiary, the qualified investments made by the wholly owned subsidiary shall be added to the numerator under Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1926 and 1929.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:

§715. Initial Funding Period

A. Except as provided by R.S. 22:1068(E), a newly certified CAPCO will have a funding period of 12 months, from the date of receiving certification, in which to finalize additional investments into its certified capital.

B. Any CAPCO which has not completed or closed its initial funding, pursuant to R.S. 51:1924(D), may apply to the commissioner for recertification by written request. A CAPCO applying for recertification must demonstrate to the satisfaction of the commissioner that:

1. the CAPCO is in compliance with R.S. 51:1921, et seq. and the rules and regulations promulgated thereunder;
2. compelling reasons exist for recertification; and
3. recertification will not adversely affect any previous investors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1924 and 1929.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:
§717. Premium Tax Reductions for Insurance Companies

A. The Allowable Annual Premium Tax Credit (AAPTC) that may be taken during any year shall be the lesser of (1) 10 percent of premium tax reduction allowable; or (2) 25 percent of the gross premium tax liability for the base year of investment. Furthermore, the credit taken in any year shall not exceed the net premium tax liability for that year.

B. The Premium Tax Reduction Allowable (PTRA) is 120 percent of the investment in a CAPCO.

C. The Gross Premium Tax Liability in the Base year of Investment (GPTLB) is the gross premium tax liability in the year of investment, before any credits.

D. The Gross Premium Tax Liability (GPTL) is the gross premium tax liability during any year for which the CAPCO credit may be taken, before any credits.

E. The Net Premium Tax (NPT) is the GPTL, reduced by credits provided in R.S. 22:1068 (A), (B), (C) and (D), and credits for Louisiana Insurance Guaranty Association (LIGA) and Louisiana Life and Health Insurance Guaranty Association (LHIGA) assessments. If the AAPTC ever exceeds the NPT in any year, the excess may be carried forward until utilized.

Example:

Base (Taxable) years of investment, assuming multiple investments of \$2,000,000 and \$1,000,000, respectively, by an insurer in CAPCOs.

| | <u>1993</u> | <u>1994</u> |
|---|------------------|------------------|
| Investment by Insurer * | \$ 2,000,000 | \$ 1,000,000 |
| Premium Tax Reduction Allowable | | |
| "PTRA" (120% of Investment) | 2,400,000 | 1,200,000 |
| Gross Premium Tax Liability | | |
| "GPTL" of Insurer | 1,000,000 | 1,100,000 |
| Credits from R.S. 22:1068 (A), (B), (C), (D), LIGA or LHIGA | <u>(600,000)</u> | <u>(540,000)</u> |
| Net Premium Tax Before CAPCO | | |
| Credits "NPT" | \$ 400,000 | \$ 560,000 |
| Allowable Annual Premium Tax Credit "AAPTC" | | |
| For the Base Year of Investment is the Lesser of: | | |
| (1) 10% of PTRA | 240,000 | 120,000 |
| (2) 25% of GPTLB | 250,000 | 275,000 |
| And further limited to | | |
| 100% of NPT | 400,000 | 560,000 |
| For subsequent years, the AAPTC for each investment is the lesser of: | | |
| (1) The Base Year Reduction | 240,000 | 120,000 |
| (2) 100% of NPT for the Subsequent Years | | |

If Net Premium Tax liabilities of \$500,000 per year are estimated for the period of 1993 through 2003, the following amount of AAPTC may be taken:

| <u>YEAR</u> | <u>1993</u> | <u>1994</u> | <u>AAPTC</u> |
|--------------|---------------------|-------------|---------------------------|
| 1993 | (240,000 + 0) | | \$ 240,000 |
| 1994 | (240,000 + 120,000) | | 360,000 |
| 1995 | (240,000 + 120,000) | | 360,000 |
| 1996 | (240,000 + 120,000) | | 360,000 |
| 1997 | (240,000 + 120,000) | | 360,000 |
| 1998 | (240,000 + 120,000) | | 360,000 |
| 1999 | (240,000 + 120,000) | | 360,000 |
| 2000 | (240,000 + 120,000) | | 360,000 |
| 2001 | (240,000 + 120,000) | | 360,000 |
| 2002 | (240,000 + 120,000) | | 360,000 |
| 2003 | (0 + 120,000) | | <u>120,000</u> |
| TOTAL | | | <u>\$3,600,000</u> |

* Note: The amount of investment by an insurer in a CAPCO, in any one year, that would maximize the use of premium tax credits is calculated as follows: $(GPTLB \times 25\% \times 10 \text{ yrs}) / 1.20$. In this example, the formula would yield an investment amount of \$2,083,333 in 1993 and \$2,291,666 in 1994.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1068(E) and R.S. 51:1929.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:

§719. Information Required from Qualified Louisiana Businesses

Qualified Louisiana businesses shall submit the following information to a CAPCO, prior to the funding of any qualified investment in a qualified Louisiana business (business):

1. Affidavit that the business:

a. will use in its business, substantially all of the proceeds from the qualified investment in the furtherance of economic development within Louisiana, as indicated by the business in its written description of the use of proceeds. Such written description shall demonstrate that one or more of the following economic indicators will likely result from the qualified investment provided by the CAPCO:

i. an estimated increase in the number of Louisiana jobs or the retention of Louisiana jobs;

ii. an estimated increase or expansion in production facilities or operation facilities within Louisiana as a result of the funding;

iii. an estimated benefit to the Louisiana economy resulting from increased export trade directed through Louisiana ports;

iv. an estimated increase in overall sales or production volume in the business; or

v. any other estimated economic benefits to the state of Louisiana.

b. will use the proceeds in the furtherance of its business and will not advance any proceeds to any of its affiliates, as defined in §703, unless prior written approval has been granted by the commissioner. The commissioner will approve such advances only when a direct economic benefit to the state of Louisiana will result from such advances.

2. An agreement that the business will submit to the CAPCO, upon application and annually thereafter, copies of its federal and Louisiana income tax returns.

3. An agreement that the business will submit to the CAPCO, upon application and annually thereafter, a listing of the total number of Louisiana and non-Louisiana employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1926, 1927 and 1928.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), amended LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 19:

§721. Reports to the Office of Financial Institutions

On forms provided by OFI or in a manner approved by OFI, each CAPCO shall report to OFI, on or before January 31, selected information for each qualified investment made in the previous calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1926.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), amended LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 19:

§723. Repealed

§725. Repealed

§727. Repealed

Sidney E. Seymour
Chief Examiner

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 741 - Handbook for School Administrators
(Nonpublic) - Standard 6.016.14

The Board of Elementary of Secondary Education, at its meeting of September 23, 1993, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953 (B), and adopted as an emergency rule, an amendment to Bulletin 741 (Nonpublic), Standard 6.016.14 to include a sentence which was inadvertently omitted in a notice of intent printed on page 799 of the June, 1993 issue of the *Louisiana Register*.

Emergency adoption of the following amendment is necessary so it can be utilized during the 1993-94 school year. Effective date of this emergency rule is September 23, 1993 and replaces the amendment which appeared as a notice of intent on page 799 of the June, 1993 issue of the *Louisiana Register* and shall remain in effect for 120 days.

Revised Standard 6.016.14

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1706 - Exceptional Children

The Board of Elementary and Secondary Education exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B), and re-adopted as an emergency rule, Bulletin 1706, Regulations for Implementation of the Exceptional Children's Act, effective November 1, 1993, except for an amendment to page 119, Part B.1.F.2 of the bulletin. The revision appears in this issue of the *Louisiana Register* as an emergency rule. Emergency adoption is necessary in order to continue the present emergency rule for 120 days or until adoption is finalized as a rule.

Bulletin 1706 contains statewide rules and regulations enforcing the requirements of state and federal laws, which assure a free, appropriate public education to all exceptional children, ages 3 through 21 years. Responsibilities of state and local public and nonpublic educational agencies are given. Bulletin 1706 may be seen in its entirety in the Office of the State Register, Fifth Floor, Capitol Annex, 1051 North Third Street, Baton Rouge, LA; in the Office of Special Educational Services, Department of Education; and in the Office of the Board of Elementary and Secondary Education, located in the Education Building, Baton Rouge, LA.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1508 - Pupil Appraisal Handbook

The Board of Elementary and Secondary Education exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B), and re-adopted as an emergency rule, Bulletin 1508, Pupil Appraisal Handbook, effective November 1, 1993. Emergency adoption is necessary, for 120 days, in order to continue the present emergency rule until adoption is finalized as a rule.

Bulletin 1508 is a guide for the conduct of pupil appraisal services. It includes procedures, standards, and criteria for identifying children eligible for special education and/or related services. Bulletin 1508 may be seen in its entirety in the Office of the State Register, Fifth Floor Capitol Annex, 1051 North Third Street, Baton Rouge, LA; in the Office of Special Educational Services, Department of Education; and in the Office of the Board of Elementary and Secondary Education, located in the Education Building, Baton Rouge, LA.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1706 - Exceptional Children

The Board of Elementary and Secondary Education exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B), and adopted as an emergency rule, an amendment to Bulletin 1706, Regulations for Implementation of the Exceptional Children's Act (R.S. 17:1941), page 119, Part B as follows:

Part B.

* * *

F. Hospital/Homebound Instruction (per teacher)

1. Itinerant 5-10
2. One Site 8-17

* * *

Emergency adoption is necessary because school systems are currently staffing these hospital classes. Effective date of this emergency rule is September 23, 1993, for 120 days.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1903 - Dyslexia Law

The Board of Elementary and Secondary Education exercised those powers conferred by the Administrative Procedure Act, R. S. 49:953(B), and re-adopted revised Bulletin 1903, Regulations for the Implementation of R.S. 17:7(11) - The Louisiana Dyslexia Law. Bulletin 1903 was previously adopted as an emergency rule, effective June 24, 1993 and printed in full in the July, 1993 issue of the *Louisiana Register* on pages 847 - 849.

Bulletin 1903 which is referenced in the Administrative Code, Title 28, includes regulations for implementing the five-step process for evaluation and determination of program eligibility. This bulletin contains statewide regulations for student placement in a multi-sensory regular education program. It identifies the five-step process to be implemented for the LEAs. It includes characteristics of multi-sensory programs as well as procedures and criteria for assessment.

Re-adoption of revised Bulletin 1903 as an emergency rule, for 120 days, is necessary in order to continue the present emergency rule until it is finalized as a rule. Effective date of this emergency rule is October 25, 1993.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Interim Policy for Hiring Noncertified Personnel (LAC 28:I.903)

The Board of Elementary and Secondary Education exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B), and re-adopted as an emergency rule. This interim emergency policy for hiring full-time/part-time noncertified school personnel will remain in effect until July 1, 1995. Re-adoption as an emergency rule is necessary in order to continue the present emergency rule until it is finalized as a rule. Effective date of this emergency rule is October 25, 1993, for 120 days.

This is also an amendment to the LAC Title 28 as stated below:

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans §903. Teacher Certification Standards and Regulations

* * *

I. Non-Certified Personnel Administrative Guidelines

1. - 3. ...

4. Copies of transcripts showing the six semester hours and a copy of the NTE score card showing that the NTE has been taken since the last employment under this policy shall be kept on file in the LEAs Superintendent's/Personnel Office. LEAs shall have the authority to review and waive requests for re-employment under this policy according to approved administrative procedures when the requirements have not been met.

5. Compensation

a. These individuals shall be employed at the salary, on an hourly basis, that is based on the effective state salary schedule for a beginning teacher with a baccalaureate degree and a certificate.

b. Full-time/part-time noncertified school personnel shall be considered part of the regular teacher allotment, and local systems shall be reimbursed in the same manner as they are for regular teachers.

NOTE: Sections 1 - 3 of the guidelines were printed in the December, 1991 issue of the *Louisiana Register*, Volume 17, page 1204 as a rule.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Office of Community Development

Supplemental Appropriations Disaster Recovery Program Final Statement

The Division of Administration, Office of Commissioner, under the authority of R.S. 49:953(B), does hereby adopt an emergency rule pertaining to the Supplemental Appropriations Disaster Recovery Program. The emergency rule is necessary because the U.S. Department of Housing and Urban Development (HUD) has awarded the state \$6,539,000 for disaster recovery assistance for local governments impacted by Hurricane Andrew. HUD expects the state to obligate these funds as soon as possible. An emergency rule will allow us to initiate this program immediately. The emergency rule will be followed up with a formal notice of intent and rule which will cover the two years allowed by HUD. HUD requires that rules be published in order to initiate funding of local governments. This emergency rule will remain in effect for 120 days as allowed under R.S. 49:954(B) et seq. beginning October 1, 1993.

Chapter IX, "Community Planning and Development, Community Development Grants", of the Supplemental Appropriations Act, 1993 (Public Law 103-50) appropriates \$2,776,000 in CDBG funds only for repair, renovation, or replacement, or other authorized community development activities affecting structures damaged or destroyed by Hurricane Andrew, and \$3,763,000 in CDBG funds for authorized community development activities in areas impacted

by Hurricane Andrew. The provisions are construed to include authorization for use of any of the funds for construction of new housing. The secretary is authorized to waive entirely, or in part, any requirement set forth in Title I of the Housing and Community Development Act of 1974, as amended, (42 USC 5301 et seq.) except a requirement pertaining to fair housing and nondiscrimination, the environment, or labor standards, if the secretary finds that such waiver will further the purposes of the use of the funds. The waiver authority is construed to extend to the program regulations implementing Title I (24 CFR Part 570) except with respect to the requirements expressly excepted. Provisions not specifically waived will remain in effect. Any applicant receiving funds under this program must have completed their approved project and drawn down funds to reimburse approved expenditures prior to September 30, 1995.

The full text of this emergency rule may be viewed at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA, telephone (504) 342-5015 or at the Office of Community Development, 1051 North Third Street, Baton Rouge, LA, telephone (504) 342-7412.

Raymond J. Laborde
Commissioner

DECLARATION OF EMERGENCY

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

Case Management Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is adopting the following emergency rule in the Medical Assistance Program in accordance with the Administrative Procedure Act, R. S. 49:953(B).

The Bureau of Health Services Financing has developed program policy and payment standards which allows federal financial participation in the funding of Optional Targeted Case Management Service for Title XIX eligible infants and toddlers who are ages birth through two inclusive (0 - 36 months) who have established medical conditions as defined in Part H of the Individuals with Disabilities Education Act. The criteria for establishing the state's definition of developmental delay are further defined in 34 Code of Federal Regulations Section 303.300 as published in the *Federal Register*, Volume 54, page 26309, June 22, 1989 and Volume 54, page 53156, August 23, 1989. The bureau published the notice of intent on February 20, 1992 (Vol. 18, No. 2) and the rule was published on August 20, 1992, (Vol 18, No.8) to fund such services under Medicaid as authorized by Section 1915(g) of the Social Security Act.

Since the above rule was promulgated, it has been determined that Medicaid providers are having extreme

difficulty in locating persons to serve as family service coordinators and supervisors of family service coordinators who meet the requirement of having completed 40 hours of approved annual in-service education in family service coordination and related areas. Lack of qualified family services coordinators in sufficient numbers to arrange services for these children jeopardizes the welfare of the children and limits the department's ability to collect federal funds for this optional program, thereby creating an emergency situation. Therefore, in order to insure the availability of these services this particular experience will no longer be required. Instead, family service coordinators and supervisors of family service coordinators will be required to complete at least 16 hours of orientation prior to performing any family service coordination tasks. An additional 24 hours of related training must be obtained during the first 90 days of employment. The content of these hours are specified by the BHSF. The family service coordinators supervisors will also be required to complete specified hours of training during the first 90 days of employment and to obtain in-service training each year in particular areas.

EMERGENCY RULE

Effective September 20, 1993, the Bureau of Health Services Financing is revising its training requirements for family service coordinators and supervisors of family service coordinators in accordance with the following provisions. This emergency rule shall remain in effect for the maximum of 120 days.

I. Specific Provider Responsibilities:

A. The provider must ensure that Medicaid-funded family service coordination services for eligible beneficiaries are provided by qualified individuals who meet the following licensure, education, experience, training and other requirements:

1. bachelor's/master's degree in health or human services or related field; and
two years post bachelor's/master's degree experience in a health or human services field, (master's degree in social work, or special education with certification in non-categorical preschool handicapped or other certified areas with emphasis on infants, toddlers and families may be substituted for the required two years of experience); or
nurse registered and licensed in the state; and
two years experience in pediatric, public health or community nursing; and
2. demonstrated knowledge and skills in providing family service coordination services to this target population; and
3. satisfactory completion of at least 16 hours of orientation prior to performing any family service coordination tasks and an additional 24 hours of related training during the first 90 days of employment.

The 16 hours of orientation cover the following subjects:

- Eight hours agency specific training:
one hour - child abuse identification reporting law, emergency and safety procedures;
three hours - facility personnel policy; and
four hours - orientation to agency policy including

billing Medicaid and other sources, documentation, and confidentiality; and

Eight hours ChildNet specific training:

- one hour - components of the ChildNet system;
- one and one-half hours - orientation to family needs and participation;

and participation;

- two hours - interagency agreement/focus and team building;

two hour - Early Intervention Services (definition and resources);

- one hour - Child Search and family service coordinator roles and responsibilities; and

one and one-half hours - multidisciplinary evaluation (MDE) and individualized family service plan (IFSP) overview.

The 24 hours to be completed within the first 90 days shall cover the following advanced subjects:

state structure for ChildNet, Child Search and Early Intervention Service Programs;

Child Search and family service coordinator roles and responsibilities in depth;

- multidisciplinary evaluation (MDE) in depth;
- individualized family service plan (IFSP) in depth;
- procedural safeguards and complaint procedures;
- family perspective, including the grieving process;
- cultural diversity;

- communication with parents and professionals;
- family empowerment and advocacy;

resources, including adaptation of resources to the child's needs; and

arranging access for families to support systems, including informal systems.

In-service training specific to ChildNet is to be arranged and coordinated by the regional infant and toddler coordinator and specific training content shall be approved by a subcommittee of the State Interagency Coordinating Council including members from at least the Medicaid agency and the Department of Education. A new family service coordinator must receive the minimum 16 hours prior to assuming any family service coordination duties. Advanced training in specific subjects (i.e., multidisciplinary evaluations and individualized family service plans) shall be completed by the new family service coordinator prior to assuming those duties.

4. The provider must ensure that each family service coordinator has completed the required orientation and advanced training during the first 90 days of employment and at least 40 hours of approved in-service education in family service coordination and related areas annually.

B. The provider must ensure and maintain records documenting that family service coordinators are supervised by qualified individuals who meet the following licensure, education, experience, training and other requirements:

1. satisfactory completion of at least the 40 hours of family service coordination and related orientation required of family service coordinators during the first 90 days of employment before assuming supervision of any family service coordination;

2. supervisors must also complete 40 hours of in-service training each year on such subjects as family service

coordination, supervision, or administration.

Disapproval of this change by the Health Care Financing Administration will automatically cancel the provisions of this emergency rule and current policy will remain in effect.

Rose V. Forrest
Secretary

DECLARATION OF EMERGENCY

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

Immunizations

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the emergency provision of the Administrative Procedure Act, R.S. 49:953(B).

The Bureau of Health Services Financing reimburses pediatric immunizations for Medicaid eligible children in accordance with the regulations governing these services under the Medicaid Program. The Omnibus Budget Reconciliation Act of 1993, Section 13631 includes a specific provision on pediatric immunizations which prohibits the Medicaid payment of a single antigen vaccine and its administration in any case in which the administration of a combined antigen vaccine was medically appropriate as determined by the Health Care Financing Administration effective October 1, 1993.

Therefore, in order to comply with this federal law and to avoid federal sanctions or penalties, the Bureau of Health Services Financing has adopted the following emergency rule which shall remain in effect for 120 days.

EMERGENCY RULE

The Bureau of Health Services Financing will not reimburse for a single antigen and its administration in any case in which the administration of a combined antigen vaccine was medically appropriate as determined by the Bureau of Health Services Financing.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA. He is the person responsible for responding to inquires regarding this emergency rule and providing information about a public hearing on this matter.

Copies of this emergency rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

Rose V. Forrest
Secretary

DECLARATION OF EMERGENCY

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

Medicaid Estate Recovery

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), is effective October 1, 1993 for 120 days.

Federal regulations under the Medical Assistance Program have not required that states seek recovery for Medicaid payments made under the state plan from the estates of individuals. However, the Omnibus Budget Reconciliation Act of 1993, Section 13612(a) which amended Section 1917(b)(1) (42 U.S.C. 1396p(b)(1)) mandates that states seek recovery of Medicaid payments for services provided under the state plan, effective October 1, 1993. Therefore, in order to comply with this federal law and to avoid federal sanctions or penalties, the bureau has adopted the following emergency rule.

EMERGENCY RULE

Effective October 1, 1993, the Bureau of Health Services Financing, will adopt a Medicaid Estate Program in accordance with the Omnibus Budget Reconciliation Act of 1993, Section 13612(a). The Bureau of Health Services Financing shall seek recovery from an individual's estate or upon sale of property subject to a lien imposed as a result of Medicaid payments made on behalf of an individual covered by the state plan.

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA. He is the person responsible for responding to inquires regarding this emergency rule and providing information about a public hearing on this matter. Copies of this emergency rule and all other Medicaid rules and regulations are available at parish Medicaid Offices for review by interested parties.

Rose V. Forrest
Secretary

DECLARATION OF EMERGENCY

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

Residents' Trust Fund

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

Currently federal regulations under the Medicaid Program prohibit nursing facilities from charging against the personal funds of a resident for any item or service for which payment is made under Medicaid. On November 12, 1992, the Health Care Financing Administration published a final rule amending the residents' rights provision on the Requirements for Participation in Medicare and Medicaid by setting forth the minimum services that states must include in the Medicare and Medicaid payment to a nursing facility, extra items and services for which a facility may charge residents, and provisions governing requests for items and services. This final rule is entitled "Charges to Residents' Funds in Nursing Homes," *Federal Register*, Volume 57, page 53572 and amends regulations found at 42 CFR 483.10(c)(8). The regulation includes the following general categories of required items and services included in the Medicaid rate: all nursing, dietary, program activities, medically related social services, all room and bed maintenance services and routine personal hygiene items and services are covered under the Medicare or Medicaid rate. Therefore, in order to comply with this new federal regulation and to avoid federal sanctions or penalties the bureau has adopted the following emergency rule which shall remain in effect for 120 days.

EMERGENCY RULE

Effective, October 1, 1993, the Bureau of Health Services Financing has adopted the following federal regulations incorporated in 42 CFR 483.10(c)(8) governing the protection of residents' funds in nursing facilities.

Limitation on Charges to Personal Funds. The facility may not impose a charge against the personal funds of a resident for any item or service for which payment is made under Medicaid or Medicare (except for applicable deductible and coinsurance amounts). The facility may charge the resident for requested services that are more expensive than or in excess of covered services in accordance with 42 CFR 489.32. (This does not affect the prohibition on facility charges for items and services for which Medicaid has paid. See 42 CFR 447.15, which limits participation in the Medicaid program to providers who accept, as payment in full, Medicaid payment plus any deductible, coinsurance, or copayment required by the plan to be paid by the individual.)

I. Services Included in Medicare or Medicaid Payment. During the course of a covered Medicare or Medicaid stay, facilities may not charge a resident for the following categories of items and services:

- A. nursing services as required by 42 CFR 483.30;
- B. dietary services as required by 42 CFR 483.35;
- C. an activities program as required by 42 CFR 483.15(f);
- D. room/bed maintenance services;
- E. routine personal hygiene items and services as required to meet the needs of residents, including but not limited to hair hygiene supplies, comb, brush, bath soap, disinfecting soaps or specialized cleansing agents when indicated to treat special skin problems or to fight infection, razor, shaving cream, toothbrush, toothpaste, denture adhesive, denture cleaner, dental floss, moisturizing lotion, tissues, cotton balls, cotton swabs, deodorant, incontinence care and supplies, sanitary napkins and related supplies, towels, washcloths, hospital gowns, over the counter drugs, hair and nail hygiene services, bathing and basic personal laundry;
- F. medically-related social services as required by 42 CFR 483.15(g).

II. *Items and Services that may be Charged to Residents' Funds.* Listed below are general categories and examples of items and services that the facility may charge to residents' funds if they are requested by a resident, if the facility informs the resident that there will be a charge, and if payment is not made by Medicare or Medicaid:

- A. telephone;
- B. television/radio for personal use;
- C. personal comfort items, including smoking materials, notions and novelties, and confections;
- D. cosmetic and grooming items and services in excess of those for which payment is made under Medicaid or Medicare;
- E. personal clothing;
- F. personal reading matter;
- G. gifts purchased on behalf of a resident;
- H. flowers and plants;
- I. social events and entertainment offered outside the scope of the activities program, provided under 42 CFR 483.15(f);
- J. noncovered special care services such as privately hired nurses or aides;
- K. private room, except when therapeutically required (for example, isolation for infection control);
- L. specially prepared or alternative food requested instead of the food generally prepared by the facility, as required by 42 CFR 483.35. (Note: Facilities must refer to the Nursing Facility Standards for Payment for specific requirements regarding patient nourishment and dietary services prior to charging patients for such items.)

III. *Requests for Items and Services*

- A. The facility must not charge a resident (or his or her representative) for any item or service not requested by the resident.
- B. The facility must not require a resident (or his or her representative) to request any item or service as a condition of admission or continued stay.
- C. The facility must inform the resident (or his or her representative) requesting an item or service for which a charge will be made that there will be a charge for the item or service and what the charge will be.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the

Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA. He is the person responsible for responding to inquiries regarding this emergency rule and providing information about a public hearing on this matter. Copies of this proposed rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

Rose V. Forrest
Secretary

DECLARATION OF EMERGENCY

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

Transfer of Assets

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the emergency provision of the Administrative Procedure Act, R.S. 49:953(B).

The Medical Assistance Program in accordance with Public Law 100-360 published a rule regarding the transfer of resources under Title XIX on June 20, 1990. This rule states that transfer of resources will be in accordance with the Health Care Financing Administration's State Medicaid Manual publication, Section 3250-3255. However, the Omnibus Budget Reconciliation Act of 1993, Section 13611 amended Section 1917(c)(1) (42 U.S.C.1396p(c)(1)) of the Social Security Act, thereby changing how state Medicaid Programs currently determine periods of restricted coverage based on asset transfers for less than fair market value. These changes affect the current definition of "resources," the period of review for transfers and trusts, the penalty period for inappropriate transfers, joint tenancy, applicability of ineligible transfers applies to person(s) who establish trusts other than the individual, and allowable trusts. The agency is adopting the provisions of OBRA 1993 as mandated for implementation effective with service provided on or after October 1, 1993, with respect to assets disposed of on or after August 11, 1993, and with respect to trusts established on or after August 11, 1993. In order to comply with federal law and to avoid federal sanctions or penalties, the agency has adopted the following emergency rule.

EMERGENCY RULE

Transfer of assets under Title XIX shall apply to all applications for Medicaid Assistance in accordance with the Omnibus Budget Reconciliation Act of 1993 requirements as interpreted by the Health Care Financing Administration.

The provisions of OBRA 1993 governing the transfer of assets are as follows:

- 1. The term "resources" was replaced with "assets" thereby extending applicability to income transfers.

2. The agency is required to determine whether an institutionalized individual (or spouse of such individual) has disposed of assets for less than fair market value during the 36-month (60-month for certain trusts) period immediately before he or she made application for medical assistance.

3. The penalty period applicable to individuals who transfer assets for less than fair market value will continue until the total cumulative uncompensated value of assets transferred is depleted in accordance with current program methodology.

4. Penalty period sanctions for multiple or incremental transfers shall be cumulative and follow consecutively rather than concurrently.

5. Assets held in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement shall be considered transferred by the individual when any action is taken, either by the individual or by any other person, that reduces or eliminates the individual's ownership or control.

6. For purposes of determining an individual's eligibility for Medicaid the following rules shall apply to trusts. An individual shall be considered to have established a trust if assets of the individual were used to form all or part of the corpus of the trust and if any of the following individuals established such trust:

- a. the individual;
- b. the individual's spouse;
- c. a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse;
- d. a person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

The above provisions will be applied without regard to:

- a. the purpose for which a trust is established,
- b. whether the trustees have or exercise any discretion under the trust,
- c. any restrictions on when or whether distribution may be made from the trust, or
- d. any restrictions on the use of distributions from the trust.

In case of an irrevocable trust:

a. If there are any circumstances under which payment from the trust could be made to or for the benefit of the individual, the portion of the corpus from which, or the income on the corpus from which, payment to the individual could be made shall be considered as an available resource to the individual.

b. A portion of the trust from which no payment could be made to the individual under any circumstances shall be considered, as of the date of establishment of the trust to be assets disposed, and subject to transfer of assets sanctions.

The above rules regulating trusts do not apply to trusts provided that upon the death of such individual the state will receive all amounts remaining in the trust up to an amount equal to the total medical assistance paid on behalf of the individual by Medicaid.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030,

Baton Rouge, LA. He is the person responsible for responding to inquires regarding this emergency rule and providing information about a public hearing on this matter. Copies of this emergency rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

Rose V. Forrest
Secretary

DECLARATION OF EMERGENCY

Department of Insurance Commissioner of Insurance

Health Insurance Standard Claims Forms

In accordance with the provisions of R.S. 49:953B of the Administrative Procedure Act, the Department of Insurance has adopted emergency Regulation 48 in order that it might be implemented without delay and within the time limits set forth by Act 653 of the 1993 Regular Legislative Session.

Emergency rulemaking is necessary to immediately provide for the standardization of claims forms used for billing health care services. This emergency regulation is effective October 20, 1993 and shall remain in effect for 120 days.

EMERGENCY REGULATION 48 Standardized Claims Forms Table of Contents

- Section 1. Purpose
- Section 2. Authority
- Section 3. Definitions
- Section 4. Applicability and Scope
- Section 5. Requirements for use of HCFA Form 1500
- Section 6. Requirements for use of HCFA Form UB92
- Section 7. Requirements for use of J512 Form
- Section 8. General Provisions

Section 1. Purpose

The purpose of this regulation is to standardize the forms used in the billing and reimbursement of health care, reduce the number of forms utilized and increase efficiency in the reimbursement of health care through standardization.

Section 2. Authority

This regulation is issued pursuant to the authority vested in the Commissioner of Insurance under the Administrative Procedure Act and R.S. 22:10, 22:213(A)(14), and 22:3016(C) of the Insurance Code.

Section 3. Definitions

CDT-1 Codes—the current dental terminology prescribed by the American Dental Association.

CPT-4 Codes—the current procedural terminology published by the American Medical Association.

HCFA—the federal Health Care Financing Administration of the U.S. Department of Health and Human Services.

HCFA Form 1500—the health insurance claim form published by HCFA for use by health care providers.

HCFA for UB92—the health insurance claim form published by HCFA for use by institutional care providers.

HCPCS—HCFA's common procedure coding system which is based upon the AMA's Physician Current Procedural Terminology, Fourth Edition (CPT-4).

1. *HCPCS Level 1 Codes*—the AMA's CPT-4 codes with the exception of anesthesiology services.

2. *HCPCS Level 2 Codes*—the codes for physician and non-physician services are not included in COT-4.

G. Health Care Practitioner—

1. an acupuncturist licensed under R.S. 37:1356-1360;
2. a certified registered nurse anesthetist licensed under R.S. 37:930;
3. a chiropractor licensed under R.S. 37:2801-2830.7;
4. a dentist licensed under R.S. 37:751-794;
5. a dietician and nutritionist licensed under R.S. 37:3081-3093 and 36:259U;
6. durable medical equipment suppliers;
7. an emergency medical technician licensed under R.S. 40:1231-1232;
8. a general health clinic (excluding early periodic screening diagnosis treatment clinics) certified by the Louisiana Department of Health and Hospitals;
9. a hearing aid dealer licensed under R.S. 37:2441-2465;
10. a licensed practical nurse licensed under R.S. 37:961;
11. a mental health counselor licensed under R.S. 37:1101-1115;
12. a mental health clinic licensed under R.S. 28:567;
13. a midwife licensed under R.S. 37:3240-3257;
14. an occupational therapist licensed under R.S. 37:3001-3014;
15. an optometrist licensed under R.S. 37:1052;
16. a physical therapist and physical therapist assistant licensed under R.S. 37:2401-2419;
17. a physician licensed under R.S. 37:1261-1292;
18. a physician assistant licensed under R.S. 37:1360.21-27;
19. a podiatrist licensed under R.S. 37:611-628;
20. a psychologist licensed under R.S. 37:2351-2370;
21. a registered nurse licensed under R.S. 37:911-931;
22. a rehabilitation center licensed under 42:CFR 405.1701Q;
23. a respiratory therapist licensed under R.S. 37:3351-3361;
24. a social worker licensed under R.S. 37:2701-2718;
25. a speech pathologist and audiologist licensed under R.S. 2651-2665;
26. a substance abuse counselor licensed under R.S. 37:3371-3384;
27. a substance abuse prevention/treatment program licensed under R.S. 40:1058.1-1058.3;
28. any other health care practitioners as licensed by the State of Louisiana;

ICD-9-CM Codes—the disease codes in the international classification of diseases, ninth revision, clinical modifications published by the U.S. Department of Health and Human Services.

Institutional Care Practitioner—

1. an adult day health care provider licensed under R.S. 46:1971-1980;
2. an ambulatory surgical center licensed under R.S. 40:2131-2143;
3. a drug screening laboratory licensed under R.S. 49:1111-1113, 1115-1118, 1121, 1122, and 1125.
4. an end stage renal dialysis facility under 42:CFR 405.2100;
5. a home health agency licensed under R.S. 40:2009.31-2009.40;
6. a hospice licensed under R.S. 40:2181-2191;
7. a hospital licensed under R.S. 40:2100-2114;
8. a nursing home licensed under R.S. 40:2009;
9. a residential care/community group home or residential facility licensed under R.S. 46:51, 1401-1411, and 28:1-284;
10. any other institutional care practitioner as licensed by the State of Louisiana.

J512 Form—the uniform dental claim form approved by the American Dental Association for use by dentists.

Medicare—Title XVIII of the federal Social Security Act.

Medicaid—Title XIX of the federal Social Security Act.

Revenue Codes—the codes established for use by institutional care practitioners by the National Uniform Billing Committee.

Section 4. Applicability and Scope

Except as otherwise specifically provided, the requirements of this regulation apply to all issuers of health care policies or contracts of insurance, administrators of self-funded employee benefit plans, and other forms of insurance and entitlement programs under Title XVIII and Title XIX involved in the reimbursement of health care expenses, and all practitioners of health care licensed by the state.

Section 5. Requirements for use of HCFA Form 1500

A. Health care practitioners, other than dentists, shall use the HCFA Form 1500 and instructions provided by HCFA for use of the HCFA Form 1500 when billing patients or their representatives for reimbursement of claims with insurers for professional services.

B. An issuer may not require a health care practitioner to use any coding system for the initial filing of claims for health care services other than the following:

1. HCPCS Codes; and
2. ICD-9-CM Codes.

C. An issuer may not require a health care practitioner to use any other descriptor with a code or to furnish additional information with the initial submission of a HCFA Form 1500 except under the following circumstances:

1. when the procedure code used describes a treatment or service which has not been included in CPT-4 or is billed under an unlisted procedure code and a description of services is necessary; or
2. when the procedure code is followed by the CPT-4 modifier 22, 47, 50, 51, 52, 62, 66, 77, or 99; or
3. when required by a contract/agreement between the issuer and health care practitioner; or
4. as otherwise required by federal regulation.

D. Use of HCFA Form 1500 shall be effective July 1, 1994 for all issuers excluding rehabilitation facilities reimbursed by Louisiana Medicaid which will have an effective date of January 1, 1995

Section 6. Requirements for use of HCFA Form UB92

A. Institutional care practitioners shall use the HCFA Form UB92 and instructions provided by HCFA for use of the HCFA UB92 when billing patients or their representatives directly and filing claims with issuers for professional services.

B. An issuer may not require an institutional care practitioner to use any coding system for the initial filing of claims for health care services other than the following:

1. ICD-9-CM Codes;
2. Revenue Codes;
3. HCPCS Level 1 Codes;
4. HCPCS Level 2 Codes; and
5. if charges include direct service of a health care

practitioner, the information outlined in Section 5 of this regulation.

C. Use of the HCFA Form UB92 shall be effective July 1, 1994 for all issuers excluding nursing facilities, adult day health care facilities, and residential care facilities reimbursed by Louisiana Medicaid which shall have an effective date of January 1, 1996.

Section 7. Requirements for use of J512 Form

A. A dentist shall use the J512 Form and instructions provided by the American Dental Association CDT-1 for use of the J512 Form by billing patients or their representatives directly and filing claims with issuers for professional services.

B. An issuer may not require a dentist to use any other code other than the CDT-1 codes for the initial filing of claims for dental care services.

C. Use of J512 Form shall be effective July 1, 1994 for all issuers excluding reimbursement to dentists reimbursed by Louisiana Medicaid which shall have an effective date of January 1, 1995.

Section 8. General Provisions

A. A health care practitioner or institutional care practitioner shall file a claim in a manner consistent with the requirements of this regulation which are:

1. a paper form printed on 8.5-inch paper;
2. an electronically transmitted claim.

B. An issuer shall accept a form which is submitted in compliance with this regulation for the processing of the insured's or beneficiaries' claims.

C. Nothing in this regulation shall prevent an issuer from requesting additional information which is not contained on the forms required under this regulation to determine eligibility of the claim for payment if required under the terms of the policy or certificate issued to the claimant.

D. All health care practitioners and institutional care practitioners shall:

1. use the most current editions of the HCFA Form 1500, HCFA Form UB92, or J512 Form and most current instructions for these forms in the billing of patients or their representatives and filing claims with issuers;
2. modify their billing practices to encompass the coding

charges for all billing and claim filing by the effective date of the changes set forth by the developers of the forms, codes and procedures required under this regulation.

E. Submitted billing and claim filing forms not complying with the minimum requirements of this regulation shall be considered to be in non-compliance with the regulation and issuers shall have the right to deny reimbursement until such time as the forms are in compliance with this regulation.

James H. "Jim" Brown
Commissioner of Insurance

DECLARATION OF EMERGENCY

**Department of Insurance
Commissioner of Insurance**

Miscellaneous Accreditation Standards
Emergency Regulation 50

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Insurance has adopted emergency Regulation 50 in order to implement, without delay, changes recommended by the National Association of Insurance Commissioners.

Emergency rulemaking is necessary to immediately implement suggested changes made by the National Association of Insurance Commissioners following a preliminary review of the Department of Insurance relating to the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program. This emergency regulation is effective October 20, 1993 for 120 days.

EMERGENCY REGULATION 50

Section 1 Authority

This regulation is promulgated under the authority of R. S. 22:2(H), R.S. 22:3, R.S. 22:2084 and the Administrative Procedure Act, R.S. 49:950 et seq.

Section 2 Purpose

The purpose of this regulation is to implement changes recommended by the National Association of Insurance Commissioners pursuant to a preliminary examination of the Louisiana Department of Insurance relating to the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program.

Section 3 Standards of Accreditation

A. CPA Audits

Act Number 811 of the 1992 Regular Session of the Louisiana Legislature amended Section 1451(D) of Title 22 to require insurers to file the National Association of Insurance Commissioners' annual statement blank and quarterly statement blank, prepared in accordance with the National Association of Insurance Commissioners' annual statement instruction handbook. Any apparent conflicts which arise between provisions of the annual statement instructions and Part XXVIII-A "Audited Financial Reports Law" of the Louisiana Insurance Code, being R. S. 22:1321 through 1335,

shall be resolved by adherence to the annual statement instructions.

B. Risk Retention and Purchasing Groups

1. In the event of a material change in the plan of operation of a risk retention group chartered in Louisiana, an appropriate revision of the plan must be filed with the commissioner of insurance within 10 days of such revision.

2. In the event of a revision of a plan of operation for a risk retention group not chartered in Louisiana, such revision must be filed with the commissioner of insurance at the same time the revision is submitted to the commissioner of the chartering state.

3. Purchasing groups which obtain insurance from an insurer not admitted in Louisiana or from a risk retention group shall inform each of the members of the group which have a risk resident or located in Louisiana that the risk is not protected by the Louisiana Insurance Guaranty Association and that the risk retention group or insurer may not be subject to all insurance laws and regulations of Louisiana.

4. Purchasing groups must notify the commissioner of insurance within 10 days of any changes in their requirements of registration.

5. No purchasing group may purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole; however, coverage may provide for a deductible or self-insured retention applicable to individual members.

Inquiries concerning this regulation should be directed to Darryl Cobb, Office of Financial Solvency, Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214 or by calling (504) 342-1219.

James H. "Jim" Brown
Commissioner of Insurance

DECLARATION OF EMERGENCY

Department of Labor Office of Labor

Employment Standards for Minors Under 16 Years of Age (LAC 40:VII.103)

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

morals and safety of the minor will remain as essential consideration for the minor's employment.

This emergency rule will become effective October 15, 1993 and will remain in effect for the maximum period allowed under R.S. 49:954(B) et seq.

Title 40

LABOR AND EMPLOYMENT

Part VII. Regulations of Conditions Under which Minor Labor may be Used

Chapter 1. Occupations Permitted for 14- and 15-year Old Minors in Retail, Food Service, and Gasoline Service Establishments

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

A.1. - 8. ...

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

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

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

ii. for minors six years of age to 15 years of age, 8 p.m. on days preceding non-school days.

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

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

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

e. applications for waivers for any exception to the foregoing provisions of Paragraph 9 may be made to the secretary of the Department of Labor;

f. the secretary of labor shall have sole discretion to grant an application for waiver, if in the opinion of the secretary, the best interest of the minor is served. All applications for waivers must contain the following documents:

i. a written list of specific dates and times that the minor(s) shall be employed and/or present for either studio production or location production, submitted and signed by an authorized representative of the pertinent production company;

ii. a statement signed by the minor's parent(s), tutor, or custodian acknowledging that they have been fully informed of the circumstances concerning the proposed exception to LAC 40:VII.103.A.9 and have granted advance consent.

Joseph Stone
Assistant Secretary

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Corrections Services

Juvenile Disciplinary Rules (LAC 22:I.Chapter 3)

The Department of Public Safety and Corrections, Corrections Services, has exercised the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, to promulgate the rules and regulations relative to disciplinary rules and procedures for juvenile offenders and the policy for implementation.

The effective date of this emergency rule is September 30, 1993 and it shall remain in effect for 120 days or until it takes effect through the normal promulgation process, whichever is shortest.

Emergency rulemaking is necessary in order to provide for the establishment of American Correctional Association (ACA) files for accreditation and compliance with ACA standards for juvenile institutions.

This emergency rule rescinds and supersedes the "Offender Rules" for Juvenile Correctional Institutions dated February 17, 1984 as amended, and appeal decisions rendered pursuant to those rules and procedures. Nothing in this emergency rule should be construed to create any additional rights or privileges under either state or federal law for any juvenile offender or groups of offenders over and above those already provided by law.

This emergency rule may be viewed in its entirety at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802, phone (504)342-5015.

Richard L. Stalder
Secretary

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of Alcoholic Beverage Control

Fairs, Festivals, and Special Event Permits (LAC 55:VII.323)

In accordance with R.S. 49:953(B) et seq., and under the authority conferred by Title 26 of the Revised Statutes in general and R.S. 26:793 in particular, Department of Public Safety and Corrections, the Office of Alcoholic Beverage Control, finds that imminent peril to the public health and welfare exist and accordingly adopts an emergency rule.

The current language of LAC 55:VII.323 does not prohibit or limit contributions or sponsorships between a licensed wholesaler and a holder of a special temporary retail alcoholic beverage permit. This lack of a prohibition or limitation can lead to the exclusion in whole or part of a licensed wholesaler from a special event in violation of Title 26 of the Revised Statutes.

The effective date on this emergency rule is September 13, 1993, and shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever is shortest.

Title 55 PUBLIC SAFETY

Part VII. Alcoholic Beverages

Subpart 1. Beer and Liquor Regulations

Chapter 3. Liquor Credit Regulations

§323. Regulation Number XII - Fairs, Festivals and Special Events

A. For purposes of this regulation, special events are defined as events, held at any location, where alcoholic beverages are served as an incidental part or the event for payment rendered or are supplied as a part of a general admission or other type fee.

B. For such events, this office will issue a special temporary retail alcoholic beverage permit. These permits will be for a maximum duration of three consecutive days only, and no more than 12 such permits shall be issued to any one person within a single calendar year.

1. Permit Fees

a. No permit fee shall be assessed to non-profit organizations with tax exempt status under the United States Internal Revenue Code, Sections 501(c)(3) and 501(c)(8). To qualify for this permit, applicants must submit written proof of their tax exempt status, a copy of a local permit or letter from the local governing authority granting their permission to sell alcoholic beverages, a valid lease, contract or written permission for the owner of the property upon which the event is to be held if the property is not owned by the applicant and a completed, notarized application form.

b. A fee of \$100 will be assessed to all other applicants seeking to hold events where alcoholic beverages are sold or supplied as part to a general admission or other type fee, but who do not meet the requirements for the fee exemptions in Subparagraph a. To qualify for a temporary permit, applicants must meet the qualifications required of permit holders under R.S. 26:80 and R.S. 26:280 and must submit a copy of a local permit or letter from the local governing authority granting their permission to sell alcoholic beverages, a valid lease or contract with the owner of the property on which the event is to be held if it is now owned by the applicant and a completed, notarized application form.

C. The holders of temporary special event permits may return unused product at the conclusion of the event for cash or credit refund.

D. The provisions of R.S. 26:90 and 26:286 shall apply to all special events for which temporary permits are issued under this regulation, and violations are punishable as provided under the provisions of Title 26 of the Revised Statutes. The provisions of R.S. 26:81 and 26:281 shall not apply to special event permits.

E. The provisions of R.S. 26:287(9) and Regulation Number IX dealing with unfair business practices shall not apply to the holders of the fee exempt permits, except as provided in F and G below, but shall fully apply to the holders of fee-assessed special event permits.

F. When the holder of a special event permit calls upon an

industry member to service the event, neither the industry member nor the holder of the special event permit shall do any of the following prohibited acts either before or after the issuance of the permit for the special event.

1. Give or seek, directly or indirectly, money as a contribution or sponsorship for the special event.

2. Give or seek, directly or indirectly, anything of value except as authorized in Subsection G.

G. An industry member may provide the following equipment and service to a holder of a special event permit, but the industry member must charge the permit holder an amount at least equal to that listed as follows:

1. labor—at a rate equal to that required as a minimum wage under the Federal Wage and Hour Law;

2. self-contained electric units in which the beer container is refrigerated within the unit—\$15 per day;

3. electric unit in which the beer container sits outside the cooling unit—\$15 per day;

4. picnic pumps—\$1 per day;

5. tubs—\$1 per day;

6. cold plates—\$2 per day;

7. trucks designed to handle packaged beer without refrigeration—\$20 per day;

8. refrigerated trucks designed to handle package or draught beer—\$30 per day;

9. mobile refrigerated draught units such as trailers or other vehicles—\$30 per day;

10. cups, ice, additional CO₂ gas and similar supplies and equipment—cost to industry member;

11. alcoholic beverages—at the price available to all other retail dealers in alcoholic beverages.

H. Equipment such as that listed above may not be furnished to regular licensed retail dealers unless the dealer acquires a temporary special event permit. Equipment may not be provided by a wholesaler for functions where no permit is issued but beer is acquired from a retail dealer, such as private parties or receptions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:793.

HISTORICAL NOTE: Promulgated in by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:606 (June 1991), amended LR 20:

Raymond Holloway
Assistant Secretary

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections
Office of Alcoholic Beverage Control

Prohibited Acts (LAC 55:VII.701)

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 26:793 which authorizes the assistant secretary (commissioner) to promulgate rules concerning live entertainment, the

Department of Public Safety, Office of Alcoholic Beverage Control, hereby declares an emergency rule prohibiting certain acts relative to live entertainment.

The commissioner finds that in order to implement the appropriate rules and regulations to comply with R.S. 26:793, it is necessary to do so on an emergency basis so as to maintain the ongoing continuity in the ability of the Office of Alcoholic Beverage Control to enforce the laws regulating the type of entertainment allowed on licensed premises on a statewide basis.

The effective date of this emergency rule is September 24, 1993 and it shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever is shortest.

Title 55

PUBLIC SAFETY

Part VII. Alcoholic Beverages

Chapter 7. Live Entertainment

§701. Prohibited Acts

A. Notwithstanding any provisions of R.S. 26:90(D) and (E) and R.S. 26:286(D) and (E) to the contrary, live entertainment shall be permitted on any licensed premises except that no permittee shall permit any person to perform acts of or act which permit or simulate:

1. sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;

2. the touching, caressing or fondling of the breasts, buttocks, anus or genitals;

3. the displaying of the pubic hair, anus, vulva or genitals.

B. Such live entertainers whose breasts or buttocks are exposed to view shall perform only upon a movable or immovable stage at least 18 inches above the immediate floor level. Any provisions of R.S. 26:90 and R.S. 26:286 to the contrary are hereby suspended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:793.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 20:

Raymond Holloway
Assistant Secretary

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

Food Stamps (LAC 67:III.1937)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule effective October 29, 1993 in the Food Stamp Program.

Emergency rulemaking is necessary to effect a change in

policy which revises the exclusions from educational assistance income. It is necessary to extend emergency rulemaking as the emergency rule of July 1, 1993 is effective for a maximum of 120 days and will expire before the final rule takes effect.

Food Stamp Policy Memorandum SOE 93-69 dated June 24, 1993, directed that, effective July 1, 1993, certain exclusions from educational assistance income would be revised. This action is mandated by the Food Stamp Act, Section (e)(3)(B).

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamps.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter E. Students

§1937. Student Related Provisions

A. The term institution of higher education has been changed to institution of post secondary education. The definition has also been expanded to include any public or private educational institutions which admit persons who are age 16 or older provided that the institution is legally authorized or recognized by the state to provide an educational program beyond secondary education or provides a program of training to prepare students for gainful employment.

B. Educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like that are provided to a third party on behalf of the household for living expenses such as rent or mortgage, personal clothing or food eaten at home shall be treated as money payable directly to the household and not excluded as a vendor payment.

C. Origination fees and insurance premiums on student loans are excludable charges. Only the amount of the loan after these charges have been excluded is to be considered income.

D. Exclusions from Education Assistance

1. The entire amount of the following types of educational assistance are excluded without regard to earmarking or verification of actual school expenses:

a. Title IV, Higher Education Act, for school period beginning on or after July 1, 1993.

b. Title IV, College Work Study, Federal, for school period beginning on or after July 1, 1993. Not all Federal College Work Study come under Title IV; these are handled the same as State College Work Study funds.

c. Title IV, Bureau of Indian Affairs, for school period beginning on or after July 1, 1993.

d. Job Training Partnership Act (JTPA). Earnings from on the job training under Section 204(5) Title II for household members over 18 years of age are considered earned income, subject to the 20 percent earned income deduction.

e. Title XIII, Indian Higher Education Programs, effective October 1, 1992.

2. All other educational assistance will be excluded in the same manner regardless of the source of the assistance, i.e., an exclusion from educational income shall be granted based

on amounts either earmarked by the institution, school program, or other grantor or verified by the student as made available for the specific costs of tuition, mandatory fees, books, supplies, transportation, and miscellaneous personal expenses (other than living expenses).

3. The definition of mandatory fees includes the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved.

4. The maximum age level of students attending institutions of higher education who are prohibited from receiving food stamp assistance is 50 years of age.

5. Eligible student status shall be granted to students participating in a state or federally financed work study program during the regular school year and the work incentive program under Title IV of the Social Security Act or its successor programs.

6. The funds from PASS (Plan for Achieving Self-Support) accounts will be excluded as income for the food stamp program.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.2, 273, and 278, F.R. 51:30045 et seq. and P.L. 102-325.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security LR 12:756 (November 1986), amended LR 13:91 (February 1987). Amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 19:885 (July 1993), LR 19:

Gloria Bryant-Banks
Secretary

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

JOBS Program Implementation (LAC 67:III.2902)

The Department of Social Services, Office of Family Support, has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule effective October 1, 1993, for 120 days, in the JOBS Program.

Emergency rulemaking is necessary to include community work experience as a minimal program component in order to meet federal standards for the participation of AFDC-Unemployed Parents in the JOBS Program and to avoid reductions in the federal financial participation rate. Language in the Louisiana Administrative Code has also been amended to reflect that the JOBS Program has been fully implemented and that the types of program activities offered in parishes may be subject to change.

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.2902 Job Opportunities and Basic Skills Training Program implementation.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 5. Job Opportunities and Basic Skills Training
Program

Chapter 29. Organization
Subchapter A. Designation and Authority of State
Agency

§2902. Implementation

A. The JOBS Program is available as either a complete or minimal program in every parish.

1. A complete program offers the full range of component activities. Complete program operations are provided in all *Metropolitan Statistical Areas* and to at least 75 percent of the state's adult AFDC recipients in accordance with 45 CFR 250.11.

2. A minimal program includes at least these component activities: high school or equivalent education, either on the job training or job search, and a Community Work Experience Program. It also offers information and referral to state employment services.

3. The type of program administered in each parish is subject to change, depending on the reclassification of *Metropolitan Statistical Areas* or shifts in the AFDC population.

4. Minimal programs are currently administered in the following parishes: Avoyelles, Caldwell, St. Mary, St. Helena, West Feliciana, Evangeline, Vermilion, Catahoula, LaSalle, Sabine, Winn, Bienville, Claiborne, Desoto, Red River, East Carroll, Jackson, Madison, Morehouse, Richland, Tensas, Union, West Carroll, Washington, Assumption, Iberville, Allen, Beauregard, Cameron, and Jefferson Davis.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.0 and R.S. 46:451 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 17:1227 (December 1991), LR 18:967 (September 1992), LR 19:504 (April 1993), LR 20:

Gloria Bryant-Banks
Secretary

DECLARATION OF EMERGENCY

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

Preferred Provider Organization (PPO)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:953(B), notice is hereby given that the Board of Trustees of the State Employees Group Benefits Program intends to amend language in the Plan Document of Benefits, effective September 9, 1993 for 120 days or until the final rule is promulgated whichever

is shortest, as necessitated by Act 783 of the 1993 Regular Session of the Legislature as follows:

Rules and regulations of the State Employees Group Benefits Program (Hereinafter referred to the program) for participation in its Preferred Provider Organization (PPO).

Section I. Participation by Medical Providers other than Hospitals

A. Doctors and Clinics

1. There shall be no exclusive contracts.

2. If the doctor interested in becoming a PPO provider is licensed to practice medicine in the State of Louisiana, he/she, upon request, must be given the opportunity to enroll as a PPO provider.

3. Any doctor or clinic must agree to the terms contained in the Program's standard PPO contract, including the percentage discount off the program's Medical Fee Schedule which has been executed by any other doctor or clinic in the PPO Region.

4. The doctor shall be responsible for submitting his/her claim for services rendered to the program's covered person.

B. Pharmacies

1. There shall be no exclusive contracts.

2. Any pharmacy interested in becoming a PPO provider shall agree to the terms contained in the program's standard PPO contract, including the discounts from retail prices which have been agreed to by any other pharmacy in the PPO region.

3. Claims shall be electronically submitted to the program by the participating PPO pharmacy. The PPO contract shall not become effective until the pharmacy has demonstrated to the satisfaction of the program that it is capable of submitting claims in the format acceptable to the program.

Section II. Participation by Hospitals

A. There may be exclusive contracts for hospital participation.

B. Hospitals interested in becoming a PPO provider shall agree to the terms contained in the program's standard PPO contract. This contract shall include either per diem rates, discounts from retail prices or a combination of both.

C. In determining whether to offer a contract to a hospital and in determining what rates will be offered to a particular hospital, the program shall consider, but not necessarily be limited to consideration of, the following nonexclusive criteria:

1. the amount of previous payments to the hospital, including the total payments and the payment per day;

2. the competitiveness of hospital services in the PPO region, including the prices of services within the region and the willingness of hospitals to contract with the program;

3. the number of plan participants within the PPO region;

4. The availability of hospital services within the PPO region;

5. the receptiveness of the medical community within the PPO region to managed care programs;

6. the program's previous experience with the hospital; and

7. such other factors which may be relevant and reasonable for consideration.

D. Hospitals participating in the program's PPO network

shall be responsible for submitting claims for services rendered at their facilities in a format acceptable to the program.

Section III. Notice

A. Notice of the program's desire to enlist participants in its PPO network within a PPO Region may be given by means of letters to the medical community or hospitals within the region, by publication in a newspaper of general circulation in the PPO region or by other reasonable means.

B. The announcement of the award of contracts shall be given by written publication of a PPO directory or by publication in the program's newsletter which is sent to plan participants.

Section IV. Other

A. The program may develop other types of PPO contracts as it deems reasonable and proper.

James R. Plaisance
Executive Director

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Jewfish Season

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

Effective 12:01 a.m., November 1, 1993, the taking and possession of jewfish (*Epinephelus itajara*) from within or without Louisiana waters is prohibited through midnight November 20, 1993.

The secretary has been authorized by the Wildlife and Fisheries Commission to take this action to maintain the existing closed season on the harvest of jewfish until final action is taken on the pending permanent rule.

Joe L. Herring
Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

King Mackerel Season

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

Effective midnight October 17, 1993, the commercial fishery for king mackerel in Louisiana waters will close and remain closed until 12:01 a.m. July 1, 1994.

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

Joe L. Herring
Secretary

RULES

RULE

Department of Agriculture and Forestry
Office of Agro-Consumer Services
Agriculture Commodities Commission

LACC Technical Changes
(LAC 7:XXVII.Chapter 147)
(LAC 37:IX.Chapter 1)

The Department of Agriculture and Forestry hereby amends rules revising LAC 7:XXVII.Chapter 147 and LAC 37:IX.Chapter 1. These amendments represent a general updating of those parts and consist of technical corrections which reflect changes in the Agricultural Commodity Dealer and Warehouse Law, repeal obsolete rules and eliminate misspelled words and references to obsolete rule numbers.

These rules comply with R.S. 3:3401 et seq.

Title 7

AGRICULTURE AND ANIMALS
Part XXVII. Agricultural Commodity Dealer and
Warehouse Law

Chapter 147. Agricultural Commodities Commission
§14701. Definitions

* * *

Agricultural Commodities or *Commodities*—sugar, all agricultural products commonly classed as grain, including rice, rough rice, corn, wheat, oats, rye, soybeans, barley, milo, and grain sorghum, and any other agricultural commodity or farm product, other than cotton, which the commission may declare to be an agricultural commodity subject to regulation under the Act.

* * *

Adjudicatory Proceeding—an open public hearing by the commission to determine whether violations of the act or these regulations have occurred. Such proceedings are conducted in accordance with the Louisiana Administrative Procedure Act (R.S. 49:950, et seq.).

* * *

Authorized Agent with reference to the authorized agent of a warehouse, warehouseman, or grain dealer—any representative thereof whose name has been filed with the commission as required under R.S. 3:3408.

* * *

Commissioner—the Louisiana Commissioner of Agriculture and Forestry.

* * *

Current Financial Statement—a financial statement containing all of the documents listed in LAC 7:XXVII.14707.B and presenting financial position as of the close of the applicant's or licensee's most recent fiscal year.

* * *

Department—the Louisiana Department of Agriculture and Forestry.

* * *

Farm Products—products employed directly in the cultivation, production, or harvesting of any agricultural commodities or containers for agricultural commodities or other farm products.

* * *

Grain Dealer—any person who purchases any agricultural commodities from producers or represents producers in the purchase or sale of agricultural commodities. The term does not include producers who purchase grain commodities for their own use as feed or seed.

* * *

Person—any individual, partnership, company, firm, association, cooperative association, corporation, or any other legal entity engaged in any of the activities regulated under the Act.

* * *

Warehouse—any building, structure, or any other protected enclosure required to be licensed by the commission in which agricultural commodities or other farm products are stored for the public for a fee. The term includes facilities which commingle commodities belonging to different owners and facilities which preserve the separate identities of different lots of agricultural commodities.

Warehouse Operator—any person or other entity operating a warehouse.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3403, R.S. 3:3404, R.S. 3:3406 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:287 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), amended LR 19: (October 1993).

§14705. Agricultural Commodities and Other Farm Products Regulated by the Commission

A. - B.5. ...

C. Whenever commission warehouse receipts are issued to cover any of the following farm products while in storage, the following farm products shall be regulated by the commission:

1. pesticides
2. fertilizers
3. containers for agricultural commodities listed in LAC 7:XXVII.14705.A and LAC 7:XXVII.14705.B and farm products listed in this rule.

D. ...

E. Commodities and farm products enumerated in LAC 7:XXVII.14705.B, C and D shall be subject to all requirements set forth in these regulations whenever commission warehouse receipts are issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3402 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:288 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission LR 19: (October 1993).

§14707. Application for License (Initial and Renewal); Time for Filing; Contents; Fees; Style of Document

A. Applications for renewal of warehouse and grain dealer licenses must be filed no later than April 30 of each year. Applications for initial license may be filed at any time during the year. For both initial and renewal licenses, the following information must be furnished on the application form provided by the commission:

1. - 10. ...

11. Names and address of the owner of the business, if not shown under LAC 7:XXVII.14707.A.7, 8 and 9. Owner must be identified.

* * *

B. 1. - 3.e. ...

f. Whenever the certificate required under LAC 7:XXVII.14707.B.2.e is executed by a representative of the applicant other than the owner or president, a resolution of the board of directors authorizing such representative to execute the certificate.

* * *

C. Each licensee must file a financial statement conforming to the requirements of LAC 7:XXVII.14707.B above within 90 days after the close of the licensee's fiscal year.

* * *

D. Each applicant must also provide the following information, in addition to completing the required application form and providing a financial statement:

1. ...

2. Bond which meets the requirements set forth in LAC 7:XXVII.14715 (warehouse license applicants) or LAC 7:XXVII.14723.G (grain dealer license applicants).

3. Evidence of provisional stock insurance which meets the requirements set forth in LAC 7:XXVII.14717 (warehouses) or LAC 7:XXVII.14723 (grain dealers).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3408, R.S. 3:3409, R.S. 3:3410, R.S. 3:3411 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:289 (May 1983), amended LR 10:75 (February 1984), LR 11:229 (March 1985), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), amended LR 19: (October 1993).

§14711. Requirements Applicable to All Warehouses

A. No person shall operate a warehouse subject to regulation under the Act unless licensed by the commission or under the U.S. Warehouse Act. The following types of warehouses are specifically defined as warehouses subject to regulation under the Act:

1. Any facility offering storage as defined in LAC 7:XXVII.14701 hereof.

H. All warehouse licenses issued by the commission shall expire on June 30 following date of issue.

I. For initial and continuing licensure, the facility must meet all requirements of LAC 7:XXVII.14713.

J. The warehouse must meet all bonding and insurance requirements set forth in LAC 7:XXVII.14715 and renumber LAC 7:XXVII.14717 hereof prior to issuance of the license. Failure to maintain the required bond and insurance in full force and effect for six months beyond the license period shall subject the licensee to revocation of his license.

N. Provisions Relative to the Schedule of Tariffs or Charges

1. Each warehouse must file its current tariff with the commission for the commission's approval as to form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3409, R.S. 3:3410, R.S. 3:3411, R.S. 3:3420 and R.S. 3:34305.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:294 (May 1983), amended LR 11:229 (March 1985), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission LR 19: (October 1993).

§14715. Bond Required for Warehouse License; Provisions Relative to Licensed Capacities

A. - B. ...

C. The amount of the bond shall be established on the basis of the capacity to be licensed:

1. ...

2. All facilities which commingle agricultural commodities must bond 100 percent of their available capacity, subject to the exemptions contained in LAC 7:XXVII.14715.C.5 and LAC 7:XXVII.14715.C.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:282 (May 1983), amended LR 10:75 (February 1984), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19: (October 1993).

§14719. Amendment to License Required When Change of Status Occurs

A. - C. ...

D. Whenever the licensed capacity of a facility changes, the bond required under LAC 7:XXVII.14715 must be changed within 45 days to conform to the new capacity. Failure to amend the bond as required herein will subject the licensee to revocation of his license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:299 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19: (October 1993).

§14721. Procedures for Initial Licensing of Warehouses During the Period 1/1/83-6/30/83

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3409, R.S. 3:3410 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:300 (May 1983), repealed by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission LR 19: (October 1993).

§14725. Risk Position Requirements

A. - C. ...

D. Any grain dealer who does not adhere to the risk position requirement imposed for such grain dealer by the commission shall be subject to the penalties set forth in LAC 7:XXVII.14749.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:3413 and R. S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:302 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19: (October 1993).

§14727. Assessments: Amount, Time of Payment, Payment Under Special Conditions

A. Assessments shall be due and payable from the producer at the first point of sale as defined in LAC 7:XXVII.14701.

B. Each grain dealer shall deduct the assessments set forth in this rule and in R.S. 3:3422 from the proceeds to be paid to producers at the time of sale of commodities, and, where no assessable sale has previously occurred, each warehouse shall collect the assessments set forth in this rule and in R.S. 3:3422 when commodities or farm products are removed from storage.

C. Commodities placed in CCC storage shall be subject to the assessment provided under this rule and under R.S. 3:3422, and said assessment shall be due and payable on the date such commodities are placed under CCC loan or purchased by CCC.

D. The statutory assessment must be paid on agricultural commodities covered by a Payment-in-Kind (PIK) certificate, and such assessment shall be due and payable at the first point of sale as defined in LAC 7:XXVII.14701.

E. Assessments on commodities normally weighed by hundredweight and on commodities normally weighed by bushels shall be as set forth in R.S. 3:3422. The weight of commodities normally weighed in barrels shall be converted to bushels by multiplying the barrel weight times 3.6.

F. Rates of Assessments

1. Assessments on regulated commodities listed in LAC 7:XXVII.14705.B and LAC 7:XXVII.14705.D and farm products listed in LAC 7:XXVII.14705.C shall be at rates comparable to the rates set forth in LAC 7:XXVII.14727.E above. The exact assessment on each commodity and farm product shall be promulgated in the *Louisiana Register* and when so promulgated shall remain in full force and effect until changed by subsequent promulgation in the *Louisiana Register*. Such assessments may be collected as soon as promulgated in the *Louisiana Register* and shall be collected in the same manner as the assessments listed in LAC 7:XXVII.14727.E above.

2. Rates of assessments to be levied at the first point of sale of agricultural commodities:

| | |
|--|--------------------------------------|
| Rough Rice | \$.008 per hundredweight |
| Rice | \$.008 per hundredweight |
| Sugar | \$.008 per hundredweight |
| Corn | \$.005 per bushel |
| Soybeans | \$.005 per bushel |
| Oats | \$.005 per bushel |
| Milo or sorghum | \$.005 per bushel |
| Wheat | \$.005 per bushel |
| Cotton | \$.10 per bale, first 5,000 bales |
| | \$.05 per bale, all over 5,000 bales |
| Canned/ frozen fruits/ juices/ vegetables | \$.015 per case/carton |
| Molasses/syrup | \$.05 per 100 gallons |
| Oil | \$.10 per 100 gallons |
| Pecans | |
| Shelled | \$.01 per 300 lb. carton |
| Unshelled | \$.20 per 130 lb. |
| Peppers | |

| | |
|----------|-------------------|
| Barrels | \$.24 per barrel |
| Cisterns | \$.20 per cistern |

3. - 4. ...

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:3422 and R. S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:303 (May 1983), amended LR 9:459 (June 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19: (October 1993).

§14733. Warehouse Receipt: Issuance; Open Storage; Partial Delivery; Duplicate Receipts; Delivery of Commodities Covered by Receipts; Cancellation; Receipts on Company-owned Commodities; Non-negotiable Receipts; Cessation of Business; Other Applicable Laws

A. Issuance of Receipts

1. ...

2. No warehouse shall issue a warehouse receipt covering commodities which are already covered by an outstanding and uncanceled warehouse receipt, except as provided by LAC 7:XXVII.14733.D.

D. Issuance of Duplicate Negotiable Warehouse Receipt

1. - 2.c ...

3. A duplicate negotiable warehouse receipt issued to replace a lost or destroyed receipt must:

a. be marked *duplicate*;

b. be distributed as required under LAC 7:XXVII.14731.C.

c. contain the same terms and conditions as the lost or destroyed warehouse receipt; and

d. bear on its face the number and date of the warehouse receipt which it replaces.

E. - F.2. ...

3. No warehouse receipt shall be canceled unless:

a. the commodities have been removed from storage, by sale or otherwise; or

b. a new warehouse receipt has been issued to replace a lost or destroyed warehouse receipt, as provided under LAC 7:XXVII.14733.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3416, R.S. 3:3417, R.S. 3:3418, R.S. 3:3419 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:306 (May 1983), amended LR 11:229 (March 1985), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission LR 19: (October 1993).

§14743. Reports Required

A. - B.3 ...

C. Subsequent to initial licensure under the Act, each grain dealer and each warehouse shall file a financial statement,

containing all of the information required under LAC 7:XXVII.14707.B hereof, no later than 90 days after the last day of the warehouse's or grain dealer's fiscal year.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3419 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:310 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19: (October 1993).

§14749. Adjudication Required Prior to Suspension/Revocation of License or Imposition of Other Penalties; Amount of Penalties; Surrender of License

A. - C. ...

D. The commission may suspend or revoke a license for any of the grounds set forth in LAC 7:XXVII.14709 hereof, or any other violation of the Act or these regulations, whenever proof thereof is made at any adjudicatory proceeding noticed and conducted as required by the Administrative Procedure Act.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3407, R.S. 3:3410, R.S. 3:3411, R.S. 3:3417, R.S. 3:3424 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:211 (May 1983), amended LR 12:288 (May 1986), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19: (October 1993).

§14753. Voluntary Inspection Service

A. ...

B. Voluntary inspection of facilities and contents, and verification thereof, on a schedule which shall be mutually agreed upon between the warehouse applying for voluntary inspection services and the commissioner, shall be made for a fee of \$.008 per cwt for commodities normally weighed by hundredweight, \$.005 per bushel (or barrel weight converted to bushels as provided by R.S. 3:3422 and LAC 7:XXVII.14727.E for commodities normally weighed by bushel, or such other fee as may be promulgated by the commission as an assessment fee on other agricultural commodities or farm products.

C. ...

D. The total fee for each voluntary inspection of facilities and contents shall be determined by multiplying the total amount of commodities under warehouse receipt at the time of voluntary inspection services times the fee set forth in LAC 7:XXVII.14753.B.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3406, R.S. 3:3422 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:312 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19: (October 1993).

§14759. Stay of Claims

Repealed and repromulgated as LAC 37:IX.127

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 17:955 (October 1991), repealed and repromulgated as LAC 37:IX.127 LR 19: (October 1993).

§14761. Agricultural Commodities Commission; Self-insurance Fund

The commission has promulgated regulations governing the self-insurance fund which may be found in LAC 37:IX. Chapter 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19: (October 1993).

**Title 37
INSURANCE**

Part IX. Agricultural Commodities Commission

§101. Definitions

As used in this part:

* * *

Claim—a written notice and/or proof of loss which is filed with the Agricultural Commodities Commission Self-Insurance Program.

Claimant—any person or entity who in writing alleges a loss covered under the Agricultural Commodities Commission Self-Insurance Program.

* * *

Self-Insurance Fund—that special fund created in the state treasury for the Agricultural Commodities Commission fees or assessments collected by the commission for participation in the self-insurance fund.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), amended LR 19: (October 1993).

§103. The Fund

There is hereby created, pursuant to the authority granted in R.S. 3:3410.1, a fund to be used for the purposes described in the following subsection hereof and said fund shall be known as the Agricultural Commodities Commission Self-Insurance Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), amended LR 19: (October 1993).

§105. Purpose

The self-insurance fund is established to guarantee the faithful performance of all duties and obligations of licensed grain dealers and licensed warehouses to agricultural producers and holders of state warehouse receipts for agricultural commodities and previous holders of state warehouse receipts

released in trust in order to have commodities shipped (open storage), included but not limited to Commodity Credit Corporation, banks and lienholders, provided however that this fund does not apply to federal warehouses with regard to the requirements for federal warehouse license and bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agriculture Commodities Commission, LR 13:234 (April 1987), amended LR 19: (October 1993).

§107. Fees

A. - F. ...

G. The commission may require applicants who are participating in the self-insurance fund for the first time to pay two times the normal fee assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agriculture Commodities Commission, LR 13:234 (April 1987), amended LR 19: (October 1993).

§111. Claim Provisions

A. The monies in the Agricultural Commodities Commission Self-Insurance Fund shall be used solely for the administration and operation of this program of self-insurance.

B. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agriculture Commodities Commission, LR 13:234 (April 1987), amended LR 19: (October 1993).

§119. First Year of Operation

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agriculture Commodities Commission, LR 13:235 (April 1987), repealed LR 19: (October 1993).

§127. Pending Litigation; Stay of Claims

Where the commission finds that litigation is pending which could determine whether payment of a claim is due or to whom payment of a claim is due, the claim in question may be stayed until the judgment in said litigation has become final and definitive. The commission shall give notice of the stay to any claimants whose claims have been stayed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.1.

HISTORICAL NOTE: Promulgated as LAC 7:XXVII.14759 by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agriculture Commodities Commission, LR 17:955 (October 1991), repealed and repromulgated in this title LR 19: (October 1993).

Bob Odom
Commissioner

RULE

Department of Agriculture and Forestry Office of Marketing

Linked Deposit Loan Program (LAC 7:V.Chapter 14)

In accordance with R.S. 49:950 et seq., the commissioner of Agriculture and Forestry is adopting LAC 7:V.Chapter 14 relative to linked deposit loan programs for agricultural production and agricultural products processing.

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing

Chapter 14. Market Commission - Agricultural

Production Linked Deposit Loan Program

Subchapter A. Procedures for Authorization and

Administration of Agricultural Products

Processing Linked Deposit Loan

Program

§1401. Definitions

Agricultural Plant—any facility which receives raw agricultural products for the purpose of rendering them suitable for wholesale or retail marketing.

Agricultural Product—any farm product or seafood product.

Aquacultural Crop—catfish, crawfish, crabs, oysters, shrimp, prawns, alligators, turtles and other species of fish.

Commissioner—the commissioner of the Louisiana Department of Agriculture and Forestry.

Eligible Agricultural Products Processing Business—any person, partnership, corporation, or cooperative which owns, leases or operates or seeks to own, lease or operate and possesses all of the following characteristics:

1. is headquartered in this state;
2. maintains offices and operating facilities in this state and transacts business in this state;
3. employs fewer than 150 full-time employees, 80 percent of whom are residents of this state;
4. is organized for profit;
5. is engaged in the processing or marketing of any agricultural, agronomic, horticultural, silvicultural, or aquacultural crop, or raw product derived therefrom, or any final derivative resulting from a combination or breakdown of raw farm materials.

Eligible Lending Institution—any bank located in this state and organized under the laws of this state which is authorized to make commercial or agricultural loans and which agrees to participate in the linked deposit program as defined herein.

Farm Product—any agronomic, horticultural, silvicultural or aquacultural crop; any commercially raised livestock or raw product and derived therefrom, or any final derivative resulting from a combination or breakdown of raw farm products.

Final Derivative—any agricultural product that is ready to be passed on to a marketing level.

Linked Deposit—a certificate of deposit placed by the treasurer (as defined herein) with an eligible lending institution at three percent below existing investment rates, as determined and calculated by the treasurer, provided the institution agrees

to lend the value of such deposit, according to the deposit agreement required by this Chapter, to eligible agricultural products processing businesses at three percent below the existing borrowing rate applicable to each specific business at the time of the deposit of state funds in the lending institution.

Necessary Improvement—any improvement to an existing agricultural plant mandated by local, state or federal law, or an improvement thereto which will form an economically justifiable basis and, in the judgment of the commissioner of agriculture and forestry, improve the quality or quantity of service, or both.

Person—any individual, firm, corporation, partnership or association domiciled in this state.

Process or Processing—any action that will enhance any raw agricultural product's value or render a raw agricultural product suitable for further refinement or introduction at a marketing level.

Substantial Stockholder—any person (as defined herein) who owns more than 20 percent of a business applying for a loan or currently participating in the Linked Deposit Loan Program outlined in this Chapter.

Treasurer—the treasurer of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:446.3 and R.S. 49:327.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19: (October 1993).

§1403. Eligibility of Applicant

A. Any person engaged or to be engaged in the processing of agricultural products shall be eligible for a low-interest agricultural loan, under the Louisiana Agricultural Products Processing Linked Deposit Program. However, the applicant must also meet all the required characteristics as outlined under "Eligible Agricultural Products Processing Business," in LAC 7:V.1401 herein.

B. The commissioner and treasurer shall give priority to those persons who utilize Louisiana agricultural products to the maximum extent possible.

C. The lending institution shall give priority to the:

1. economic needs of the area of the state in which the business is located;
2. the number of jobs created or preserved in the state;
3. the financial need of the agricultural products processing business relative thereto;
4. the order in which the linked deposit loan packages were received and whenever possible give priority based on this chronological order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:446.3 and R.S. 49:327.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19: (October 1993).

§1405. Linked Deposit Loan Program Authorization; Lending Institution Requirements; Applicants Requirements and Conditions for Approval

A. The treasurer may invest in linked deposits, as provided and defined by R.S. 49:327.2, and, also defined herein, provided that at the time of placement of any linked deposit the total amount of such investments at any one time shall not exceed, in the aggregate, \$10,000,000. When deciding

whether to invest in linked deposits, the treasurer shall give priority to the investment, liquidity, and cash flow needs of the state and a determination of the financial soundness of the eligible lending institution.

B. An eligible lending institution that desires to receive a linked deposit shall accept and review applications for loans from eligible agricultural products processing businesses. The eligible lending institution shall apply all usual lending standards to determine the credit worthiness of each eligible agricultural products processing business. The eligible lending institution shall not charge, levy or collect any loan application fee, processing fee, or other charges other than its normal loan application fee, processing fee, or other charges when handling a linked deposit application.

C.1. Only one loan through the linked deposit program shall be made and shall be outstanding at any one time to any eligible agricultural products processing business.

2. The maximum amount available to any eligible agricultural products processing business, under this program, at any one time shall be \$200,000.

3. No loan shall be made to any officer or director of the lending institution making the loan.

D. An eligible agricultural products processing business shall certify on its loan application that the reduced rate loan will be used exclusively to create new jobs or preserve existing jobs and employment opportunities in the state. Whoever knowingly files a false statement concerning such application shall be guilty of the offense of filing false public records and shall be subject to penalty provided for in R.S. 14:133.

E. In considering which eligible agricultural products processing business to include in the linked deposit loan package for reduced rate loans, the eligible lending institution shall give priority to the economic needs of the area of the state in which the business is located, the number of jobs to be created or preserved in the state by the receipt of such loans, and such other factors as the eligible lending institution considers appropriate to determine the relative financial need of the eligible agricultural products processing business.

F. The eligible lending institution shall forward to the commissioner and the treasurer for review a linked deposit loan package. The package shall include such information as required by the commissioner including the amount of the loan requester, the number of jobs to be created or sustained in the state by each eligible agricultural products processing business, the ratio of state funds to be deposited to jobs sustained or created, and any reports, statements, or plans applicable to the business, the overall financial need of the business, and such other factors as the commissioner considers appropriate. The eligible financial institution shall certify that each applicant is an eligible agricultural products processing business as defined herein and shall, for each eligible agricultural products processing business, certify the present borrowing rate applicable to each specific eligible agricultural products processing business. Within 45 days after receipt, the commissioner shall provide written recommendations to the treasurer on each linked deposit loan package received from eligible financial institutions.

G. The treasurer may accept or reject a linked deposit loan package or any portion thereof, based on the treasurer's review of the recommendations of the commissioner, the availability and amount of state funds to be deposited, and a determination of the financial soundness of the financial institution in which the deposit is to be made. The treasurer shall notify the commissioner and the eligible lending institution of acceptance or rejection of a linked deposit loan package within 15 days of receipt of the recommendations of the commissioner.

H. Upon acceptance of the linked deposit loan package or any portion thereof, the treasurer may place certificates of deposit with the eligible lending institution at three percent below the current investment rates, as determined and calculated by the treasurer. When necessary, the treasurer may place certificates of deposit prior to acceptance of a linked deposit loan package.

I. The eligible lending institution shall enter into a deposit agreement with the treasurer, which shall include the requirements necessary to carry out the purposes of this Chapter. The requirements shall reflect the market conditions prevailing in the eligible lending institution's lending area. The agreement may specify the period of time in which the lending institution is to loan funds upon the placement of a linked deposit, and shall include provisions for the certificates of deposit to mature within a period not to exceed one year. The treasurer may renew a certificate of deposit in one-year increments but in no event shall the total period of time that a certificate of deposit is placed with any lending institution exceed three consecutive years. Interest shall be paid at the times determined by the treasurer. However, upon placement of a linked deposit, the treasurer will give priority to renewal of existing linked deposits prior to placement of new linked deposits. Prior to renewal of linked deposits, the treasurer shall continue to give priority to the investment, liquidity cash flow needs of the state and a determination of the financial soundness of the eligible lending institution.

J. The period of time for which each certificate of deposit is placed with an eligible lending institution shall be neither longer nor shorter than the period of time for which the linked deposit shall be used to provide loans at reduced interest rates. The agreement shall further provide that the state shall receive investment interest rates on any certificate of deposit or any portion thereof for any period of time for which there shall be no corresponding linked deposit loan outstanding to an eligible agricultural products processing business.

K. Upon placement of a linked deposit with an eligible lending institution, the institution shall lend such funds to each approved eligible agricultural products processing business listed in the linked deposit loan package. Each loan shall be at a fixed rate of interest for a period of one year which shall be three percent below the current borrowing rate applicable to each eligible agricultural products processing business. All records and documents pertaining to the linked deposit program shall be segregated by each lending institution for ease of identification and examination. A certification of compliance with this Section in the form and manner prescribed by the treasurer shall be completed by the leading institution and filed with the treasurer and the commissioner.

L.1. If it is discovered that there is a linked deposit made for any purpose not authorized, the certificate may be matured and/or rewritten, if appropriate, without penalty to the state treasurer.

2. If the eligible lending institution fails to pledge securities to the treasurer as required under R.S. 49:321 or if such securities shall be unsatisfactory to secure the deposit, in his sole discretion, the treasurer may declare the deposit and interest earned thereon, or any part thereof, to become immediately due and payable, notwithstanding any agreement or contract to the contrary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19: (October 1993).

§1407. Prohibitions

A. No linked deposit loan shall be approved if the agricultural products processing business' headquarters is not located in Louisiana.

B. No linked deposit loan shall be approved if the agricultural products processing business' principal officers and operating facilities are not in Louisiana.

C. No linked deposit loan shall be approved if the agricultural products processing business employs over 150 full-time employees.

D. No linked deposit loan shall be approved if the agricultural products processing business employs less than 80 percent Louisiana residents.

E. No linked deposit loan shall be approved if the agricultural products processing business is not operated for profit.

F. No linked deposit shall be approved if the agricultural products processing business does not process agricultural products as defined in these rules.

G. No linked deposit loan shall be approved if the agricultural products processing business does not either create new jobs or contribute to preserving existing jobs.

H. No linked deposit loan shall be approved if the agricultural products processing business benefits directly any officer or director of the lending institution making the loan.

I. No linked deposit loan shall be approved if it involves loan fees by the lending institution other than would be normally charged on this type of application.

J. No linked deposit shall be approved if it requires liability, other than the three percent interest, by the state, the commissioner or the treasurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19: (October 1993).

Subchapter B. Procedures for Authorization and Administration of Agricultural Production Linked Deposit Loan Program

§1411. Definitions

Agricultural Production Loan—any loan made by a lending institution to a farmer under the linked deposit program. An

agricultural production loan may only be made and used for one or more of the following purposes:

1. if necessary for the continuance of the operation of the farm through the crop or production year, repair of agricultural equipment or machinery, or purchase of used replacement equipment or machinery;

2. operating capital including, but not limited to, capital necessary for the rental of equipment or machinery and the purchase of seed, feed, fertilizer, chemical, crop insurance, livestock, and production-related energy, labor, or veterinarian fees;

3. refinancing all or a portion of a loan entered into before the effective date of this Section for a purpose set forth in Paragraphs 1 or 2.

Commissioner—the commissioner of the Louisiana Department of Agriculture and Forestry;

Farmer—any person who:

1. is an owner and operator of a farm engaged in the production of agricultural goods, and if incorporated, has all of the stock owned by persons operating the farm for which the loan is sought;

2. is headquartered in this state;

3. conducts agricultural operations exclusively in this state;

4. employs less than ten employees;

5. is a resident of this state, or if a corporation or multi-member entity, the majority of the stockholders or members are residents of this state;

6. is organized for profit;

7. has gross income from the agricultural operation which is at least 50 percent of his total income;

8. has a positive net worth.

Lending Institution—any state bank organized under the laws of this state and any national bank having its principal office in this state which is authorized to make agricultural production loans and agrees to participate in the linked deposit program.

Linked Deposit—a certificate of deposit placed by the state treasurer with a lending institution at three percent below existing market rates, as determined and calculated by the state treasurer, provided the institution agrees to lend the value of such deposit, according to the deposit agreement required by this Section, to farmers at three percent below the existing borrowing rate applicable to each specific farmer at the time of the deposit of state funds in the lending institution.

Treasurer—the treasurer of the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:446.3 and R.S. 49:327.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19: (October 1993).

§1413. Eligibility of Applicant

A. Any person engaged or to be engaged in the agricultural production of products shall be eligible for a low-interest agricultural loan, under the Louisiana Agricultural Production Linked Deposit Program. However, the applicant must also meet all the required characteristics as outlined under *Farmer* in LAC 7:V.1411.

B. The commissioner and treasurer shall consider agricultural conditions prevailing in the lending institution's

lending area, in the order in which the linked deposit loan packages were received and whenever possible give priority based on this chronological order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:446.3 and R.S. 49:327.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19: (October 1993).

§1415. Linked Deposit Loan Program Authorization; Lending Institution Requirements; Applicants Requirements and Conditions for Approval

A. The treasurer may invest in linked deposits, as provided and defined by R.S. 49:327.1, and, also defined herein, provided that at the time of placement of any linked deposit the total amount of such investments at any one time shall not exceed, in the aggregate, \$10,000,000. When deciding whether to invest in linked deposits, the treasurer shall give priority to the investment, liquidity, and cash flow needs of the state and a determination of the financial soundness of the eligible lending institution.

B. An eligible lending institution that desires to receive a linked deposit shall accept and review applications for loans from eligible farmers. The eligible lending institution shall apply all usual lending standards to determine the credit worthiness of each eligible farmer. The eligible lending institution shall not charge, levy or collect any loan application fee, processing fee, or other charges other than its normal loan application fee, processing fee, or other charges when handling a linked deposit application.

C.1. Only one loan through the linked deposit program shall be made and shall be outstanding at any one time to any eligible farmer;

2. The maximum amount available to any eligible farmer, under this program, at any one time shall be \$100,000;

3. No loan shall be made to any officer or director of the lending institution making the loan.

D. An eligible farmer shall certify on his loan application that the reduced rate loan will be used exclusively in accordance with LAC 7:V.1411. Whoever knowingly files a false statement concerning such application shall be guilty of the offense of filing false public records and shall be subject to penalty provided for in R.S. 14:133.

E. In considering which farmer to include in the linked deposit loan package for reduced rate loans, the eligible lending institution shall give priority to the economic needs of the area of the state in which the business is located, the prevailing agricultural conditions, and such other factors as the eligible lending institution considers appropriate to determine the relative financial need of the eligible farmer.

F. The eligible lending institution shall forward to the commissioner and the treasurer for review a linked deposit loan package. The package shall include such information as required by the commissioner including the amount of the loan requested, and any reports, statements, or plans applicable to the business, the overall financial need of the business, and such other factors as the commissioner considers appropriate. The eligible financial institution shall certify that each applicant is an eligible farmer as defined herein and shall, for each eligible farmer, certify the present borrowing rate applicable to each specific eligible farmer. Within 45

days after receipt, the commissioner shall provide written recommendations to the treasurer on each linked deposit loan package received from eligible financial institutions.

G. The treasurer may accept or reject a linked deposit loan package or any portion thereof, based on the treasurer's review of the recommendations of the commissioner, the availability and amount of state funds to be deposited, and a determination of the financial soundness of the financial institution in which the deposit is to be made. The treasurer shall notify the commissioner and the eligible lending institution of acceptance or rejection of a linked deposit loan package within 15 days of receipt of the recommendations of the commissioner.

H. Upon acceptance of the linked deposit loan package or any portion thereof, the treasurer may place certificates of deposit with the eligible lending institution at three percent below the current investment rates, as determined and calculated by the treasurer. When necessary, the treasurer may place certificates of deposit prior to acceptance of a linked deposit loan package.

I. The eligible lending institution shall enter into a deposit agreement with the treasurer, which shall include the requirements necessary to carry out the purposes of this Chapter. The requirements shall reflect the market conditions prevailing in the eligible lending institution's lending area. The agreement may specify the period of time in which the lending institution is to loan funds upon the placement of a linked deposit, and shall include provisions for the certificates of deposit to mature within a period not to exceed one year. The treasurer may renew a certificate of deposit in one-year increments. Interest shall be paid at the times determined by the treasurer. However, upon placement of a linked deposit, the treasurer will give priority for a period of two more years to renewal of existing linked deposits prior to placement of new linked deposits. Prior to renewal of linked deposits, the treasurer shall continue to give priority to the investment, liquidity cash flow needs of the state and a determination of the financial soundness of the eligible lending institution.

J. The period of time for which each certificate of deposit is placed with an eligible lending institution shall be neither longer nor shorter than the period of time for which the linked deposit shall be used to provide loans at reduced interest rates. The agreement shall further provide that the state shall receive investment interest rates on any certificate of deposit or any portion thereof for any period of time for which there shall be no corresponding linked deposit loan outstanding to an eligible agricultural products processing business.

K. Upon placement of a linked deposit with an eligible lending institution, the institution shall lend such funds to each approved eligible farmer listed in the linked deposit loan package. Each loan shall be at a fixed rate of interest for a period of one year which shall be three percent below the current borrowing rate applicable to each eligible farmer. All records and documents pertaining to the linked deposit program shall be segregated by each lending institution for ease of identification and examination. A certification of compliance with this Section in the form and manner

prescribed by the treasurer shall be completed by the leading institution and filed with the treasurer and the commissioner.

L.1. If it is discovered that there is a linked deposit made for any purpose not authorized, the certificate may be matured and/or rewritten, if appropriate, without penalty to the state treasurer.

2. If the eligible lending institution fails to pledge securities to the treasurer as required under R.S. 49:321 or if such securities shall be unsatisfactory to secure the deposit, in his sole discretion, the treasurer may declare the deposit and interest earned thereon, or any part thereof, to become immediately due and payable, notwithstanding any agreement or contract to the contrary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19: (October 1993).

§1417. Prohibitions

A. No linked deposit loan shall be approved if the farmer's headquarters are not located in Louisiana.

B. No linked deposit loan shall be approved if the farmer's principal officers and operating facilities are not in Louisiana.

C. No linked deposit loan shall be approved if the farmer employs over 10 full-time employees.

D. No linked deposit loan shall be approved if the farmer employs less than 80 percent Louisiana residents.

E. No linked deposit loan shall be approved if the agricultural products processing business is not operated for profit.

F. No linked deposit shall be approved if gross income from the agricultural operation is less than 50 percent of the farmer's income.

G. No linked deposit loan shall be approved if the farmer has a negative net worth.

H. No linked deposit loan shall be approved if the agricultural products processing business benefits directly any officer or director of the lending institution making the loan.

I. No linked deposit loan shall be approved if it involves loan fees by the lending institution other than would be normally charged on this type of application.

J. No linked deposit shall be approved if it requires liability, other than the three percent interest, by the state, the commissioner or the treasurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19: (October 1993).

Bob Odom
Commissioner

RULE

Board of Elementary and Secondary Education

**Bulletin 741—Handbook for School Administrators
BESE Honors Curriculum**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted an amendment to Bulletin 741, Handbook for School Administrators, and deleted from the BESE Honors Curriculum, the required credit in computer literacy, but retained the requirement for computer science.

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

**Bulletin 746—Standards for State Certification of School
Personnel - Restricted Certificate for Speech, Language
and Hearing Specialist**

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has adopted advertisement the addition of a restricted certificate for speech, language and hearing specialist to Bulletin 746, Standards for State Certification of School Personnel, as stated below.

**Types of Certificates for Speech, Language,
and Hearing Specialists**

Type C—(effective for all entering freshmen fall semester of 1985) a Type C certificate is based upon completion of an educational training program, approved by the State Board of Elementary and Secondary Education, in disorders of communication (speech, language, and hearing disorders and severe language disorders) with credits distributed as hereinafter provided, including general, professional and specialized academic education, and a master's degree in disorders of communication (speech, language, and hearing disorders and severe language disorders).

**Restricted Type C*—a restricted Type C certificate, valid for one year, is based upon completion of an educational training program, approved by the State Board of Elementary and Secondary Education, in disorders of communication (speech, language, and hearing disorders and severe language disorders) with credits distributed as hereinafter provided, including general, professional and specialized academic education and a bachelor's degree in disorders of communication (speech, language, and hearing disorders and severe language disorders). The certificate may be renewed four times under the following conditions:

** a. six semester hours toward completion of a master's degree in disorders of communication (speech, language, and hearing disorders and severe language disorders) are earned each year, and

b. direct supervision is provided by a certified and licensed speech, language and hearing specialist.

*Tenure cannot be awarded until a standard Type C certificate is issued.

**This policy may not be appealed.

* * *

All speech, language, and hearing specialists certified prior to the fall semester, 1990, will be governed by the following provisions:

Level I—a Level I certificate is issued to an individual who earns a baccalaureate degree including completion of an educational training program approved by the State Board of Elementary and Secondary Education, in disorders of communication (speech, language, and hearing disorders and severe language disorders), with credits distributed as hereinafter provided, including general, professional, and specialized academic education areas. Certification at this level requires direct supervision.

When a master's degree (or equivalent as hereinafter provided) is earned in disorders of communication (speech, language, and hearing disorders and severe language disorders), the Level I designation requiring direct supervision shall be removed upon request.

Definition of Equivalency of Master's Degree—thirty semester hours beyond the bachelor's degree that could count toward a master's degree in speech pathology and audiology; no fewer than 24 of the 30 semester hours shall be in professional content courses in speech pathology, language pathology, and audiology.

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

**Bulletin 1822—Competency Based Postsecondary
Curriculum Outlines**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted, the following amendments to Bulletin 1822, Competency Based Postsecondary Curriculum Outlines.

CURRENTLY APPROVED

| TITLE | LENGTH |
|------------------------------------|-----------------------|
| Process Technician | 1350 hours, 12 months |
| Jewelry Technology | 2025 hours, 18 months |
| Masonry | 1800 hours, 16 months |
| Carpentry | 2025 hours, 18 months |
| Appliance Repair | 1350 hours, 12 months |
| Outdoor Power Equipment Technician | 2025 hours, 18 months |
| Electronics (Basic Core) | 1350 hours, 12 months |

PROPOSED REVISION

| | |
|------------------------------------|-----------------------|
| Process Technician | 1352 hours, 13 months |
| Jewelry Technology | 1872 hours, 18 months |
| Masonry | 1872 hours, 18 months |
| Carpentry | 2184 hours, 21 months |
| Appliance Repair | 1248 hours, 12 months |
| Outdoor Power Equipment Technician | 1872 hours, 18 months |
| Basic Electronics | 1248 hours, 12 months |

NEW CURRICULA (outlines only)

| TITLE | LENGTH |
|-----------------------------------|-----------------------|
| Hotel/Hospitality Operations | 1248 hours, 12 months |
| Microcomputer Software Specialist | 936 hours, 9 months |
| Microcomputer Specialist | 1248 hours, 12 months |
| Microcomputer Programmer | 1872 hours, 18 months |
| Fitter-Fabricator | 624 hours, 6 months |

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

**Composition of Parish Superintendents Advisory Council
(LAC 28:I.105)**

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 has adopted, the revised composition of the Parish Superintendents Advisory Council, which is also an amendment to the Administrative Code, as stated below:

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 1. Organization
§105. Board Advisory Councils**

B. Composition

1. Parish Superintendents Advisory Council

The Parish Superintendents Advisory Council shall consist of 23 members to include 22 members appointed by the board and one additional member who shall be the president of the Louisiana Association of School Superintendents who shall serve as chairman of the council. Each member of the board shall appoint two members, with at least one member, if possible, coming from a rural school system. Eight members shall constitute a quorum. Any appointed member, including the chairman, who cannot attend a meeting may appoint another superintendent from his district to represent him. The proxy shall have the same voting privileges as the appointed member. Members of the Parish Superintendents Advisory Council shall not receive reimbursement for travel expenses from the board.

D. Officers

Unless otherwise provided by state or federal law or board policy, each advisory council shall select from among its membership a chairperson and a vice-chairperson. Elections shall be annually at the first meeting in a calendar year, and the councils shall report election results to the board.

F. All members of the advisory councils, including salaried public employees, shall be entitled to reimbursement for actual travel expenses unless specifically prohibited by statute or board policy. Members may submit requests for reimbursements for expenses in accordance with the regulations promulgated by the state commissioner of administration. The board will abide by the rules set forth by the state Ethics Commission which allows salaried public employees to receive per diem payments as long as they are on annual leave.

H. Quorum

Unless otherwise provided, a quorum is a majority of the appointed membership. In the absence of a quorum, the advisory council may take action, but minutes submitted to the board shall indicate that the recommendations are being presented without the required quorum being present.

I. Any person serving on an advisory council who cannot attend a scheduled meeting may appoint a person to attend as his proxy. Unless otherwise provided herein, no proxy shall have voting privileges. Any council member who is absent from regular meetings for three consecutive times may not be represented by proxy. A proxy, in order to receive reimbursement for travel and other expenses, must present a letter signed by the council chairman to the board's staff director.

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

State Plan for Adult Education

In accordance with R. S. 49:950 et. seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted the indicators of program quality for the statewide Adult Education Program.

**Indicators of Program Quality
Louisiana Adult Education Program**

Educational Gains

Indicator 1: Learners demonstrate progress toward attainment of basic skills and competencies that support their educational needs and satisfy a selected goal that improves their quality of life.

Programs support learners' educational needs by promoting progress toward attainment of linguistic, mathematics, communication, and problem-solving competencies. Progress is demonstrated by improvement in participants' abilities to understand, speak, read, and write English, perform basic computations, and function more effectively in the home, community, workplace, and society. Provisions are made for students to work toward goals that improve their quality of life.

Sample Measures:

Standardized test score gains

Competency-based test score gains

Attainment of student goals specifically selected by student upon entry into program

Instructor reports of gains/improvements in basic skills and communication competencies

Alternative assessment methods (e.g., portfolio assessment, student report of attainment, or improvement in specific employability or life skills)

Performance Standards:

All students have an identifiable goal documented in their records.

Student progress is based upon pre-test and post-test scores

Growth in grade level per number of hours of instruction

Number of students showing growth by this standard

Percentage of students showing growth by this standard

Student progress is based upon portfolios of work which document improved performance.

Number of students showing growth by this standard

Percentage of students showing growth by this standard

Student progress is based upon documented improvement of employability/life skills. (Instructional module completed toward student goals)

Number of students showing growth by this standard

Percentage of students showing growth by this standard

Student progress is based upon documented improvement of ESL learners to understand, speak, read, and write English, perform basic computations, and function more effectively in the home, community, workplace, and society (e.g., portfolio assessment, student report of attainment, or improvement in specific employability or life skills)

Number of students showing growth by this standard

Percentage of students showing growth by this standard

Student progress is based upon documented student reports of accomplishments (e.g., read a book, got a drivers license, got a job or a better job, voted for first time, etc.)

Number of students showing growth by this standard

Percentage of students showing growth by this standard

Summary data for this indicator (This standard should reflect an unduplicated count; all previous performance standards of this indicator may be a duplicated count.)

Total number of students served this program year

Number of students showing growth out of the total enrollment

Percentage of students showing growth out of the total enrollment

Indicator 2: Learners advance in the instructional program or complete program educational requirements that allow them to continue their education or training.

Programs promote progression to higher levels of learning within the adult education program or promote the attainment of skills required for learners to advance to other education or training opportunities. Progress is demonstrated by participants' attainment of a credential or movement into other programs or skill levels.

Sample Measures:

Student advancement to a higher level of skill or competency in the adult education program

Attainment of a high school equivalency diploma through the GED testing program

Attainment of a competency certificate

Student is referred to or enters other education or training programs

Performance Standards:

Student masters skills required to pass the GED test and qualify for a high school equivalency diploma.

Number of students showing growth by this standard

Percentage of students showing growth by this standard

Percentage of students who passed GED test out of the number recommended

Student masters skills required to pass any section of GED.

Number of students showing growth by this standard

Percentage of students showing growth by this standard

Student masters competencies necessary for self-sufficiency in ESL.

Number of students showing growth by this standard

Percentage of students showing growth by this standard

Student masters skills to progress to a higher level of learning within adult education program.

Number of students showing growth by this standard

Percentage of students showing growth by this standard

Student masters skills to be referred to or enters other education or training (e.g., college, vo-tech, proprietary school, apprenticeship programs, etc.).

Number of students showing growth by this standard

Percentage of students showing growth by this standard

Student masters ABE proficiencies related to survival skills (e.g., decoding, sight vocabulary, reading simple sentences, and comprehension of basic level texts).

Number of students showing growth by this standard

Percentage of students showing growth by this standard

Student masters ABE proficiencies related to life skills (e.g., reads, writes, communicates, and performs math functions needed for daily living).

Number of students showing growth by this standard

Percentage of students showing growth by this standard

Student masters ABE proficiencies related to academic skills (e.g., reads and understands paragraphs and has mastered functional literacy skills needed for GED).

Number of students showing growth by this standard.

Percentage of students showing growth by this standard.

Student masters ABE proficiencies related to workforce skills (e.g., has mastered functional literacy skills and has upgraded critical thinking skills needed for job performance).

Number of students showing growth by this standard
Percentage of students showing growth by this standard
Summary data for this indicator (This standard should reflect an unduplicated count; all previous performance standards of this indicator may be a duplicated count.)

Total number of students served this program year.

Number of students showing growth out of the total enrollment.

Percentage of students showing growth out of the total enrollment.

Program Planning

Indicator 3: Program has a planning process that is ongoing and participatory, guided by evaluation, and based on a written plan that considers community demographics, needs, resources, and economic and technological trends, and is implemented to its fullest extent.

Planning begins with a written plan that evolves from the program's mission statement. The planning process is ongoing with mechanisms for revising plans on a regular basis, drawing input from program evaluations. Planning is responsive to the needs of learners and the community through input from staff, students, and other appropriate programs and organizations in the community.

Sample Measures:

A planning document that contains the mission statement, program goals, and objectives.

Community input through mechanisms such as an advisory board, staff meetings, student questionnaires, and public hearings, and frequency with which these sources are consulted.

Program plan matches community needs regarding location of classes, skills taught, and type of program services offered (e.g., sufficient ABE, basic literacy instruction, or ESL).

Program evaluation component and evidence that evaluation feeds into the planning process.

Congruence between planned program activities and actual activities.

Performance Standards:

Evidence of a written plan describing the basic skills needs of the service area, and the goals and objectives for meeting the needs of the target population through local program activity.

Evidence of use of documents in the planning process that have data on community needs (e.g., census data, needs assessments, demographic data, etc.)

Evidence that the advisory council/participatory planning group has met on an ongoing basis to advise the local program (e.g., minutes, bylaws, strategic plans, etc.)

Evidence of use of previous year's performance report.

Evidence that scheduling of classes, skills taught, and types of services offered meet with needs of community.

Evidence of staff meetings.

Evidence of local evaluation plan.

Availability of annual audit/financial records.

Availability of state monitoring/evaluation reports.

Availability of job descriptions.

Curriculum and Instruction

Indicator 4: Program has curriculum and instruction geared to individual student learning styles and levels of student needs.

Learners are provided Individualized Prescription Instruction (IPI) documents to make them aware of their present academic skills and provide a plan for progress toward their documented goals. Curriculum and instruction should meet the educational needs of students with diverse educational and cultural backgrounds. Since students have different learning styles and goals, instruction includes a variety of instructional approaches and strategies.

Sample Measures:

All learners have an Individualized Prescription Instruction (IPI) document on file and available to the teacher and student for consultation and planning.

Use of student assessment information to enhance the instructional process.

Student goal-setting process linked to decisions on instructional materials, approaches, and strategies.

Instructional content which addresses educational needs of individual students

Instructional strategies implemented and measured through observation and self-evaluation .

Performance Standards:

Evidence of Individualized Prescription Instruction (IPI) for each learner on file at the site of instruction and available to the student and teacher.

Evidence of use of assessment information to improve and enhance the instructional process.

Evidence of student goal setting linked to selection of instructional materials, approaches, and strategies.

Evidence that needs of individual students are considered in the selection of instructional content.

Evidence that a current list of curricula provides a variety of materials reflecting various instructional level of students.

Evidence of congruence between planned program activities and actual activities.

Staff Development

Indicator 5: Program has an ongoing staff development process that considers the specific needs of the staff and provides appropriate training that meets those needs.

Staff development is designed to enable teachers to improve their teaching skills and therefore improve the quality of instruction. Staff development begins with an orientation to the goals and philosophy of the program and continues with periodic training that meets the needs of the program staff. Input from staff is significant.

Sample Measures:

Preservice and inservice staff development opportunities that include a program overview, philosophy and goals of the program, staff input, and topics appropriate to adult learning.

Process for identifying staff development needs.

Staff needs considered when selecting training activities.

Staff access to training activities provided by the state adult education office, universities, and professional organizations.

Performance Standards:

Evidence of preservice and inservice staff development activities.

Evidence of amount of time devoted to preservice and inservice training activities.

Evidence of process for identifying staff needs.

Evidence of identified staff needs met through training activities.

Evidence of the extent to which specific staff development activities requested by staff has been addressed.

Evidence of staff participation in regional and state training provided by state adult education office, universities, and professional organizations.

Support Services

Indicator 6: Program identifies students' needs for support services and makes the services available to students either directly or through referral to other educational and service agencies.

Programs identify support service needs that affect participation in the program and promote student access to these services by referral to other agencies or direct provision of service. The program has formal and/or informal coordination linkages with other service providers to facilitate referral.

Sample Measures:

Referral process for student support services available to students.

Staff awareness of available support services within the community, dissemination of information, and appropriate referrals of students.

Process for identifying student support service needs.

Agreement or linkage between the program and child care and transportation providers.

Number of students obtaining specific services through the program or through referral.

Performance Standards:

Evidence of a process for identifying student need for support services.

Evidence that staff is aware of available support services within the community, provides information, and makes appropriate referrals.

Evidence of student awareness of support services available to them.

Evidence of agreements or linkages between the program and child care, transportation providers, and other providers of support services.

Evidence of the number of agencies providing student support services by referral.

Evidence of the number of students receiving student support services by referral.

Evidence of percentage of students receiving student support services by referral.

Evidence of the number of students provided support services by program.

Evidence of the percentage of students provided support services by program.

Recruitment

Indicator 7: Program recruits undereducated adults in the population area with particular emphasis on those identified in the Adult Education Act as needing literacy services.

The program recruits and enrolls undereducated adults in the population area in need of literacy services as identified by needs assessments or demographic data.

Sample Measures:

Results of campaign designed to recruit undereducated adults

Effective types of recruitment activities

Target populations enrolled compared to documented needs of service area

Target populations enrolled compared with state average

Performance Standards:

Evidence of a successful campaign to recruit undereducated adults

Evidence of a recruiting plan describing the types of activities the program performs

Documentation of a plan establishing specific goals for recruiting specific groups into particular instructional programs

Documentation of the use of a variety of recruitment strategies such as:

Print media (e.g., newspapers, flyers, brochures, posters)

Electronic media (e.g., radio, TV PSA's)

Speaking engagements (e.g., other agencies, clubs, PTA, civic groups, churches, graduations, etc.)

Displays/booths

Open House

Number of students enrolled in specific programs (e.g., ABE, GED, ESL, etc.) as a result of a recruiting effort

Percentage of students enrolled in specific programs (e.g., ABE, GED, ESL, etc.) as a result of a recruiting effort

Number of target population served in your population area

Percentage of target population served in your population area

Percentage of target population served in a population area compared to percentage of same target population served statewide/or a comparable neighboring service area

Number of students enrolled with specific characteristics targeted by a recruiting campaign

Percentage of students enrolled with specific characteristics targeted by a recruiting campaign

Number of students enrolled in program that are a direct result of recruiting efforts

Percentage of students enrolled in program that are a direct result of recruiting efforts

Retention

Indicator 8: Students remain in the program long enough to meet their educational goals.

Retention is measured by student progress toward meeting their educational needs by time in program. Retention benchmarks are established that consider type of program and learning gains expected for a given number of hours in the program.

Sample Measures:

Student progress measured by hours in program and learning gain achieved

Students returning to the program within specified time or program year

Retention activities performed by program staff

Students meeting educational objectives

Students qualifying for high school equivalency diploma

Total student contact hours related to the total number of students

Performance Standards:

Documentation of efforts and follow-up activities that were made to return dropouts or absentees to instructional programs (e.g., phone call, family contact, personal contact, correspondence, vocational rehabilitation counselor, probation officer, juvenile judge, motor vehicle officer, child welfare and attendance supervisor, etc.)

Number of student contact hours divided by number of students

Number of students remaining in program until they complete objectives or qualify for a high school equivalency diploma

Percentage of students remaining in program until they complete objectives or qualify for a high school equivalency diploma

Number of students who meet their goals or complete a level of instruction

Percentage of students who meet their goals or complete a level of instruction

Number of students experiencing progress in the same or higher level of instruction

Percentage of students experiencing progress in the same or higher level of instruction

Documentation of efforts made to use other agencies' resources as support services to meet student needs other than instruction

Number of students attending classes for a selected number of hours of instruction within a program year

Percentage of students attending classes for a selected number of hours of instruction within a program year

Number of student dropouts or absentees who return to the program within a specified time

Percentage of student dropouts or absentees who return to the program within a specified time

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

Carole Wallin
Executive Director

RULE

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

Toxic Air Pollutants (LAC 33:III.5111) (AQ62)

(Editor's Note: A portion of the following rule, which appeared on page 1363 of the December 1992 Louisiana Register, is being republished to correct typographical errors.)

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

**Chapter 51. Comprehensive Toxic Air Pollutant
Emission Control Program**

**Subchapter A. Applicability, Definitions, and General
Provisions**

§5111. Permit Requirements, Application, and Review

A. Major Source Permit Requirements. No owner or operator shall commence construction or modification of any major source without first obtaining written authorization from the administrative authority.

* * *

4. The owner or operator of any existing major source which is operating without a Louisiana Air Permit, or which is not fully permitted, at the time of promulgation of this Chapter, shall apply for a permit in accordance with Subsection B of this Section. For sources not required to submit a compliance plan pursuant to LAC 33:III.5109.D, the permit application shall be submitted no later than December 20, 1993.

5. The owner or operator of any major source may continue to operate such source until final action is taken on a permit application or request for permit modification, provided such operation is not in violation of an administrative order.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1364 (December 1992), repromulgated LR 19: (October 1993).

James B. Thompson, III
Assistant Secretary

RULE

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

**Scope and Mandatory Provisions of the Program;
and Solid Waste Standards
(LAC 33:VII.Chapters 3 and 7) (SW07)**

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Solid Waste Division Regulations, LAC 33:VII.315, 709, 711, 713, 715, and 727 (Log SW07).

In order to obtain state approval for RCRA Subtitle D, states must develop regulations that will be consistent with the

requirements of 40 CFR 258. EPA has proposed to change the effective date of 40 CFR 258 from October 9, 1993, to April 9, 1994. In order to have the Solid Waste Regulations (LAC 33:VII.Subpart 1) consistent with 40 CFR 258 the effective date of October 9, 1993, was changed to April 9, 1994, in §§315, 709, 711, 713 and 715. The date for compliance with financial assurance was changed in §§315.G.4 and 727.A.1.f to February 20, 1995. In §315.I, corrections to the dates for submission of an addendum are also made. In §315.G, the compliance date for groundwater monitoring has been revised to April 9, 1995.

Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste
Subpart 1. Solid Waste Regulations
Chapter 3. Scope and Mandatory Provisions of the
Program
§315. Mandatory Provisions

* * *

G. Permit Upgrade Schedule for Existing Facilities Operating under a Standard Permit

* * *

2. Existing Type II Landfills

* * *

c. Special Subtitle D Upgrade Requirements. Notwithstanding Subsection G.2.a and b of this Section, the following upgrade schedule applies:

i. Existing Type II landfills must be upgraded, to comply with LAC 33:VII.709.A.2 (regarding airports), LAC 33:VII.709.B.1.a, b, and c (regarding restriction of public access), LAC 33:VII.709.B.5 and LAC 33:VII.711.D.1.a (regarding hazardous-waste exclusion), LAC 33:VII.709.B.6 (regarding discharges to surface water), LAC 33:VII.709.C.3 (regarding unstable areas), LAC 33:VII.711.A.1 (regarding 100-year floodplains), LAC 33:VII.711.A.2 and 3 (regarding run-on/runoff control), LAC 33:VII.711.B.2 (regarding daily cover), LAC 33:VII.711.D.1.b (regarding open burning), LAC 33:VII.711.D.1.g (regarding liquid waste exclusion), LAC 33:VII.711.D.3.a (regarding methane monitoring), and LAC 33:VII.711.D.3.c (regarding vector control) no later than October 9, 1993.

ii. Units of Type II landfills which did not receive solid waste prior to October 9, 1993, must comply with LAC 33:VII.709.A.4 (regarding wetlands demonstrations), LAC 33:VII.709.A.5 (regarding fault areas), LAC 33:VII.709.C.2 (regarding seismic impact zones), LAC 33:VII.709.E (regarding groundwater monitoring) and LAC 33:VII.711.B.4 and 5 (regarding plans and specifications for leachate collection and liners) before receiving solid waste.

iii. Units of Type II landfills which are less than two miles from a drinking water intake must be upgraded to comply with LAC 33:VII.709.E (regarding groundwater monitoring) no later than October 9, 1994.

iv. Units of Type II landfills which are less than two miles from a drinking water intake must be upgraded to comply with LAC 33:VII.709.E (regarding groundwater monitoring) no later than October 9, 1995.

v. Units of Type II landfills which are greater than

two miles from a drinking water intake must be upgraded to comply with LAC 33:VII.709.E (regarding groundwater monitoring) no later than August 1, 1996.

vi. The administrative authority may extend the date for compliance with LAC 33:VII.315.G.2.c.i to April 9, 1994, for qualified existing Type II landfill units.

vii. The administrative authority may extend the post-closure waste acceptance dates in LAC 33:VII.711.F.2.a and b to April 9, 1994 for existing units of qualified Type II landfills.

viii. For the purposes of Subsection G.2.c.vii and viii, a qualified Type II landfill is one which:

(a). received no more than 100 tons per day of solid waste between October 9, 1991 and October 9, 1992, based on a calendar daily average; and

(b). will receive no more than 100 tons per day of solid waste based on a daily average computed each month between October 9, 1993 and April 9, 1994.

* * *

4. Financial Assurance. Existing facilities must comply with the financial assurance requirements in LAC 33:VII.727 no later than February 20, 1995.

* * *

8. Type I and II facilities with closure plans approved prior to and which do not receive solid waste on or after October 9, 1993, may complete closure and post-closure under the terms of the approved closure plan, except that Type II landfills which received solid waste on or after October 9, 1991 must meet standards for placement and maintenance of final cover in LAC 33:VII.711.E and F.

* * *

I. Applicants of Proposed Facilities With Pending Permit Applications

1. Applicants of proposed facilities with permit applications on file with the Solid Waste Division, Office of Solid and Hazardous Waste, Department of Environmental Quality, must submit to the office, no later than January 1, 1994, an addendum to their application to address these regulations.

2. Failure to submit an addendum to the application by January 1, 1994, shall be considered a withdrawal of the permit application and shall require no further action.

* * *

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

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

Chapter 7. Solid Waste Standards

Subchapter B. Landfills, Surface Impoundments, Landfarms

§709. Standards Governing All Solid Waste Disposal Facilities (Type I and II)

A. Location Characteristics

* * *

4. Units of a facility which have not received waste prior to October 9, 1993, shall not be located in wetlands, unless the permit holder or applicant can make the following demonstrations to the administrative authority:

5. Units of a facility which have not received waste prior to October 9, 1993, shall not be located within 200 feet (60 meters) of a fault that has had displacement in Holocene time unless the permit holder or applicant demonstrates to the administrative authority that an alternative setback distance of less than 200 feet will prevent damage to the structural integrity of the unit and will be protective of human health and the environment.

C. Facility Geology

2. Units of a facility located in a seismic impact zone which have not received waste prior to October 9, 1993, shall be designed and operated so that all containment structures, including liners, leachate collection systems, and surface water control systems can withstand the stresses caused by the maximum horizontal acceleration in lithified earth material for the site.

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

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

§711. Standards Governing Landfills (Type I and II)

B. Facility Plans and Specifications

4. Leachate Control, Collection, Treatment, and Removal Systems

a. The standards in Subsection B.4 of this Section apply to leachate control, collection, treatment, and removal systems for proposed landfills and units of existing landfills which receive waste on or after the required upgrade date specified in LAC 33:VII.315.G. These standards also apply to units of Type II landfills which have not received waste prior to October 9, 1993.

5. Liners

a. The standards in Subsection B.5 of this Section apply to liners for proposed landfills and units of existing landfills which receive waste on or after the required upgrade date in LAC 33:VII.315.G. These standards also apply to units of Type II landfills which did not receive waste before October 9, 1993, as provided in LAC 33:VII.315.G.

F. Facility Post-closure Requirements

2. Post-closure Care Length

a. Facilities which receive solid waste on or after October 9, 1993, must remain in post-closure care for 30 years after closure of the facility .

b. Existing facilities which do not receive waste on or after October 9, 1993, must remain in post-closure care for three years after closure of the facility.

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

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

§713. Standards Governing Surface Impoundments (Type I and II)

F. Facility Post-closure Requirements

2. The following standards regarding post-closure requirements apply to surface impoundments with on-site closure:

a. Post-closure Care Length

i. Facilities which receive solid waste on or after October 9, 1993, must remain in post-closure care for 30 years after closure of the facility.

ii. Existing facilities which do not receive waste on or after October 9, 1993, must remain in post-closure care for three years after closure of the facility.

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

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

§715. Standards Governing Landfarms (Type I and II)

F. Facility Post-closure Requirements

2. Type I Landfarms. For facilities which receive waste on or after October 9, 1993, the permit holder shall continue to comply with any prohibitions or conditions under LAC 33:VII.715 for 10 years after closure. For facilities which did not receive waste on or after October 9, 1993, the permit holder shall continue to comply with any prohibitions or conditions under LAC 33:VII.715 for three years after closure.

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

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

Subchapter E. Financial Assurance for All Processors and Disposers of Solid Waste

§727. Financial Assurance

A. Financial Responsibility During Operation and for Closure and Post-closure Care

1. Financial Responsibility During Operation. Permit holders or applicants for standard permits of Type I, I-A, II, II-A, and III facilities have the following financial responsibilities while the facility is in operation:

f. Permit holders of existing facilities must submit, on or before February 20, 1995, financial responsibility documentation that complies with the requirements of Subsection A.1 of this Section. Applicants for permits for new facilities must submit evidence of financial assurance in

accordance with this Section at least 60 days before the date on which solid waste is first received for processing or disposal.

* * *

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

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

Glenn A. Miller
Assistant Secretary

RULE

Office of the Governor Office of Elderly Affairs

State Plan on Aging (LAC 4:VII.1301-1321)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) has repealed LAC 4:VII.1301 through 1327 and repromulgate LAC 4:VII.1301 - 1321 in order to adopt the FY 1994 - FY 1997 Louisiana State Plan on Aging, effective October 1, 1993 to September 30, 1997.

The state plan on aging is the document submitted by the state to the U.S. Department of Health and Human Services, Administration on Aging, to receive grants from its allotments under Title III of the Older Americans Act of 1965, as amended (the Act). Title III authorizes formula grants to state agencies on aging to assist states and local communities to develop comprehensive and coordinated systems for the delivery of services to older persons. The plan contains all provisions required by Section 307 of the act and commitments that the state agency will administer or supervise the administration of activities funded under Title III in accordance with all federal requirements. It includes goals and objectives to be pursued by the state agency during the plan period. A state may expend Older Americans Act funds only under an approved state plan.

James R. Fontenot
Director

RULE

Department of Health and Hospitals Board of Dentistry

Formal Adjudications (LAC 46:XXXIII.Chapter 9)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:951, et seq., the Dental Practice Act, R.S. 37:751 et seq., and R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry hereby adopts LAC 46:XXXIII, Chapter 9, Formal Adjudications.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 9. Formal Adjudication

§901. Scope of Chapter

The rules of this Chapter govern the board's initiation and adjudication of administrative complaints providing cause under law for the suspension, revocation, imposition of probation on or other disciplinary action against persons holding licenses, permits, certifications, or registrations issued by the board or applicants therefor. The rules of this Chapter are promulgated in order to supplement the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Dental Practice Act, R.S. 37:751 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 13:178 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry LR 19: (October 1993).

§903. Initiation of Proceedings

A. When determined by the president that a formal adjudication is warranted, proceedings to adjudicate an administrative enforcement action shall be initiated by providing notice of the charges against the licensee in accordance with §905 of this Chapter by service provided by any means authorized by the Administrative Procedure Act or the Louisiana Code of Civil Procedure. This notice may be signed by either the president or a board member or employee designated by the president. Said notice shall name the accused licensee as respondent.

B. Prior to the initiation of formal proceedings, the board shall send correspondence to the licensee setting forth facts constituting legal cause under law for administrative action and the statutory and/or regulatory provisions alleged to have been violated by the licensee. The correspondence shall be sent by certified, return-receipt requested mail as well as by regular first class mail, or by any other means authorized by the Administrative Procedure Act or the Louisiana Code of Civil Procedure at the licensee's most current address as reflected in the official records of the board advising the licensee that he is being offered an opportunity to participate in an informal conference with a dentist(s) board member(s) to show compliance with all lawful requirements for the retention of his license in conformity with R.S. 49:961(c), that he may request a record be made at his expense, and that he has a

right to counsel. The licensee shall have 15 calendar days from receipt of notice to advise the board whether he wishes to participate in such a meeting, and whether he wishes a record be made of such a meeting. Said meeting shall be held no less than 10 days nor more than 30 days following receipt of said request by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry LR 19: (October 1993).

§905. Complaint

The complaint shall set forth, in separately numbered paragraphs, a concise statement of the material facts and matters alleged and to be proven by the board including the facts giving rise to the board's jurisdiction over the respondent, the facts constituting legal cause under law for administrative action against the respondent, and the statutory or regulatory provisions alleged to have been violated by respondent. The complaint shall conclude with a description of the administrative sanctions or other relief which may be imposed by the board and shall bear the name, address and telephone number of complaint counsel engaged by the board to prosecute the adjudication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry LR 19: (October 1993).

§907. Notice of Hearing

A. Upon the filing of an administrative complaint pursuant to §§903 and 905 of this Chapter, the board shall schedule the complaint for hearing before the committee not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the complaint counsel or respondent pursuant to a showing of proper grounds. In the event that the respondent's license, permit, certification or registration has been suspended by the board pending hearing, pursuant to R.S. 49:961(C), formal adjudication of the complaint shall be noticed and scheduled not more than 45 days after the filing of the complaint.

B. A written notice of the complaint and the time, date and place of the scheduled hearing thereon shall be served upon the respondent by certified, return-receipt-requested mail, as well as by regular first class mail, or by any other means authorized by the Administrative Procedure Act or the Louisiana Code of Civil Procedure, at the most current address for the respondent reflected in the official records of the board. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held and shall be accompanied by a certified copy of the administrative complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

§909. Response to Complaint; Notice of Representation

A. Within 15 days of service of the complaint, or such longer time as the committee, on motion of the respondent may permit, the respondent may answer the complaint,

admitting or denying each of the separate allegations of fact and of law set forth therein. Any matters admitted by respondent shall be deemed proved and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all matters asserted therein shall be deemed denied.

B. Any respondent may be represented in an adjudication proceeding before the board by an attorney at law duly admitted to practice in this state. Upon receipt of service of a complaint pursuant to this Chapter, or thereafter, a respondent who is represented by legal counsel with respect to the proceeding shall, personally or through such counsel, give written notice to the board of the name, address and telephone number of such counsel. Following receipt of proper notice of representation, all further notices, complaints, subpoenas, orders or other process related to the proceeding shall be served on respondent through his or her designated counsel of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

§911. Pleadings, Motions; Service

A. All pleadings, motions or other papers permitted or required to be filed with the board in connection with a pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the board and shall, certify that, by the same method of delivery, the same be concurrently served upon complaint counsel designated by the complaint, if filed by or on behalf of respondent, or upon respondent, through counsel of record if any, if filed by complaint counsel.

B. All such pleadings, motions or other papers shall be submitted on plain white, letter size (8 1/2 inches by 11 inches) bond, with margins of at least one inch on all sides and text double-spaced except as to quotations and other matter customarily single-spaced, shall bear the caption of the case as it appears on the complaint and shall include the certificate of the attorney or person making the filing that service of a copy of the same has been effected in the manner prescribed by Paragraph A of this Section.

C. The board may refuse to accept for filing any pleading, motion or other paper not conforming to the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

§913. Prehearing Motions

Motions for continuance of hearing, for dismissal of the proceeding and all other prehearing motions shall be filed not later than 30 days following service of the complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each prehearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the board may

order, the board president's, through complaint counsel, may file a memorandum in opposition to or otherwise setting forth the board president's position with respect to the motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

§915. Motions for Continuance of Hearing

A. A motion for continuance of hearing shall be filed within the delay prescribed by §907 of these rules, provided that the board may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of prehearing motions.

B. A scheduled hearing may be continued by the disciplinary hearing committee chairman (chairman) only upon a showing by respondent or complaint counsel that there are substantial legitimate grounds that the hearing should be continued balancing the right of the respondent to a reasonable opportunity to prepare and present a defense to the complaint and the board's responsibility to protect the public health, safety and welfare. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the board will not ordinarily grant a motion to continue a hearing that has been previously continued upon motion of the same party.

C. If an initial motion for continuance is not opposed, it may be granted by the executive director of the board, the board president or the chairman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

§917. Disposition of Prehearing Motions

A. Any prehearing motion for continuance of hearing shall be referred for decision to the chairman for ruling. The chairman, in his discretion, may refer any prehearing motion to the entire hearing panel for disposition, and any party aggrieved by the decision on a prehearing motion may request judicial review by the Civil District Court for the Parish of Orleans.

B. Prehearing motions shall ordinarily be ruled upon by the chairman or the hearing panel, as the case may be, on the papers filed, without hearing. On the written request of respondent or of complaint counsel, however, and on demonstration that there are good grounds therefor, the chairman may grant opportunity for hearing, by oral argument, on any prehearing motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

§919. Subpoenas for Hearing

A. Upon request of the respondent or complaint counsel and in compliance with the requirements of this Section, the president, a board member or the executive director shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

B. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the hearing panel with reference to the value of the time employed and the degree of learning or skill required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

§921. Prehearing Conference

A. In any case of adjudication noticed for hearing, counsel for respondent and complaint counsel may agree, or the chairman may require, that a prehearing conference be held among such counsel, or together with the board's independent counsel appointed pursuant to §923(D) of this Chapter, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

B. Following such prehearing conference the parties shall, and without such conference the parties may by agreement, reduce to writing a prehearing stipulation which shall include:

1. a brief statement by complaint counsel as to what such counsel expects the evidence to be presented against respondent to show;

2. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;

3. a list of the witnesses to be called by complaint counsel and by respondent, together with a brief general statement of the nature of testimony each such witness is expected to give;

4. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents, or issues; and

5. an estimate of the time required for the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

§923. Conduct of Hearing; Record

A. Unless otherwise requested by the respondent, adjudication hearings shall be conducted in closed session.

B. At an adjudication hearing, opportunity shall be afforded to complaint counsel and respondent to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for a full and true disclosure of the facts and disposition of the complaint.

C. Unless stipulation is made between the parties, and approved by the chairman, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who

shall be retained by the board to prepare a written transcript of such proceedings.

D. During and before an adjudication hearing, the chairman shall rule upon all evidentiary objections and other procedural questions, but in his discretion may consult with the entire hearing panel in executive session. At any such time, the hearing panel may be assisted by legal counsel, retained by the board for such purpose, who is independent of complaint counsel and who has not participated in the investigation or prosecution of the case. If the board or hearing panel is attended by such counsel, the chairman may delegate to such counsel ruling on evidentiary objections and other procedural issues raised during the hearing.

E. The record in a case of adjudication shall include:

1. the administrative complaint and notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery in the case or hearing of the adjudication, and all pleadings, motions, and intermediate rulings;
2. evidence received or considered at the hearing;
3. a statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;
4. offers of proof, objections, and rulings thereon;
5. proposed findings and exceptions, if any;
6. the decision, opinion, report or other disposition of the case made by the board.

F. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

§925. Evidence

A. In an adjudication hearing, the board, or the designated hearing panel thereof, may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board or hearing panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

B. All evidence, including records and documents in the possession of the board which complaint counsel desires the board to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. The materials so incorporated shall be available for examination by the respondent before being received in evidence.

C. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the board's dental knowledge. The board's dental experience, technical competence and technical knowledge may be utilized in the evaluation of the evidence.

D. Any member of the board serving as chairman in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place for continued hearings, fix the time for the filing of briefs and other documents, if any are required or requested, may direct the parties to appear and confer to consider simplification of the issues, and shall rule upon all motions filed by respondent or the board after the filing of the initial complaint upon respondent.

E. Except as otherwise governed by the provisions of these rules, adjudication hearings before the board shall be governed by the Administrative Procedure Act insofar as the same may be applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

§927. Informal Disposition

The hearing panel may make informal disposition, by default, consent order, agreement, settlement, or otherwise of any adjudication pending before it. A consent order agreement, or settlement shall be evidenced by a document which shall be reduced to writing, signed by the licensee, before two witnesses, and thereafter submitted to the board president for his signature. The approval of the agreement shall thereafter be placed on the agenda of the next board meeting, considered for ratification, and, if so ratified, be given full force and effect and become a final action by the board, as set forth in R.S. 37:780(B). If not ratified, it shall have no force and effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

§929. Decisions; Notice

A. The final decision of the board in an adjudication proceeding shall be in writing, include findings of fact and conclusions of law, and signed by the chairman on behalf and in the name of the board.

B. Upon issuance of a final decision, a certified copy thereof shall promptly be served upon respondent's counsel of record, or upon respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of complaints in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

§931. Rehearings

A. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within 10 days from service of the decision on respondent. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed by §911 and shall set forth the grounds upon which such motion is based, as provided by Paragraph B of this Section.

B. The board may grant rehearing, reopening, or reconsideration if it is shown that:

1. the decision is clearly contrary to the law and the evidence;

2. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;

3. other issues not previously considered ought to be examined in order to properly dispose of the matter; or

4. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

C. Barry Ogden
Executive Director

RULE

Department of Health and Hospitals Board of Dentistry

Informal Disposition of Complaints (LAC 46:XXXIII.Chapter 11)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry amends LAC 46:XXXIII.Chapter 11, regarding informal disposition of complaints.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 11. Provisions for Informal Disposition of Complaints

§1101. Implementation of the Dental Practice Act to the Extent that it Affects Administrative Procedures of the State Board of Dentistry Pertaining to Informal Disposition of Complaints

The Dental Practice Act (R.S. 37:751 et seq.) mandates the Louisiana State Board of Dentistry to regulate the practice of dentistry in the state of Louisiana. Included within the powers and duties of the board is the provision that it shall investigate complaints of illegal practice when evidence is presented to the board (R.S. 37:760(7)). The board has utilized the Administrative Procedure Act (R.S. 49:950 et seq.) and sections of the Dental Practice Act (R.S. 37:778) in conducting formal disciplinary hearings. The board now wishes to adopt certain rules pertaining to informal resolution of complaints (as provided in R.S. 49:953 et seq.)

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 13:178 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

§1103. Initial Review of Complaints

After receiving and reviewing the initial complaint against the dentist or dental hygienist, the board president may select informal resolution as opposed to formal adjudication of the complaint, which may include any grounds recited in R.S. 37:776 and 37:777 or any other section of the Dental Practice Act, as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

§1105. Procedures

The president may elect among the following informal resolution procedures.

1. Informal disposition number one (correspondence between board and licensee).

a. A letter is mailed to the licensee from the board, outlining the nature of the complaint and inviting the licensee's response. Upon evaluation of that response, the board, through its president and one other board member, may thereafter investigate the matter further or consider the matter unworthy of further investigation; however, the board is at no time prohibited by these rules from taking, at any time, whatever additional actions it deems appropriate.

b. If the matter is resolved then the disposition thereof shall be kept in the board's office for future reference purposes and the disposition may be treated as a final action by the board, as set forth in R.S. 37:780(B).

2. Informal disposition number two (conference between board members and licensee on a "dentist-to-dentist" basis).

a. The board shall send correspondence to the licensee outlining the nature of the complaint. The letter will inform the licensee that there is to be a conference, conducted informally, on a personal "dentist-to-dentist(s)" basis. The correspondence will also inform the licensee that his appearance is voluntary, that no record will be made of the conference, which records, if any, he is to produce at the conference and the date, time and location of the conference.

b. If the matter is not resolved to the satisfaction of all parties, then, after the board member(s) assigned to conduct the conference have reported to the president of the board, the latter may then recommend whatever further action, if any, he deems necessary.

c. If the matter is resolved, then the disposition thereof shall be kept at the board's office for future reference purposes and the disposition may be treated as a final action by the board, as set forth in R.S. 37:780(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

§1107. Consent Decree

After the commencement of informal resolution proceedings or formal adjudication proceedings, at any time, the board and the licensee may agree to settle or dispose of the matter by way of consent decree, evidenced by a document which shall

be reduced to writing, signed by the licensee, before two witnesses, and thereafter submitted to the board president for his signature. The approval of the agreement shall thereafter be placed on the agenda of the next board meeting, considered for ratification, and, if so ratified, be given full force and effect and become a final action by the board, as set forth in R.S. 37:780(B). If not ratified, it shall have no force and effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

C. Barry Ogden
Executive Director

RULE

Department of Health and Hospitals Board of Dentistry

Rulemaking (LAC XXXIII.Chapter 14)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry hereby adopts LAC 46:XXXIII.Chapter 14, Rulemaking.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 14. Rulemaking

§1401. Scope of Chapter

The rules of this Chapter govern the board's process to consider petitions from interested persons relative to the adoption, amendment, or repeal of a rule in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

§1403. Forms

A. All petitions requesting the adoption, amendment, or repeal of a rule shall be submitted on plain white, letter size (8 1/2 inches by 11 inches) bond, with margins of at least one inch on all sides and text double-spaced except as to quotations and other matter customarily single-spaced, shall bear the name, address, and phone number of the person requesting the action, and shall also state the complete and full name of each person(s), organization, or entity the requestor represents along with sufficient information to identify and fully describe said person(s), organization, or entity.

B. The petition shall fully and succinctly state the reasons for the requested action, and what results, if any, would be expected from such action, and an estimate of any

expenditures or increases in revenue reasonably expected if said rule is adopted, amended or repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

§1405. Exceptions

The board may refuse to accept for filing any petition not conforming to the requirements of this Section, except upon a showing of good cause by the requestor at the time the requestor's petition is received by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19: (October 1993).

C. Barry Ogden
Executive Director

RULE

Department of Health and Hospitals Board of Examiners of Nursing Facility Administrators

Continuing Education (LAC 46:XLIX.903)

(Editor's Note: A portion of the following rule, which appeared on page 1023 of the August 20, 1993 Louisiana Register, is being republished to correct a typographical error.)

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLIX. Board of Examiners of Nursing Facility Administrators

Chapter 9. Continuing Education

§903. Requirements

A. ...

1. A person newly licensed between January 1, and December 31, of an even-numbered year must complete 30 hours of continuing education for the biennium beginning the following July. A person newly licensed between January 1, and December 31, of an odd-numbered year must complete 15 hours of continuing education for the second half of the biennium beginning the following July, and complete another 30 hours for the next biennium beginning July of the following odd-numbered year.

B. Definition of Hour. A continuing education hour is one clock hour—60 minutes. Sessions scheduled for three continuous hours are counted as two and three-fourths clock hours. Fifteen minutes are allowed for a break.

1. Only full and half-hours are counted. Any quarter hours shown in the total hours of training are dropped.

2. One credit hour of a college course counts as 13 clock hours of continuing education.

C. Certificates. Each approved provider of continuing education must provide each participant with a certificate indicating topic, number of hours, and date of program.

Transcripts from accredited institutions of higher learning are considered as having met this provision.

1. Any provider who certifies to an untruth will no longer be eligible to provide programs of study that have board approval.

2. Licensees are required to attach a copy of these certificates to their biennial re-registration applications to verify they have completed the required continuing education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 11:864 (September 1985), LR 4:240 (April 1987), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners for Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 19:1023 (August 1993), repromulgated LR 19: (October 1993).

Van Weems
Executive Director

RULE

Department of Health and Hospitals Board of Examiners of Psychologists

Training and Credentials (LAC 46:LXIII.Chapter 3)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Board of Examiners of Psychologists hereby adopts the following rule.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIII. Psychologists

Chapter 3. Training and Credentials

§305. Specialty Areas

A. If the emphasis of the major in psychology is an applied area such as clinical psychology, counseling psychology, clinical neuropsychology, school psychology, or industrial-organizational psychology, the training shall include a set of coordinated practicum and internship training experiences.

B. In applied areas such as counseling, clinical, clinical neuropsychology, and school psychology, preparation normally shall include early and continuing involvement of students in applied settings. Such experiences should occur at two levels: practicum and internship.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists LR 19: (October 1993).

§307. Clinical Neuropsychology

A. **Statement of Purpose.** As each of the other specialty areas of psychology such as clinical psychology, counseling psychology, school psychology, and industrial-organizational psychology typically have their own clearly defined doctoral programs and curriculum, no separate guidelines beyond those established by these programs are deemed necessary to declare these particular specialty designations. Clinical neuropsychology has evolved into a specialty area as defined by LAC 46:LXIII.Chapter 17 in that it has become identified as having its own "history and tradition of service, research, and scholarship (and) to have a body of knowledge and set of skills related to that knowledge base, and which is discriminably different from other such specialties" (LAC 46:LXIII. 1705.B). However, the evolution of clinical neuropsychology has cut across several applied areas, most notably clinical, counseling, and school psychology, resulting in the need for guidelines defining the minimal education and training requirements necessary for specialization in this area of clinical practice.

B. **Definition of Practice.** As implied by the term, clinical neuropsychology involves the application of both neurological and psychological knowledge and clinical skills in the assessment, treatment or intervention with individuals with known or suspected brain injury or disease.

1. Clinical neuropsychology differs from the general cognitive, perceptual, sensorimotor, intellectual or behavioral assessments of clinical, counseling, school or industrial-organizational psychology. Its purpose is to make clinical judgments regarding the functional integrity of the brain and of the specific effects of known brain pathology based on assessment and analysis of these functions.

2. Other psychologists, licensed under this law (R.S. 37:2356) and possessing appropriate education and training in the area of health care delivery, may also assess individuals with known or suspected brain pathology for the purpose of defining levels of academic or intellectual development; determining areas of relative strengths or weaknesses in cognitive, perceptual or psychomotor skills; identifying and categorizing behavioral or personality problems and their psychological origins; and making differential psychiatric diagnoses.

3. Clinical neuropsychologists, however, have as their purpose to assess and analyze cognitive, perceptual, sensorimotor and behavioral functions in order to identify and isolate specific, elementary neurobehavioral disturbances; differentiate neurological from possible psychological, cultural or educational contributions to the observed deficits; and finally, to clinically integrate this information into a neuroanatomically and/or neuropathologically meaningful syndrome. These impressions are then compared with the patient's known medical, psychiatric and neurological risk factors and personal and behavioral history to arrive at a neuropsychological diagnosis. Because of their appreciation of specific neurobehavioral deficits and neurobehavioral syndromes in general, clinical neuropsychologists, as part of the evaluation process, are also called upon to make specific recommendations for the treatment and management of

cognitive and neurobehavioral deficits resulting from brain injury or disease.

4. Clinical neuropsychological intervention includes, but is not limited to, developing strategies and techniques designed to facilitate compensation for or recovery from these various organically induced deficits based on the clinical neuropsychologist's understanding of brain-behavior relationships and the underlying neuropathology. It is also recognized that other psychologists, licensed under this law (R.S. 37:2356) and possessing appropriate education and training in the area of health care delivery, may also provide traditional psychotherapeutic intervention in assisting patients adjust to the emotional, social or psychological consequences of brain injury.

5. These regulations recognize the overlapping roles in certain aspects of clinical neuropsychological assessment and intervention of other professionals, such as behavioral neurologists, speech pathologists, and learning disability specialists, and are not meant to constrain or limit the practice of those individuals as affirmatively set forth in their relevant enabling statutes.

C. Training and Educational Requirements. The guidelines for licensure as a psychologist, as defined in LAC 46:LXIII.301 and 303, are also applicable as minimal requirements for consideration for the practice of clinical neuropsychology. However, in addition to one's basic training as a psychologist, specialty education and training is considered essential. The International Neuropsychological Society (INS) and Division 40 of the American Psychological Association (APA) have developed guidelines for specialty training in clinical neuropsychology. These guidelines represent the current recommendations for the education and training of psychologists who will engage in the delivery of clinical neuropsychological services to the public. It is recognized that many current practitioners of clinical neuropsychology were trained well before such specialty guidelines were devised and such educational and training opportunities were readily available. Additionally, it is recognized that there are many psychologists, who were not initially trained as clinical neuropsychologists, but who would like to respecialize and practice in this field. The purpose of these regulations is also to address the circumstances of these individuals. The minimum requirements set forth in the Louisiana Administrative Code for Psychologists will also apply to all candidates seeking a specialty designation in clinical neuropsychology.

1. Doctoral training in clinical neuropsychology after 1993. Because of the diversity of training programs in clinical neuropsychology, some discretionary judgment as to the adequacy of any educational and training program must be left to the board. However, the basic model for training in clinical neuropsychology will be in keeping with the guidelines developed by INS/APA Division 40. These are as follows:

a. a basic core psychology curriculum as defined in LAC 46:LXIII.303.D.11;

b. a clinical core that includes psychopathology; didactic and practicum experiences in the assessment of individual differences (psychometric theory, interviewing techniques, intelligence and personality assessment); didactic

and practicum experiences in psychotherapeutic intervention techniques; and professional ethics;

c. specific courses relating to training in clinical neuropsychology including, but not limited to: basic neurosciences such as advanced physiological psychology; advanced perception and cognition; research design and/or research practicum in neuropsychology; psychopharmacology; functional human neuroanatomy; neuropathology; didactic and practicum experiences in clinical neuropsychology and clinical neuropsychological assessment; and principles of clinical neuropsychological intervention;

d. specialty internship in clinical neuropsychology, followed by the completion of a formal post-doctoral fellowship (one year minimum) in clinical neuropsychology, or the equivalent of one full year (1800 hours) of post-doctoral experience in clinical neuropsychology under the supervision of a qualified clinical neuropsychologist (as defined here and in LAC 46:LXIII.307.C.2,3, and 4). The majority of these hours must involve clinical neuropsychological assessment, and some portion of the remaining hours should be related to rehabilitation of neuropsychological deficits. The supervision, as defined above, should involve a minimum of one hour of face-to-face supervision a week, though additional supervisory contact may be required during training phases and case discussions. The 1800 total hours must be obtained in no more than two consecutive years;

e. as with any specialty area of psychology, being licensed to practice with a specialization in clinical neuropsychology will depend on the successful completion of both written and oral examinations as defined by the board.

2. Respecialization for Psychologists with Other Designated Specialty Areas

a. The requirements for any given individual may vary depending on his or her previous education, training, supervised practica, and clinical experiences. Documentation of one's relevant training and clinical experience, along with a formal plan for respecialization in clinical neuropsychology, will be submitted to the board for approval.

b. Continuing education in clinical neuropsychology, regardless of its nature and content, will not be considered, in and of itself, sufficient for respecialization. Any such educational experiences must be supplemented by formal applied clinical experiences under the supervision of a qualified clinical neuropsychologist.

c. While a formal course of post-doctoral graduate training in clinical neuropsychology may be considered ideal, matriculation in such a graduate program may not be essential for someone already trained in an area of health care delivery psychology. Such an individual may undertake an informal course of studies outlined by the supervising clinical neuropsychologist. Such a program of studies should be designed to supplement whatever may be lacking from the basic educational requirements listed under LAC 46:LXIII.307.C.1.c. and must be submitted to the board for prior approval.

d. In addition to whatever remedial didactic training is necessary, the candidate for respecialization in clinical neuropsychology, will complete either a formal, one year post-doctoral fellowship training program, or the equivalent of

one full year (1800 hours) of supervised experience in clinical neuropsychology as defined in LAC 46:LXIII.307.C.1.d.

e. Following the completion of this program, the candidate for respecialization will be required to pass an oral examination administered by the board or a committee of its choosing relating to the practice of clinical neuropsychology.

3. Psychologists Trained Prior to 1993 with Demonstrated Expertise in Clinical Neuropsychology

a. Those psychologists whose training and experience qualify them as having particular expertise in this field, may petition for a specialty designation in clinical neuropsychology. The following may be offered as evidence of such expertise:

i. diplomat status (ABPP/ABCN or ABPN) in clinical neuropsychology;

ii. formal training and supervised practicum experiences in clinical neuropsychology as defined in LAC 46:LXIII.307.C.1;

iii. extensive clinical practice in the area of clinical neuropsychology, such that one has a regional or national reputation among his or her peers as having competence in this field;

iv. in addition to the clinical practice of neuropsychology, one has significant scholarly publications in the area or teaches courses in clinical neuropsychology at a graduate level in an accredited psychology program.

b. These credentials would be subject to review and approval by the board.

c. After having met all other requirements for licensure under this Chapter, the candidate may be required to pass an oral examination administered by the board or a committee of its choosing relating to the practice of clinical neuropsychology.

4. Grandfather Clause (senior psychologists engaging in the practice of clinical neuropsychology prior to January 1, 1994)

a. It is incumbent upon both the board and the individual practitioner to insure that all services rendered by psychologists are well within their defined areas of competence. The board recognizes that as clinical neuropsychology evolved and the demands for such services increased, many practicing clinicians expanded their practice to include clinical neuropsychological assessment and/or intervention. Similarly, it recognizes that even before clinical neuropsychology developed into an independent specialty within psychology, clinicians were making predictions about the integrity of the brain from various psychometric measures.

b. A grandfathering period will be in effect until January 1, 1995, for those psychologists licensed under R.S. 37:2356 who wish to declare a specialty in clinical neuropsychology in addition to their present designation.

c. Those psychologists who believe they meet the following criteria have until January 1, 1995 to notify the board in writing that they so qualify and wish to declare a specialty designation in clinical neuropsychology. The board will review all such requests and reserves the right to request supporting documentation.

i. The individual should have had either formal course work or extensive continuing education in all or most

of the areas listed under LAC 46:LXIII.307.C.1.c. Specifically, one should be familiar with functional neuroanatomy; the basics of clinical neurology and neuropathology, including the natural history of the major neurological disorders; the theory and practice of clinical neuropsychology; psychopathology; and the potential impact of individual differences on behavior and the assessment of mental status. Over the last five years, at least one-third of one's continuing education and one third of one's clinical practice should have been devoted to the practice of clinical neuropsychology to maintain competence in the area (continuing education is considered an essential, but not sufficient, basis for competency in clinical neuropsychology). One should have had the opportunity for regular peer review and/or discussion of neuropsychological cases, issues or questions. Additionally, membership and participation in neuropsychological organizations and/or neuropsychological research can also be offered as evidence of ongoing professional development in clinical neuropsychology, or

ii. Diplomat status (ABPP/ABCN or ABPN) in clinical neuropsychology.

5. All other psychologists, licensed under R.S. 37:2356, wishing to declare a specialty in clinical neuropsychology after January 1, 1995, must meet the criteria outlined in LAC 46:LXIII.307.C.1, 2, and 3 as specified above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19: (October 1993).

Ronald A. Goebel, Ph.D.
Chairman

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Rules of Professional Conduct (LAC 46:LXXXV.Chapter 10)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq., notice is hereby given that the Board of Veterinary Medicine has amended §1003, §1023, §1025, §1031, §1033, §1049, and §1055, deleted §1027 and §1043, and adopted §1065 of Chapter 10.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 10. Rules of Professional Conduct §1003. Conflicting Interest

It is unprofessional and a violation of these rules to

represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this rule, a member represents conflicting interests if, when employed by a buyer to inspect an animal for soundness, he accepts a fee from the seller. Acceptance of a fee from both the buyer and seller shall be deemed prima-facie evidence of fraud.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March, 1990), amended LR 19: (October 1993).

§1023. Degree of Treatment

Veterinarians shall exercise the same degree of care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March, 1990), amended LR 19: (October 1993).

§1025. Display of Degree

A licensed veterinarian shall not use or display any college degree, certificate, or title granted by any institution not approved by the American Veterinary Medical Association (AVMA).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March, 1990), amended LR 19: (October 1993).

§1027. Repealed

§1031. Direct Supervision of Laypeople, Preceptees, Unlicensed Veterinarians, and Technicians

Licensed veterinarians employing and/or supervising persons in any or all of these categories shall make themselves familiar with and strictly adhere to the definitions and limitations as defined in Chapter 7 of these rules. Failure to observe the restrictions, definitions, and/or limitations of this rule shall be considered a breach of the Rules of Professional Conduct and may result in the suspension or revocation of the license of the supervising veterinarian.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March, 1990), amended LR 19: (October 1993).

§1033. Certificate of Health

A licensed veterinarian in this state shall not issue a certificate of health unless he shall know of his own knowledge by actual inspection and appropriate tests of the animal that said animal meets the requirements for the issuance of such certificate. Only a licensed veterinarian can sign the certificate of health.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March, 1990), amended LR 19: (October 1993).

§1043. Repealed

§1049. Sanitation Requirements

A. A licensed veterinarian is required to maintain his entire premises in such state of sanitation as to comply with the public health requirements of the city and/or parish in which located and/or the public health laws of the state of Louisiana.

B. Sanitary methods for the disposal of deceased animals shall be provided and maintained in compliance with all local and state health regulations.

C. Contaminated waste such as syringes, needles, surgical blades, and any contaminated materials shall be disposed of in accordance with local, state and federal laws.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March, 1990), amended LR 19: (October 1993).

§1055. Controlled Substances

It is unprofessional conduct for a licensed veterinarian to fail to observe and/or comply with any and all provisions of Chapter 7 concerning the prescribing and dispensing of drugs.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March, 1990), amended LR 19: (October 1993).

§1065. Other Governmental Agencies

It shall be considered unprofessional conduct for a veterinarian to violate any ordinance, regulation, rule, and/or law of any local, state or federal government or agency.

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

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

Vikki Riggle
Executive Director

RULE

Department of Health and Hospitals Board of Veterinary Medicine

State Board Exam Fees (LAC 46:LXXXV.501)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq., the Board of Veterinary Medicine has amended LAC 46:LXXXV.501.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 5. Fees

§501. General Fees

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D. Examination fee: State Board Examination \$175

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980) amended LR 18:380 (April 1992), LR 19: (October 1993).

Vikki Riggle
Executive Director

RULE

Department of Health and Hospitals Board of Veterinary Medicine

State Board Examination Changes (LAC 46:LXXXV.303)

In accordance with the provisions of R.S. 49:950 et seq., and 37:1518 and 37:1523 et seq., the Board of Veterinary Medicine is amending the following Section of Chapter 3.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 3. Licensure Procedures

§303. Examinations

* * *

D. The state examination may be prepared, administered and graded by the members of the Board of Veterinary Medicine or may be prepared, administered and/or graded, in whole or in part, by any person, firm, corporation or other entity selected, requested or designated to do so by the Board of Veterinary Medicine.

E. The state examination shall be administered at least once annually in the spring of each year. Additional administration of the state examination may be given as deemed necessary or desirable by the Board of Veterinary Medicine. Notice of the dates of the state examination shall be published at least 90 days in advance in the *Louisiana Register*. The national examinations shall be administered at such dates, times and places as shall be required by the National Board of Veterinary Medical Examiners, or their agents, employees, or designees.

F. Applicants taking the state board examination on or after December 1, 1993, must take and pass two component sections of the state board examination. The component sections are defined below as:

1. A component to be known as the "General Knowledge Component" and which will consist of questions in the areas of companion animal medicine (50 percent of the exam,) equine medicine (25 percent of the exam,) and food animal medicine (25 percent of the exam). An applicant must obtain a passing score of at least 70 percent on this component of the state board examination. An applicant's score on this component of the examination will be computed as a total number of correct responses to the questions contained on the examination.

2. A second component to be known as the "Rules, Practice Act, and Complementary Laws Component" or "RPC" will consist of no fewer than 25 questions taken from the veterinary practice act and rules promulgated by the board. This test may also contain items taken from statutes and/or regulations promulgated by other state and federal agencies deemed by the board to be pertinent to the practice of veterinary medicine. Applicants will be provided in advance of the examination with copies of all rules, regulations, and statutes from which items on the RPC examination may be taken.

G. A passing score on any examination shall be given effect for a period of five years. Should an applicant pass one or more of the required examinations but fail to pass one or more of the other required examinations for a period of five years, such applicant will thereafter be required to pass all examinations, notwithstanding such applicant's previous passing of one of the required examinations.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:344 (March 1993), LR 19: (October 1993).

Vikki Riggle
Executive Director

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Time Limit for Filing Complaints (LAC 46:LXXXV.101)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq., notice is hereby given that the Board of Veterinary Medicine has amended LAC 46:LXXXV.101.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 1. Board of Veterinary Medicine

§101. Information, Agency Office, Request for Rules or Action

* * *

D. Persons wishing to file a complaint against a licensee of the board shall be required to submit a written complaint which is signed and notarized. Complaints which are filed more than twenty-four months after the date of veterinary service for which the complaint is being filed will not be investigated by the board except in cases where one of both of the following conditions apply:

1. The complainant was not able to discover that

there was reason to file the complaint until after the twenty-four month period.

2. The nature of the complaint is such that an investigation of the licensee appears to be warranted for the protection of the public health, safety or welfare.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:66 (February 1982) amended LR 16:222 (March 1990), LR 19: (October 1993).

Vikki Riggle
Executive Director

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Veterinary Practice Minimum Standards (LAC 46:LXXXV.Chapter 7)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 and 37:1523 et seq., the Board of Veterinary Medicine is amending §701, §702, §705 and §706 and adopting §700, §708, §710, and §711 of Chapter 7 as delineated below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§700. Definitions

Certified Animal Euthanasia Technicians—individuals who have met all of the requirements for certification as found in R.S. 37:1551-1558.

Clinic—a facility in which the practice conducted is essentially an out-patient type of practice.

Controlled Substances—any controlled substance as defined by the U.S. Drug Enforcement Administration.

Dental Operation—

1. the application or use of any instrument or device to any portion of an animal's tooth, gum or any related tissue for the prevention, cure or relief of any wound, fracture, injury, disease or other condition of an animal's tooth, gum or related tissue, and

2. preventative dental procedures including, but not limited to, the removal of calculus, soft deposits, plaque, stains, or the smoothing, filing or polishing of tooth surfaces.

Direct Supervision—the supervision of those tasks or procedures that do not require the presence of a licensed, supervising veterinarian in the room where performed, but which require the presence of the licensed, supervising veterinarian on the premises and his availability for prompt consultation and treatment.

Emergency Facility—a veterinary medical service whose primary function is the receiving, treatment and monitoring of emergency patients during specified hours of operations.

Hospital Facility—a facility in which the practice conducted includes the confinement as well as the treatment of animals.

Laypeople—individuals who are not registered and/or licensed in any of the categories defined in this rule.

Legend Drug—any drug or medicinal agent carrying the legend "Federal (USA) law restricts this drug to use by or on the order of a licensed veterinarian."

Mobile—a vehicle with special medical or surgical facilities.

Preceptees (Interns)—individuals who are unlicensed veterinarians or who are full time, fourth-year students of an accredited college of veterinary medicine and who are in a board approved or a college intern or preceptee program.

Registered Veterinary Technicians—individuals who have met all of the requirements for registration pursuant to R.S. 37:1541-1549.

Unlicensed Veterinarians—individuals who have completed an approved, accredited program of instruction and have received a degree as Doctor of Veterinary Medicine but who have not qualified for and/or completed the application for licensure process in the state of Louisiana.

Veterinarian-Client-Patient Relationship—exists when:

1. the veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal(s) and the need for medical treatment, and

2. the client (owner or duly authorized agent) has agreed to follow the instructions of the veterinarian, and

3. the veterinarian has sufficient knowledge of the animal(s) to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s). This means that the veterinarian or associate veterinarian has recently seen and is personally acquainted with the keeping and care of the animal(s) by virtue of an examination of the animal(s) and/or the animal's records, and/or by medically appropriate and timely visits to the premises where the animal(s) are kept, and the practicing veterinarian is readily available for follow-up in the event of adverse reactions of the failure of the regimen of therapy.

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

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

§701. Record Keeping

A. It shall be considered unprofessional conduct within the meaning of R.S. 37:1526(14) for a licensed veterinarian to keep improper records. Records shall be established and maintained as follows:

1. Each Louisiana licensed veterinarian shall maintain an individual record on each animal or herd to include, but not limited to, the following:

a. name or herd identification, breed, sex, description permanent identification (if available), tattoos or other identifying marks, name of owner, complaint, diagnosis, therapy—including drugs, chemicals and medications, the amount administered and the method of administration—and surgical procedures.

b. records shall be maintained for at least five years, including records of large animal and/or herd type practice.

2. Radiographs shall be kept in the following manner:

- a. Marker must have name of hospital and/or clinician.
- b. Marker must have identification of the animal, i.e., number and/or owner's name.
- c. Marker must have date radiograph was made.
- d. Radiograph must be properly identified with "L" for left and "R" for right.
- e. Radiograph must be kept for at least five years.

B. Patient records shall be maintained for a period of five years and are the responsibility and property of the veterinarian. The veterinarian shall maintain such records and shall not release the records to any person other than the client or a person authorized to receive the records for the client.

C. Copies or synopsis of patient records shall be provided to the client or the client's authorized representative upon request of the client. A reasonable charge for copying and providing patient records may be required by the veterinarian. Refusal to provide such records upon written request by the client shall be considered a violation of the rules of professional conduct within the meaning of R.S. 37:1526.

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

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

§702. Direct Supervision

A. Employees of a licensed veterinarian working under the definition of "direct supervision" must be employed according to the following provisions:

1. a veterinarian-client-patient relationship with the licensed, supervising veterinarian has been established, and
2. treatment is being performed on the order or prescription of the licensed, supervising veterinarian, except that no unlicensed person may perform surgery, diagnosis, prognosis, or the prescribing of drugs, medicines, or appliances, and
3. the licensed, supervising veterinarian has assumed the liability for any treatment performed.

B. Persons meeting the definition of a preceptee as defined in §700 may also perform the following services:

1. surgery, diagnoses and prognosis of animal diseases, and prescription of drugs, medicine, and appliances for domestic animals under the direct supervision of the licensed, supervising veterinarian acting as an approved preceptor;
2. the preceptee (intern) may perform these services only for the period of time allotted for the preceptorship (internship) program by the board.

C. A Certified Animal Euthanasia Technician (CAET) as defined in §700 may perform only those tasks or procedures defined in R.S. 37:1556.

D. A Registered Veterinary Technician (RVT) as defined in §700 shall perform all tasks or procedures under direct supervision of a licensed veterinarian.

E. Unlicensed veterinarians, as defined in §700, may perform tasks and/or procedures only under direct supervision of a licensed veterinarian until such time as they are licensed by the state of Louisiana.

F. A layperson shall perform all tasks or procedures under direct supervision of a licensed veterinarian.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:65 (February 1982) amended LR 16:225 (March 1990), LR 19: (October 1993).

§705. Prescribing and Dispensing Drugs

A. The following activities are prohibited:

1. No legend drug, as defined in §700, shall be administered, prescribed, dispensed, delivered to, or ordered for animals with which the veterinarian has not established a veterinarian-client-patient relationship.

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

3. No veterinarian shall prescribe, dispense, administer, or deliver any drug, medicine, chemical or controlled substance except where the criteria of a veterinarian-client-patient relationship has been established. All drugs must be intended for the use of the patient and shall not be prescribed, dispensed, administered, delivered, or ordered for the use of the client and any other human.

B. All drugs, chemicals, medicines and/or biological agents shall be maintained, administered, dispensed and prescribed in compliance with state and federal laws.

C. All repackaged drugs dispensed by a licensed veterinarian shall be stored in approved safety closure containers, except that this provision shall not apply to drugs dispensed to any person who requests that the medication not be placed in such containers, or in such form or size that it cannot be dispensed reasonably in such containers.

D. Records shall be maintained in accordance with §701 of Chapter 7 of these rules.

E. A veterinarian who has a federal D.E.A. number and uses or dispenses controlled substances must comply with the federal regulations pertaining to the dispensing, storage and usage of controlled substances.

F. Any veterinarian who violates this rule or any portion thereof, shall be guilty of unprofessional conduct within the meaning of R.S. 37:1526(14)

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

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

§706. Labeling of Medications Dispensed

A. It is the responsibility of the veterinarian to label all medications and/or other veterinary products as dispensed. This label must include the following:

1. name, address and telephone number of clinic;
2. name of veterinarian dispensing medications;
3. patient name and client name;
4. name of medication and/or other veterinary product dispensed;

5. quantity and strength of product;
6. directions for administration;
7. date dispensed, and
8. precautionary statements as required by law, i.e. not for human consumption, poisonous, etc.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:226 (March 1990), LR 19: (October 1993).

§708. Anesthesia Services

A. Anesthetic and Drugs

1. Anesthesia equipment in accordance with the level of surgery performed should be available at all times. The minimum amount of support equipment required for the delivery of assisted ventilation should be:

- a. resuscitation bags of appropriate volumes, and
- b. an assortment of endotracheal tubes in working condition.

B. Examination and Monitoring

1. Every animal shall be given a physical examination within 12 hours prior to the administration of a general anesthetic.

2. Some method of respiratory monitoring is mandatory, such as observing chest movements, watching the rebreathing bag, or use of a respirometer. Some method of cardiac monitoring is recommended and may include use of a stethoscope or electrocardiographic monitor.

3. The animal under general anesthesia shall be under continual observation until at least the swallowing reflex has returned.

C. No patient should be released from veterinary supervision to the owner/client until it is ambulatory unless it is not ambulatory for reasons unrelated to anesthesia. The only exception to this rule would be the case where the client demands to take the animal home against the advice and judgment of the attending veterinarian. In this case, the veterinarian is recommended to have the client sign a release form stating that the owner/client has been advised to leave the animal, that the owner/client is aware of the risks involved, and that the owner/client is taking the animal against the advice and judgment of the attending veterinarian.

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

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

§709. Surgical Services

A. Aseptic surgery shall be practiced in all cases in which aseptic surgery is demanded by the profession. Aseptic surgery shall be defined as procedures in which aseptic technique is practiced in patient preparation, instrumentation, and surgical attire.

B. Surgical attire and technique for aseptic surgery is defined as:

1. Disinfection of surgeon's hands by scrubbing with a disinfecting surgical scrub solution.

2. Sterilized surgical gown with long sleeves is recommended but not required. Clean clothing and sterilized gloves must be worn.

3. Aseptic surgery requires sterilization of all appropriate equipment. An acceptable method of sterilization sufficient to kill spores must be used on all instruments, packs, and equipment intended for use in aseptic surgical procedures.

4. External use of heat sensitive tape type indicators on surgical gowns, packs, and resterilized gloves or the use of "steam clock" type indicators deep in surgical packs shall be required to monitor sterilization efficiency. The date the items were sterilized should be indicated.

5. Ancillary personnel in the surgery room should wear clean clothing and footwear.

C. Hot and cold running water should be readily accessible to the sites of the surgical procedures.

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

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

§710. Dental Operations

A. Dental operations are included in the definition of the practice of veterinary medicine as found in R.S. 37:1513(4).

B. Nothing in these rules shall prohibit any person from utilizing cotton swabs, gauze, dental floss, dentifrice, toothbrushes or similar items to clean an animal's teeth.

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

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

§711. Definitions for Classification of Practice Facilities

A. In order to be classified as, advertised as, or use the word "hospital" as defined in §700 in the name of a veterinary facility, all of the following minimum standards and requirements shall be met:

1. Facility shall have a reception room and office, or a combination of the two.

2. An examination room separate from other areas of the facility and of sufficient size to accommodate the doctor, assistant, patient and client shall be maintained. This room shall have:

a. adequate materials and instrumentation to perform a thorough physical examination, and

b. adequate lighting to perform a thorough physical examination, and

c. immediate access to a sink with hot and cold running water, and

d. an examination table with impervious surface which can be easily cleaned and disinfected.

3. Facility shall have a surgery room which is separate and distinct from all other rooms. This room shall have:

a. lighting adequate to perform surgery, and

b. a surgery table with an impervious surface which can be cleaned and easily disinfected, and

c. appropriate anesthesia equipment, and

d. oxygen readily available, and

e. emergency drugs for cardiac and pulmonary resuscitation, and

f. walls and floors constructed with materials capable of being cleaned and disinfected.

4. Facility shall have a surgical scrub or preparation area containing pre-anesthetic medications and surgical scrub.

5. Facility shall have a diagnostic x-ray machine and development equipment area kept in compliance with state and federal regulations.

6. A clinical laboratory area shall be available containing diagnostic laboratory equipment, test kits and materials to perform necessary tests. This may be an in-house laboratory or an outside diagnostic laboratory facility which is capable of returning diagnostic results in 24 hours.

7. Facility shall have a kennel or housing area where animals can be retained for treatment and post-surgical observation. This area shall have at a minimum:

a. separate compartments for each animal which provide for comfortable and sanitary conditions, and

b. exercise areas which provide and allow effective separation of animals and their waste products and appropriate cleaning.

8. Facility shall have adequate indoor lighting for halls, wards, reception areas, examining rooms and surgical rooms.

B. Clinic

1. In order to be classified as, advertised as, or use the word "clinic" as defined in §700 in the name of the facility, all standards described under §711.A, shall apply.

2. A facility defined as a clinic is not required to meet the requirements for kennels as described in §711.A.7 except where surgery is being performed.

3. A clinic performing surgery shall provide adequate kennel facilities as per §711.A.7 until the patient is discharged.

C. A mobile clinic as defined in §700 shall have a permanent base of operations with a published address and telephone facilities for making appointments or responding to emergency situations.

D. An emergency facility as defined in §700 shall have the following:

1. doctors, support staff, instrumentation, medications and diagnostic equipment sufficient to provide an appropriate level of emergency care during all hours of operation.

2. If an emergency facility offers surgery services and retains patients in the emergency facility, all facility standards pertaining to hospital facilities as defined in §711.A shall be furnished and maintained.

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

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

Vikki Riggle
Executive Director

RULE

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

Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program

In accordance with the provisions of 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, has adopted the following rule in the Medical Assistance Program.

RULE

The Medical Assistance Program of Louisiana prohibits Medicaid providers from charging a fee to Medicaid beneficiaries for completing referral forms to obtain services from other state or federally funded programs.

Rose V. Forrest
Secretary

RULE

Department of Labor Office of Workers' Compensation

Insurance Cost Containment (LAC 40:I.1106)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 23:1291, the Department of Labor, Office of Workers' Compensation is hereby adopting the following rule in the Workers' Compensation Cost Containment Program.

This rule is adopted to clarify "Workers' Compensation Cost Containment Act" to be implemented July 20, 1993. This rule clarifies the dates from which to determine an employer's eligibility and incentive discount which are based on its experience modifier rate.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Chapter 11. Workers' Compensation Insurance Cost Containment Rules

§1106. Experience Modifier Rates

A. An employers' eligibility shall be based on its experience modifier rate of December 31 of the prior year.

B. The incentive discount provided in R.S. 23:1178(c) shall be based on the employers next effective experience modifier rate after December 31 of the prior year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 19: (October 1993).

Alvin J. Walsh
Director

RULE

Department of Public Safety and Corrections Board of Private Investigator Examiners

Initial Rules (LAC 46:LVII.Chapters 1-9)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.; and under the authority of R.S. 37:3505(B)(1), the Department of Public Safety and Corrections, Board of Private Investigator Examiners, hereby adopts LAC 46:LVII.Chapters 1-9. Chapter 1 pertains to Organizational and General Provisions. Chapter 3 contains Additional Definitions. Chapter 5 pertains to Application, Licensing, Training, Registration and Fees. Chapter 7 regulates the Client - Investigator Relationship. Chapter 9 sets forth rules of adjudication for Board of Private Investigator Examiners.

These rules and regulations are the initial rules and regulations promulgated by the Board of Private Investigator Examiners.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LVII. Private Investigator Examiners

Chapter 1. Organizational and General Provisions

§101. Duties of Chairperson and Vice Chairperson

A. The chairperson (chair) of the Board of Private Investigator Examiners (board) shall exercise general supervision of the board's affairs, shall preside at all meetings when present, shall appoint the committees within the board and shall perform all other duties pertaining to the office as deemed necessary and appropriate.

B. The vice chairperson shall perform the duties of the chair in his absence or such other duties as may be assigned by the chair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§103. Duties of Executive Secretary

A. The executive secretary shall be the chief administrative officer and shall serve at the pleasure of the board.

B. Subject to the supervision of and direction of the board, the executive secretary shall:

1. act as the board's recording and corresponding secretary and shall have custody and maintain the records of the board;
2. cause written minutes of every meeting to be taken and maintained;
3. arrange the order of business of all meetings and notify all persons who are to appear at such meeting;
4. act as treasurer and receive and deposit all funds, and keep the records and books of account of the board's financial affairs;
5. attest all itemized vouchers for payment of expenses of the board;
6. prepare such reports to the governor and legislature as required for by law or as requested by same;

7. keep the board's seal and affix it to such instruments and matters that require attest and approval of the board; and

8. perform such other duties as directed by the board.

C. The executive secretary may spend up to \$500 for board purchases without prior approval by the board or the chair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§105. Meetings of the Board

A. Meetings shall be announced and held in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. A quorum to transact any business of the board shall be not less than four if its members.

B. The executive secretary shall give a written notice to all interested members of the public who make a timely written request for notice of any board meeting.

C. Minutes of meetings will be made available upon written request to the board and a monetary fee will be assessed in accordance with Division of Administration rules and regulations governing public records of any individual or company requesting such minutes.

D. Each board member shall have one vote on all matters before the board. Proxy voting is not allowed. A majority vote of the members at any meeting shall be required for any board actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§107. Official Seal; Use of State Seal Prohibited

A. The official seal of the board consists of the Louisiana State Seal with the title of the board in the outer circle.

B. No person or licensee shall use any facsimile reproduction or pictorial portion of the seal of the state of Louisiana on any badge, credentials, identification card or other means of identification used in connection with any activity regulated under this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§109. Committees

A. Standing committees of the board are:

1. General Committee, whose duties include special projects as authorized by the chair;
2. Finance Committee, whose duties include periodic review of the budget, recommendations regarding the establishment of fees charged by the board, and recommendations to the board regarding all expenditures in excess of \$500; and
3. Ethics Committee, whose duties include review of allegations and recommendations to the board regarding any alleged misconduct, incompetence or neglect of duty by board members.

B. The chair shall appoint board members to any committees as needed to fulfill the duties of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§111. Complaints

Any complaint to the board must be in writing, signed by the individual making said complaint, and include an appropriate means by which to contact said individual for investigative purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

Chapter 3. Additional Definitions

§301. Definitions

In addition to the definitions set forth in R.S. 37:3503, the following terms shall have the meanings ascribed unless the context clearly requires otherwise.

Branch Office—a separate office which is part of a company licensed by the Board of Private Investigator Examiners.

Branch Manager—the individual having prima facie responsibility and liability for a branch office.

Personal Service—on any person, when required, may be made by the board mailing, by certified or registered mail, to the person's last known address.

Qualifying Agent—a responsible officer or executive employee of an investigative company.

Rule—any agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the board. It does not include statements concerning only the internal management or organization and not affecting private rights or procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

Chapter 5. Application, Licensing, Training, Registration and Fees

§501. Application

A. The board shall issue a two part application:

1. Part I shall be designated for investigative agencies; and

2. Part II shall be designated for individual investigators.

B. Applications shall be sent to all persons requesting application for licensing in the state of Louisiana.

C. The application shall contain the following information:

1. minimum statutory requirements for obtaining a license in the state of Louisiana;

2. instructions explaining requirements of the application; and

3. a schedule of licensing fees for an agency and individual.

D. Information requested on the application shall include the following:

1. company, partnership or corporation history;

2. personal history;

3. marital status;

4. education;

5. military service;

6. employment history;

7. character references;

8. investigative history;

9. miscellaneous questions regarding:

a. involvement of overthrow by force of our government;

b. crimes involving moral turpitude;

c. felony convictions; and

d. any unfavorable background incidents the applicant should share with the board;

10. consent for service of process (out-of-state licensees only); and

11. notarized statement confirming the accuracy of the information contained in the application.

E. If the applicant is a sole proprietor, he must furnish a copy of his occupational license with the application.

F. Applicants must submit appropriate fees along with the application. An administrative fee of \$25 made payable to the board will be assessed on all checks returned from the bank and deemed non-sufficient funds.

G. No person shall make an application to the board as qualifying agent unless that person intends to maintain and does maintain that supervisory position on a regular, full-time basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§503. License Renewal

In addition to the requirements for licensing renewal set forth in R.S. 37:3517, applicants for licensing renewal shall be required to submit a certification to the board that the applicant for license renewal has not been convicted of a felony during the past year. The fee notice sent out for licensing renewal shall contain this certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§505. Requests for Approval of Training Classes

A. A qualified school may be approved to conduct 40-hour training classes required for licensing by submitting a letter of request for approval by the board. The request shall include the following:

1. name and location of school;

2. owner of school;

3. copy of occupational license;

4. list of course of study;

5. name, address, profession and educational and investigative experience of each instructor teaching a private investigation course; and

6. notarized statement that each instructor has a minimum of three years supervisory experience with a contract investigator company or proprietary investigator organization.

B. Course instructors may invite a licensed attorney-at-law or a licensed Louisiana private investigator to supplement lesson plans regarding the course taught by the instructor.

C. Course instructors, whether full or part time, shall apply for a license and take the written examination prior to conducting any private investigation classes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§507. Licensure Examinations

A. To be licensed, an applicant must pass a written examination, unless exempt by the grandfather clause, state statute or board resolution. The passing grade of the examination shall be as established by the board.

B. A person who has not successfully passed the examination can reapply to take the examination twice within a 12-month period. If, after two attempts, the individual has not successfully passed the examination as required, appropriate board action will be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§509. Form and Term of License

A. Licenses, when issued, shall be in the form of a wall certificate no larger than 8½ inches by 11 inches in size. The certificate shall contain the following information:

1. name of licensee and/or agency name under whose authority the license is granted;
2. addresses of the agency location(s) (main office and branch offices) responsible for licensee;
3. number of license;
4. date of issue;
5. date of expiration (to be issued every year and may be affixed to certificate in lieu of issuing a new certificate);
6. the official state insignia;
7. agency and qualifying agent if licensee;
8. private investigator and agency under whose authority he is assigned;
9. signature of executive secretary;
10. signature of chairman of the board; and
11. the official Board of Private Investigator Examiners seal.

B. The license certificate shall remain the property of the board and will be surrendered upon written request from the board.

C. Licenses issued by the board shall be valid for a one year period to begin from the date application was approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§511. Licensing of Out of State Companies

A. Companies wishing to do business in Louisiana must either incorporate here or be duly qualified to do business

within this state with a valid certificate of authority issued by the secretary of state, and shall have an agent for service of process designated as required by law.

B. Out of state companies, or individuals wishing to do business in Louisiana, who satisfied all the licensing requirements outlined by R.S. 37:3507, may do so without examination if the state under which it holds a valid license has licensing requirements comparable to those of Louisiana. Verification of satisfactory completion of such other state's examination must be submitted to the board. If the out-of-state company, or individual is licensed by a state that does not have licensing requirements comparable to those of Louisiana, then the company or individual must satisfy all the licensing requirements outlined in R.S. 37:3507.

C. Fees for out of state companies are the same as for instate companies except that an out of state company shall be required to pay the board for the cost of transportation, lodging and meals at the Louisiana state rate when an examination of records is performed if those records are kept out of state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§513. Notification of Changes

Notification required by R.S. 37:3513 of changes in information to be furnished by a licensee shall include:

1. termination of a branch manager;
2. change of agency name;
3. change of agency address;
4. change of agency telephone number; and
5. change of ownership if agency is sole proprietorship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§515. Registration Card

The registration card shall be no larger than 2¼ inches by four inches in size. The registration card shall contain the following information:

1. name of investigator;
2. name of agency under whose authority license is issued;
3. date of expiration;
4. current two inches by two inches color photograph;
5. social security number;
6. drivers license number;
7. company name;
8. company address (city & state);
9. license number;
10. signature of executive secretary;
11. signature of license holder;
12. state insignia; and
13. board seal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§517. Fees

A. In addition to the fees provided by R.S. 37:3516, the following schedule of fees shall be assessed:

1. for licensee or any business entity employing more than one investigator:

a. renewal within 30 days after expiration of license - \$200;

b. late fee - \$35;

c. \$20 per investigator;

d. transfer of agent - \$25;

2. for private investigator employed by a company or corporation, or apprentice investigator:

a. annual renewal license fee - \$50;

b. replacement fee for a lost, destroyed, or mutilated license - \$25;

c. renewal within 30 days after expiration of license - \$50;

d. late fee - \$35;

e. transfer of agency - \$25.

3. any individual, partnership or corporation actively operating in the private investigation business since August 21, 1992 who did not apply to the board for a license, will be assessed an administrative fee in the amount of the yearly renewal fee as prescribed by law, per year for each year past November 16, 1992.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

Chapter 7. Client - Investigator Relationship

§701. Competence

An investigator shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§703. Scope of Representation

A. Both investigator and client have authority and responsibility in the objectives of the investigation. The client has ultimate authority to determine the purposes to be served by the investigation, within the limits imposed by law and the investigator's professional obligations.

B. An investigator may limit the objectives of the representation if the client consents after consultation.

C. An investigator shall not encourage a client to engage, or assist a client, in conduct that the investigator knows is criminal or fraudulent. An investigator, however, may discuss the legal consequences of any proposed course of conduct with a client and may advise a client to seek legal counsel for assistance in making a good faith effort to determine the validity, scope, meaning or application of the law.

D. When an investigator knows that a client expects assistance prohibited by the Rules of Professional Conduct or other law, the investigator shall consult with the client regarding the relevant limitations of the investigator's lawful conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§705. Diligence

An investigator shall act with reasonable diligence and promptness in representing a client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§707. Communication

A. An investigator shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable request for information.

B. The investigator shall give the client sufficient information to participate intelligently in decisions concerning the objectives or the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§709. Confidentiality of Information

A. An investigator shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in Subsection B.

B. An investigator may reveal such information to the extent the investigator reasonably believes necessary:

1. to prevent the client from committing a criminal act that the investigator believes is likely to result in imminent death or substantial bodily harm; or

2. to establish a claim or defense on behalf of the investigator in a controversy between the investigator and the client, to establish a defense to a criminal charge or civil claim against the investigator based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the investigator's representation of the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§711. Conflict of Interest: General Rule

Loyalty is an essential element in the investigator's relationship to a client. Therefore:

1. an investigator shall not represent a client if the representation of that client will be directly adverse to the representations of another client, unless:

a. the investigator reasonably believes the representation will not adversely affect the relationship with the other client; and

b. each client consents after consultation.

2. an investigator shall not represent a client if the representation of that client may be materially limited by the investigator's responsibilities to another client or to a third person, or by the investigator's own interest, unless:

a. the investigator reasonably believes the representation will not be adversely affected; and

b. the client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the disadvantages and risks involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§713. Conflict of Interest: Prohibited Transactions

As a general principle, all transactions between client and investigators should be fair and reasonable to the client. Furthermore, an investigator may not exploit the representation of a client or information relating to the representation to the client's disadvantage. Examples of violations include, but are not limited to, the following:

1. an investigator shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:

a. the transaction and terms on which the investigator acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner which can be reasonably understood by the client;

b. the client is given a reasonable opportunity to seek the advice of independent counsel in the transactions; and

c. the client consents in writing thereto;

2. an investigator shall not use information relating to representation of a client to the disadvantage of the client unless the client consents after consultation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§715. Conflict of Interest: Former Client

An investigator who has formerly represented a client in a matter shall not thereafter:

1. represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client consents after consultation; or

2. use information relating to the representation to the disadvantage of the former client except when the information derived from independent sources has become generally known.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§717. Requirement of Contracts

A. Upon initial contact from a private citizen, a contract may be offered on all matters.

B. The contract shall contain, but may not be limited to the following information:

1. name, address and phone number of investigative agency;

2. name, address and phone number of private investigator responsible for case work;

3. schedule of fees to be charged;

4. purpose and scope of investigation;

5. limitations of responsibility to investigative agency;

6. limitations of responsibility to client;

7. signature of client;

8. signature of two witnesses;

9. date agreement was signed; and

10. contracts shall be made in duplicate:

a. one copy for the client;

b. one copy shall be retained in the investigative case file for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§719. Use of Private Investigator Badge

The use of a private investigator badge shall be optional. Should the investigator choose to carry a badge and display it, he shall be obligated to identify himself as a private investigator at such time as the badge is displayed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§721. Complaint Procedure

A request for a hearing on a complaint before the Board of Private Investigator Examiners shall contain the following:

1. the full name, address and telephone number of the person requesting the hearing;

2. the full name, address and telephone number of the any person whose interest could be affected by the hearing;

3. a plain and concise statement of the complaint;

4. a receipt showing a copy of the complaint has been sent to the person, or a statement from the executive secretary stating that a copy of said complaint had been delivered to the person named in the complaint;

5. all complaints or requests for a hearing before the Private Investigator Examiners Board, must be made by certified or registered mail to the executive secretary or the PI board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§723. Transactions with Persons Other than Clients

Truthfulness in Statements to Others. In the course of representing a client an investigator shall not knowingly:

1. make a false statement of material fact or law to a third person; or

2. fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is otherwise prohibited by this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§725. Professional Misconduct

It is professional misconduct for an investigator to:

1. violate or attempt to violate the Rules of Professional Conduct or to knowingly assist or induce another to do so, or do so through the acts of another;

2. commit a criminal act or any other act reflects adversely on the investigator's honesty, trustworthiness or fitness as an investigator in other respects;

3. engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

4. except upon the expressed assertion of a constitutional privilege, to fail to cooperate with the Ethics Committee in its investigation of alleged misconduct, or

5. threaten to file criminal charges solely to obtain an advantage in a civil matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§727. Occupational Licenses

An investigative agency must apply and pay all occupational fees required to conduct business in the jurisdiction which he is to conduct business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§729. Rehabilitation

Any licensed private investigator may voluntarily inform the board by mail of a substance abuse problem without adverse action taken by the board. In doing so the private investigator is subject to the board's recommendation to enter a substance abuse facility, and upon completion of successful treatment, shall furnish proof of completion from said facility. Failure to successfully complete a substance abuse program will subject the investigator to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

Chapter 9. Rules of Adjudication for Board of Private Investigator Examiners

§901. Scope of Chapter

These rules govern the board's initiation, consideration and adjudication of administrative complaints providing cause under law for denial, modification, suspension or revocation of a license, imposition of probation on, or other disciplinary

action against any person requesting or holding a license, permit, certification, or registration issued by the board or any applicant therefor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§903. Complaint

A. Proceedings to adjudicate an administrative enforcement action shall be initiated by the filing of a written complaint with the board. It shall be signed by a member of the board appointed and designated by it as investigatory officer with respect to the subject matter of the complaint. The accused licensee shall be named as respondent in the proceedings.

B. The complaint shall set forth, in separately numbered paragraphs, a concise statement of the material facts and matters alleged and to be proven by the investigating officer including the facts giving rise to the board's jurisdiction over respondent, the facts constituting legal cause for the administrative action, and the statutory, regulatory or other provision alleged to have been violated by respondent. The complaint shall conclude with a request for the administrative sanction or other relief sought by the investigating officer and shall bear the name, address and telephone number of counsel engaged by the board to present the case at evidentiary hearing before the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§905. Notice of Hearing

A. Upon the filing of an administrative complaint pursuant to §903, the board shall docket the complaint and schedule it for hearing before the hearing not less than 45 days nor more than 180 thereafter. For good cause, the time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon the motion of the investigating officer of respondent. In the event that the respondent's license, permit, certification or registration has been suspended by the board pending hearing, pursuant to R.S. 37:3519(A), evidentiary hearing on the complaint shall be noticed and scheduled not more than 45 days after the filing of the complaint.

B. A written notice of the complaint and the time, date and place of the scheduling hearing thereon shall be served upon the respondent by registered, return-receipt-requested mail, as well as by regular first class mail, at the most current address for the respondent as reflected in the official records of the board, or by personal delivery of the complaint to the respondent. The date of service shall be the day of personal service or the third business day after the date of posting the registered or certified notice. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be conducted and shall be accompanied by a certified copy of the administrative complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§907. Response to Complaint; Notice of Representation

A. Within 15 days of service of the complaint, or such longer time as the board, on motion of the respondent, may permit, the respondent may answer the complaint, admitting or denying each of the separate allegations of fact and of law set forth therein. Any matter admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all allegations therein asserted shall be deemed denied.

B. Any respondent may be represented in an adjudication proceeding before the board by an attorney at law duly admitted to practice in this state. Upon receipt of service of a complaint pursuant, or thereafter, a respondent who is represented by legal counsel with respect to the proceeding shall, personally or through such counsel, give written notice to the board of the name, address and telephone number of such counsel. Following receipt of proper notice of representation, any further notice, complaint, subpoena, order or other process related to the proceeding shall be served on respondent through his or her designated counsel of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§909. Pleadings; Motions; Service

A. Any pleading, motion or other paper permitted or required to be filed with the board in connection with a pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the board. Any such writing shall likewise be concurrently served upon complaint counsel, if filed by or on behalf of respondent, or upon respondent, through counsel of record, if any, if filed by complaint counsel.

B. All such pleadings, motions or other papers shall be submitted on plain white letter-size (8½ inches by 11 inches) bond, with margins of at least one inch on all sides and text double-spaced except as to quotations and other matter customarily single-spaced. Such documents shall bear the caption and docket number of the case and shall include the certificate of the attorney or person making the filing that service of a copy has been effected in the manner prescribed by Subsection A of this Section.

C. The board may refuse to accept for filing any pleading, motion or other paper not conforming to the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§911. Prehearing Motions

Motions for continuance of any hearing, for dismissal of the proceeding and all other prehearing motions shall be filed not later than 30 days following service of the complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each prehearing motion shall be accompanied by a

memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion. Within 10 days of the filing of any such motion and memorandum, or such shorter time as the board may order, the investigating officer, through complaint counsel, may file a memorandum in opposition to or otherwise setting forth the investigating officer's position with respect to the motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§913. Motion For Continuance

A. A motion for continuance of hearing shall be filed within the delay prescribed by §911 of this Chapter, provided that the board may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of a prehearing motion.

B. A scheduled hearing may be continued by the board only upon a showing by respondent or complaint counsel that there are substantial legitimate grounds that the hearing should be continued balancing the right of respondent to a reasonable opportunity to prepare and present a defense to the complaint and the board's responsibility to protect the public health, welfare and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the board will not ordinarily grant a motion to continue a hearing that has been previously continued upon motion of the same party.

C. If an initial motion for continuance is not opposed, it may be granted by the executive secretary. Any motion for continuance of hearing which is opposed shall be referred for decision to the presiding officer of the hearing panel designated with respect to the proceeding, who shall rule upon such motion on the papers filed, without hearing. The presiding officer, in his discretion, may refer any motion for continuance to the entire panel for disposition, and any party aggrieved by the decision of a presiding officer on a motion for continuance may request that the motion be reconsidered by the entire panel. In any such case, the panel shall rule on such motion on the papers filed, without hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§915. Subpoenas for Hearing

A. Upon request of the respondent or complaint counsel and compliance with the requirements of this Section, the executive secretary shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by a witness and the production of books, papers, and other documentary evidence at an adjudication hearing.

B. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposit with the board a sum of money sufficient to pay all fees and expenses

to which a witness in a civil case is entitled to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the board with reference to the value of the time employed and the degree or skill required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§917. Conduct of Hearing; Record

A. Unless otherwise requested by the respondent, the adjudication hearing shall be conducted in closed session.

B. At an adjudication hearing, opportunity shall be afforded to complaint counsel and respondent to present evidence on any issue of fact and argument on any issue of law and policy involved, to call, examine and cross-examine any witness, and to offer and introduce documentary evidence and any exhibit required for a full and true disclosure of the facts and disposition of the complaint.

C. Unless stipulation is made between the parties, and approved by the hearing panel, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings.

D. During evidentiary hearing, the presiding officer shall rule upon any evidentiary objection and other procedure question, but in his discretion may consult with the entire panel in executive session. At any hearing, the board may be assisted by legal counsel, retained by the board for such purpose, who is independent of complaint counsel and who has not participated in the investigation or prosecution of the case. If the board or panel is attended by such counsel, the presiding officer may delegate to such counsel ruling on any evidentiary objection and other procedural issue raised during the hearing.

E. The record in a case of adjudication shall include:

1. the administrative complaint and notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery in the case or hearing of the adjudication, and all pleadings, motions, and intermediate rulings;
2. evidence received or considered at the hearing;
3. a statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;
4. offers of proof, objections, and rulings thereon;
5. proposed findings and exceptions, if any;
6. the decision, opinion, report or other disposition of the case made by the board.

F. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§919. Evidence

A. In an adjudication hearing, the board, or the designated hearing panel thereof, may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board or panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

B. All evidence, including records and documents in the possession of the board which complaint counsel desires the board to consider, shall be offered and made part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the respondent before being received in evidence.

C. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the board's knowledge. Parties shall be notified either before or during the hearing of the material noticed or sought by a party to be noticed, and they shall be afforded an opportunity to contest the material so noticed. The board's experience, technical competence and knowledge may be utilized in the evaluation of the evidence.

D. Any member of the board serving as presiding officer in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place for continued hearings, fix the time for the filing of briefs and other documents, if they are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

E. Except as otherwise governed by the provision of these rules, adjudication hearing before the board shall be governed by the Louisiana Code of Evidence, insofar as the same may be applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§921. Informal Disposition

The board may make informal disposition, by default, consent order, agreement, settlement, or otherwise of any adjudication pending before it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§923. Decisions; Notice

A. The final decision of the board in an adjudication proceeding shall, if adverse to the respondent, be in writing and shall include findings of fact and conclusions of law. It shall be signed by the presiding officer of the hearing panel on behalf and in the name of the board.

B. Upon issuance of a final decision, a certified copy thereof shall promptly be served upon respondent's counsel of record, or upon respondent personally in absence of counsel, in the same manner of service prescribed with respect to service of complaints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

§925. Rehearings

A. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within 10 days from service of the decision on respondent. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed by §909 above and shall set forth the grounds upon which such motion is based, as provided by Subsection B of this Section.

B. The board may grant rehearing, reopening, or reconsideration if it is shown that:

1. the decision is clearly contrary to law and the evidence;

2. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;

3. other issues not previously considered ought to be examined in order properly to dispose of the matter; or

4. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19: (October 1993).

Julius Bombet
Chairman

RULE

**Department of Revenue and Taxation
Office of the Secretary**

Electronic Funds Transfer (LAC 61:I.4910)

(Editor's Note: A portion of the of the rule published in the August, 1993 *Louisiana Register* on pages 1032-1033 is being republished to correct typographical errors.)

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue and Taxation**

Chapter 49. Tax Collection

§4910. Electronic Funds Transfer

A. Electronic Funds Transfer Effective Dates

1. a. - d. ...

e. all other business taxes administered by the Louisiana Department of Revenue and Taxation will be effective with tax periods beginning January 1, 1995.

* * *

E. Failure to Timely Transfer Funds Electronically

* * *

2. When the statutory filing deadline, without regard to extensions, falls on a Saturday, Sunday, or Federal Reserve holiday, the payments must be electronically transferred in order to be received by the next business day.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 19:1032 (August 1993), repromulgated LR 19: (October 1993).

Ralph Slaughter
Secretary

RULE

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

AFDC-Resource Exclusions (LAC 67:III.1115)

The Department of Social Services, Office of Family Support, has amended the LAC 67:III.1115 regarding the Aid to Families with Dependent Children (AFDC) Program.

Pursuant to federal regulations at 45 CFR 233.20, the department has increased the AFDC Program resource limit on vehicles.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 2. Aid to Families with Dependent Children
(AFDC)**

**Subchapter B. Coverage and Conditions of Eligibility
§1115. Resource Limit**

* * *

B. Exclusions are:

* * *

2. Equity value up to \$1,500 in one power-driven land conveyance. Equity value is fair market value less encumbrances.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, P.L. 100-485 (Section 402) and 45 CFR 205-206, 233-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), amended by the Department of Social Services, Office of Family Support, LR 19: (October 1993).

Gloria Bryant-Banks
Secretary

RULE

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

Fill Material (LAC 76:XIII.101)

The Wildlife and Fisheries Commission does hereby adopt a rule that requires any person who removes or intends to remove any type of fill material from any water bottom which is property of the state of Louisiana shall be authorized to do so only upon securing a permit from the Department of Wildlife and Fisheries prior to removal of said fill. Further, any person who severs fill material from state owned water bottoms may be liable to pay to the state of Louisiana through the Department of Wildlife and Fisheries a severance royalty for each cubic yard removed in amounts set by this rule.

Title 76

WILDLIFE AND FISHERIES

Part IX. Natural and Scenic Rivers System

Chapter 3. Royalties

Repealed

Part XIII. Fill Material

Chapter 1. Royalties

§101. Dredging

A. The Louisiana Department of Wildlife and Fisheries has adopted, via resolution of the Wildlife and Fisheries Commission, the following rules relative to the dredging of fill material, sand and gravel from water bottoms owned by the state of Louisiana and royalties thereon.

B. No fill material shall be dredged from state owned water bottoms unless a permit for that removal is issued by the Louisiana Department of Wildlife and Fisheries.

C. A severance royalty for each cubic yard of material removed from state owned water bottoms shall be paid to the state through the Department of Wildlife and Fisheries in the amounts indicated in the schedule below:

- Fill Material and/or fill sand \$.20/cubic yard
- Gravel, screened and washed \$.60/cubic yard
- Gravel and sand, unscreened \$.40/cubic yard
- Sand, screened \$.22/cubic yard
- Any interest and/or penalty owed on unpaid royalty shall

be established by the department in accordance with the Administrative Procedure Act.

D. No person or firm shall dredge fill material, sand or gravel from the public water bottoms of this state without a permit from the Department of Wildlife and Fisheries, the fee for which shall be set at \$25, non-refundable.

E. The extent of a single permitted site in the Mississippi River, the Atchafalaya River, the Red River, the Pearl River (not including the West Pearl), the Calcasieu River below the saltwater barrier, the Ouachita/Black River south of the confluence of Bayou Bartholomew shall not exceed one linear mile and shall not extend across the geometric center line of the stream. The extent of a single permitted site on all other streams except designated Natural and Scenic streams shall not exceed one linear half mile. Fill material, sand and gravel shall not be permitted to be removed from the water bottom of any designated Natural and Scenic River unless removal of such material is specifically allowed by statute.

F. A permit shall not be issued to an applicant who is, or who contracts for the removal of fill material with someone who is not currently in good standing with the department. Those applicants whose fill material permit has been revoked or suspended for cause within the past 12 months, or who has an outstanding, unresolved royalty debt to the department, or who has repeatedly violated other provisions of previous permits or agreements may be deemed to not be in good standing with the department.

G. A performance bond or irrevocable letter of credit to run concurrently with the period of the permit, and in the amount according to the schedule below, shall accompany the application. In lieu, the entire royalty fee owed to the state may be remitted with the application.

Bond Value per Volume Dredged in 100 yd³

| Type of Material | 0 to 5 yd ³ | 5+ to 10 yd ³ | 10 + to 50 yd ³ | 50 + to 100 yd ³ | 100+yd ³ |
|--------------------------------|------------------------|--------------------------|----------------------------|-----------------------------|-----------------------|
| Fill Material and/or Fill Sand | \$1,000 | \$2,000 | \$10,000 | \$20,000 | \$.20 x total cu. yds |
| Sand, Screened | \$1,100 | \$2,200 | \$11,000 | \$22,000 | \$.22 x total cu. yds |
| Gravel and Sand, Unscreened | \$2,000 | \$4,000 | \$20,000 | \$40,000 | \$.40 x total cu. yds |
| Gravel, Screened and Washed | \$3,000 | \$6,000 | \$30,000 | \$60,000 | \$.60 x total cu. yds |

A certified copy of such bond must be submitted to the Department of Wildlife and Fisheries before commencement of any dredging operation.

H. Any person or firm found to be dredging without, or in violation of a validly issued permit from this department shall be subject to criminal and civil penalties pursuant to R.S. 56:2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 19: (October 1993).

Bert H. Jones
Chairman

NOTICES OF INTENT

NOTICE OF INTENT

Department of Agriculture and Forestry Horticulture Commission

Horticulture Standards and Exam Fees (LAC 7:XXIX.Chapter 151)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Horticulture Commission, proposes to amend rules and regulations regarding the qualifications for examination and licensure of persons performing horticulture and landscape architectural work. These rules comply with and are enabled by R.S. 3:3801 et seq. No preamble regarding these rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticulture Commission

Chapter 151. Horticulture Commission

§15105. Qualifications for Examination and Licensure or Permitting

* * *

D. All applicants for licensure must successfully complete the examination prescribed by the commission for the area in the practice of horticulture for which the license is sought.

1. Applicants for a landscape architect's license who are applying through reciprocity shall submit evidence of successful completion of an exam approved by CLARB or the commission and licensure in another state whose requirements for licensure are at least equal to those of this state. Such persons shall be required to pass the Louisiana section of the examination in order to be licensed in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3807 and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 20:

§15107. Procedures for Application for Examination and Licensure or Permitting

* * *

C. Landscape Architect

* * *

2. Any applicant for licensure as a landscape architect who successfully completes one or more of the different sections of the examination but does not successfully complete all sections of the examination will not be required to submit to re-examination in any section which was successfully completed. In such cases, the applicant may apply to re-take

only the section(s) of the examination which were not successfully completed.

D. Wholesale Florist, Arborist, Utility Arborist, Horticulturist, Landscape Contractor

1. Applicants who desire to take the examination for wholesale florist, arborist, utility arborist, horticulturist, or landscape contractor may apply at any time, in person or by writing, to the commission's state office in Baton Rouge or to any district office of the Department of Agriculture and Forestry. Applicants who apply in person, without having previously filed a written application, will be allowed, whenever feasible, to complete the written application form at the initial visit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3807 and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 18:3 (March 1992), LR 20:

§15109. Fees for License or Permit and Renewal Thereof

* * *

B. Landscape Architect

1. The fee for the complete examination for licensure as a landscape architect shall be the cost of the examination plus an administrative fee of \$50.

2. The fee for examination or re-examination in the various sections for licensure as a landscape architect shall be cost for each section plus an administrative fee of \$50.

3. The fee for examination in the state section for licensure as a landscape architect shall be an administrative fee of \$50.

C. Wholesale Florist, Horticulturist, Arborist, Utility Arborist, and Landscape Contractor

1. The fee for examination or re-examination for licensure as a wholesale florist, horticulturist, arborist, utility arborist, and landscape contractor shall be \$35.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3805 and R.S. 3:3806.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 18:3 (March 1992), LR 20:

§15113. Examination Schedule

* * *

C. Wholesale Florist, Horticulturist, Arborist, Utility Arborist, and Landscape Contractor

1. Examinations for licensure as a wholesale florist, horticulturist, arborist, utility arborist, and landscape contractor will be administered in the commission's state office in Baton Rouge and in district offices of the Department of Agriculture and Forestry upon request. Interested applicants may apply, in person or by writing, at the state office or the most convenient district office and a date for the examination will be established for each applicant.

D. Interim Required Prior to Re-examination

1. Whenever any applicant fails to successfully complete all sections of an examination for licensure, he may not apply

to re-take the section of the examination which was not successfully completed for a period of two weeks following the date of the examination which he failed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3807.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 18:3 (March 1992), LR 20:

§15115. General Requirements for All Licensees or Permittees

* * *

D. All sod sold or installed in quantities of two pallets or 100 square yards or more shall be accompanied by a completed form indicating the type and class of sod. The form shall be specified by the commission and the consumer shall be provided with the completed form at the time of sale or installation.

1. The types of sod shall be indicated as: Centipede, St. Augustine, Bermuda, Zoysia, Carpet, Mixed, or Other. Mixed or other types shall be specified as to varieties.

2. The classes of sod shall be indicated as follows:

a. Class A (Superior Quality)—shall be free from bahia grass, nut grass, torpedo grass, and Florida betony. Shall not contain more than five plants per 100 square feet of any other grasses or broadleaf weeds.

b. Class B (Good Quality)—shall be free from bahia grass, nut grass, torpedo grass, and Florida betony. Shall not contain more than 25 plants per 100 square feet of any other grasses or broadleaf weeds.

c. Class C (Field Sod)—may include all sod not covered in the Classes A or B above. It may consist of sod lifted from pastures which may have been grown primarily for forages.

3. All sod must be free of insects and diseases and viable at the time of sale or installation.

4. It is the responsibility of the licensee or permittee to provide the proper classification of sod. Any discrepancies will be investigated by a representative of the commission. Any improper classification shall be considered a violation of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 20:

§15117. Required Standards of Practice

* * *

B. General Requirements for Landscape Architect

* * *

4. All designs and specifications utilizing sod shall specify the type and class of sod to be used as provided in LAC 7:XXIX.15115.D and accompanied by the sod classification form specified by the commission.

* * *

D. General Requirements for Horticulturist

* * *

4. All sod sold or recommended shall be classified as provided in LAC 7:XXIX.15115.D.

5. Recommendations and maintenance practices shall meet the standards outlined in the *Louisiana Nurserymen's Manual for the Environmental Horticulture Industry* published by the Louisiana Association of Nurserymen.

E. General Requirements for Arborist

* * *

8. Prior to renewal of an arborist license, the licensee shall provide the commission with certifiable evidence of completion of a continuing training seminar which was previously approved by the commission.

9. Recommendations and pruning practices shall meet the standards outlined in the *International Society of Arboriculture Certification Manual* and the *Louisiana Nurserymen's Manual for the Environmental Horticulture Industry* published by Louisiana Association of Nurserymen.

F. General Requirements for Landscape Contractor

* * *

3. All sod used in landscaping shall be classified as provided in LAC 7:XXIX.15115.D.

* * *

6. Recommendations and planting practices shall meet the standards outlined in the *Louisiana Nurserymen's Manual for the Environmental Horticulture Industry* published by the Louisiana Association of Nurserymen.

G. General Requirements for Nursery Stock Dealer

* * *

6. All sod sold shall be classified as provided in LAC 7:XXIX.15115.D.

* * *

I. General Requirements for Utility Arborist

1. Licensees may not use climbing irons in any trees which are not to be removed except as provided in LAC 7:XXIX.15117.E.3.

2. Before the commission issues a utility arborist license, the person to be licensed shall first furnish to the commission a certificate of insurance as provided in LAC 7:XXIX.15117.E.2.a.

3. Licensees must make their license available to the public or any representative of the commission at all times.

4. Prior to renewal of a utility arborist license, the licensee shall provide the commission with certifiable evidence of completion of a continuing training seminar which was previously approved by the commission.

5. Recommendations and pruning practices shall meet the standards outlined in the *International Society of Arboriculture Certification Manual* and *Pruning Trees Near Electric Utility Lines - A Field Pocket Guide for Qualified Line-clearance Tree Workers*, by Dr. Alex Shigo.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:

Interested persons should submit written comments on the

proposed rule to Craig Roussel, Director, Horticulture Division, Box 3118, Baton Rouge, LA 70821-3118, prior to November 30, 1993.

Bob Odom
Commissioner

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

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No costs or savings to state or local governmental units are anticipated to result from implementation of the proposed rule changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue to state or local governmental units is anticipated to result from implementation of the proposed rule changes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Arborists and utility arborists shall be required to attend at least one one-day seminar in order to renew their licenses. The cost of attending these seminars are expected to be minimal, ranging from zero to approximately \$30. Additionally, landscape architects, landscape contractors, horticulturists and nursery stock dealers will be required to provide a one page check-off form to consumers who purchase sod in quantities of two pallets or more.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition or employment is anticipated.

Richard Allen
Assistant Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Civil Service
Civil Service Commission**

Enforced Sick/Annual Leave

The Department of Civil Service, Civil Service Commission will hold a public hearing on November 17, 1993, to consider the following rule proposal. The hearing will begin at 9 a.m. in the Department of Civil Service, Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

The following are to be considered at the meeting:

11.13.1 Enforced Sick Leave

An appointing authority may place an employee on sick

leave when it is determined the need to be absent from the work place is because of the employee's illness or injury.

11.9 Enforced Annual Leave

(a) ...

(b) No employee shall be required to reduce his accrued annual leave to less than 240 hours except:

(1) prior to being granted leave without pay, but subject to the right granted the employee by the military leave provisions of these rules; or

(2) where it is determined that the need to be absent from work is because of a condition covered by the United States Family and Medical Leave Act.

Explanation: To allow appointing authorities the options to enforce annual leave for conditions covered by the Family and Medical Leave Act and to enforce sick leave for the Family and Medical Leave Act or in other appropriate situations.

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

If any special accommodations are needed, please notify the Civil Service Commission prior to this meeting.

Herbert L. Sumrall
Director

NOTICE OF INTENT

**Department of Economic Development
Board of Architectural Examiners**

Placing of Seal or Stamp (LAC 46:I.1105)

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated to amend LAC 46:I.1105 pertaining to sealing or stamping construction document drawings and specifications. The board proposes to clarify its existing rule and replace it with the following:

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part I. Architects

Chapter 11. Administration

§1105. Placing of Seal or Stamp

A. An architect should affix his or her seal or stamp to all construction document drawings which were prepared by the architect or under the architect's responsible supervision. Construction document drawings prepared by a consulting electrical, mechanical, structural, or other engineer should be sealed or stamped only by the consulting engineer.

B. An architect should affix his or her seal or stamp to that portion or section of the specifications prepared by the architect or under the architect's responsible supervision. Portions or sections of specifications prepared by

a consulting electrical, mechanical, structural, or other engineer should be sealed or stamped only by the consulting engineer.

C. If a public or governmental agency requires further certification by the architect (such as that the title or index page of the specifications be certified by the architect), the architect's further certification should include a description of exactly what drawings and what portions or sections of the specifications were prepared by or under the architect's responsible supervision, and what drawings and what portions or sections of the specifications were prepared by others. In addition, the architect should seek to include a certification from any consulting engineers as to what drawings and what portions or sections of the specifications were prepared by or under the responsible supervision of the consulting engineers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:145-146.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, LR 4:334 (September 1978), repromulgated LR 10:739 (October 1984), amended LR 20:

Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Placing of Seal or Stamp**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units associated with this proposed rule.

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 associated with this proposed rule.

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

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment associated with this proposed rule.

Mary "Teeny" Simmons
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Illegal Weapons and Firearms (LAC 35:I.1709)

The Department of Economic Development, Racing Commission hereby gives notice that it intends to adopt LAC 35:I.1709, Illegal Weapons and Firearms, since there has been no rule addressing this issue prior to this time, and it will help to protect the public from persons carrying dangerous and illegal weapons and firearms, which could present life-threatening situations.

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1709. Illegal Weapons and Firearms

A. Except as otherwise provided for by this Section, the possession, carrying or use of a weapon, firearm, and/or explosive device within any restricted area, accessible only to permittees, is prohibited. Anyone found in violation of this Section shall be fined or suspended or both and may have his or her license revoked.

B. This Section does not apply to any person of the following categories:

1. any local, state or federal law enforcement officer;

2. any member of track security who is properly certified to carry a firearm and whose employment with an association is reported in writing to the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 148.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 20:

The domicile office of the Racing Commission is open from 8 a.m. to 4:30 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 rule through Friday, November 19, 1993, to 320 North Carrollton Avenue, Suite 2B, New Orleans, LA 70119-5111.

Paul D. Burgess
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Illegal Weapons and Firearms**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections.

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

The adoption of this rule will benefit horsemen and patrons by limiting the possession of firearms and weapons only to authorized personnel on track grounds, thereby reducing the risk of danger and potential life-threatening possibilities to the general public and licensees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Paul D. Burgess
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 - Handbook for School Administrators Health Education Requirements

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertising, an amendment to the high school graduation requirements to require one and one-half unit of Physical Education at the secondary level and one-half unit of Health Education at either the middle school or secondary level. This is an amendment to Bulletin 741, Louisiana Handbook for School Administrators as stated below:

Minimum Requirements for High School Graduation (Effective beginning 1994-95 and thereafter for incoming freshmen)

* * *

HEALTH AND PHYSICAL EDUCATION 2 units

Shall be Health and Physical Education I and II or Adapted Physical Education for eligible special education students; either shall include 1½ units of Physical Education and ½ unit of Health Education.

(All other requirements remain the same.)

STANDARD 2.102.01: amend the fourth procedural block to read:

"Credit or Credit Examinations may be given in the following subjects: Computer Literacy; Computer Science I-II; English I-IV; Advanced Mathematics; Algebra I-II; Calculus; Geometry; Trigonometry; Health Education; and Typewriting I. Additionally, credit may be given in all courses listed in the program of studies in Foreign Languages, Science, and Social Studies. Exceptions may be made by the Bureau of Secondary Education, State Department of Education upon request of the local superintendent."

STANDARD 2.105.08: amend to read:

HEALTH AND PHYSICAL EDUCATION

"Two units of Health and Physical Education shall be required for graduation. They shall be Health and Physical Education I and II or Adapted Physical Education for eligible special education students; either shall include 1½ units of Physical Education and ½ unit of Health Education. . ."

(All other policies under this Standard remain the same.)

AUTHORITY NOTE: R. S. 17:6(A); (10); (11).

Interested persons may submit comments on the proposed rule until 4:30 p.m., December 8, 1993 to: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA. 70804-9064.

Carole Wallin
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Health Education Required for Graduation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The only costs would be \$100 for the cost of printing and distributing the policy changes in Bulletin 741.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There would be no effect on revenue collection of state and local governmental units.

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

There are no estimated costs to directly affected persons or groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There would be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Control of Emissions of Nitrogen Oxides (NO_x) (LAC 33:III.2201, 2203, 2205) (AQ81)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2051 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.Chapter 22, (AQ81).

This proposed regulation relates to the control of emissions of Nitrogen Oxides (NO_x) by Reasonably Available Control Technology (RACT) and applies to specific sources of nitrogen oxides at any major stationary sources within a moderate or higher nonattainment area.

This will result in pollution reduction to reduce ozone of which NO_x is a precursor. The Clean Air Act Amendments (CAAA) of 1990 mandate these changes which should result in a projected reduction of 20,000 tons per year of NO_x.

This is in accordance with the CAAA of 1990, 40 CFR 52,

§182(f), NO_x requirements and required by directives of the U.S. Environmental Protection Agency.

These proposed regulations are to become effective on January 20, 1994, or upon publication in the *Louisiana Register*.

A public hearing will be held on November 29, 1993, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact David Hughes at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Tuesday, November 30, 1993, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282; or to 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA, 70810; or to fax number (504) 765-0486. Commentors should reference this proposed regulation by the Log AQ81.

This proposed regulation is available for inspection at the following DEQ locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Control of Nitrogen Oxides Emissions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs or savings expected from this proposal for LAC 33:III.Chapter 22, Section 2201, 2203, and 2205, Control of Emissions of Nitrogen Oxides.

Implementation costs will be covered by a \$2/ton fee increase generated as part of the Title V program as mandated by the CAAA 1990 and included in AQ-76, Chapter 65, Sections 6511 and 6523 which the U.S. EPA requires to be final by November 15, 1993.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

To the extent that industry would have installed equipment for reasons of efficiency without this rule change, the state will lose that sales tax associated with those purchases since such purchases which are required by federal or state law are eligible for a state sales tax exclusion pursuant to R.S. 47:301(10)(1). If the increased marginal costs of this rule to industry negatively impact employment, both state and local revenue may decrease. These possible effects cannot be quantified.

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

Total costs to directly affected industries is estimated at approximately 36 million dollars and should result in a projected reduction of 20,000 tons per year of NO_x.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no expected significant effect on intrastate or interstate competition or employment from the implementation of the proposed rule. An increase in fees for State Air Pollution programs is expected for all states as a result of Public Law 101-549. However, the rule may increase costs to domestic industry relative to competitors outside the United States.

Gus Von Bodungen
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Emission of Organic Compounds, Exemptions (LAC 33:III.2117) (AQ72)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2051 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.Chapter 21 (Log AQ72).

This proposed regulation will incorporate minor changes to Chapter 21, Control of Emission of Organic Compounds. The proposed changes are in the form of additions to the list of compounds considered exempt from control requirements of LAC 33:III.2101 to 2145. This proposed regulation is necessary to clarify the acceptable exempt compounds.

These proposed regulations are to become effective on January 20, 1994, or upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds Subchapter A—General §2117. Exemptions

The following compounds are considered exempt from the control requirements of LAC 33:III.2101 to 2145: methane, ethane, 1, 1, 1 trichloroethane (methyl chloroform), methylene chloride (dichloromethane), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), trichlorotrifluoroethane (CFC-113), trifluoromethane (FC-23), dichlorotetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115), dichlorotrifluoroethane (HCFC-123), tetrafluoroethane (HFC-

134a), dichlorofluoroethane (HCFC-141b), chlorodifluoroethane (HCFC-142b), 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124), pentafluoroethane (HFC-125), 1,1,1,2-pentafluoroethane (HFC-134), 1,1,1-trifluoroethane (HFC-143a), and 1,1-difluoroethane (HFC-152a). The following classes of perfluorocarbons are also considered exempt from the control requirements of LAC 33:III.2101 to 2145: cyclic, branched, or linear, completely fluorinated alkanes; cyclic, branched, or linear, completely fluorinated ethers with no unsaturations; cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:118 (February 1990), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

A public hearing will be held on November 29, 1993, at 1:30 p.m. in the Maynard Ketcham Building, (Room 326), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact David Hughes at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Tuesday, November 30, 1993, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA 70884-2282; or to 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810; or to fax number (504) 765-0486. Commentors should reference this proposed regulation by the Log AQ72.

James B. Thompson, III
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: LAC 33:III.2117 Exemptions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs to state government will be negligible because the regulation is already adopted. These additions are minor exemptions.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no changes to fees.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The estimated economic impact will be zero.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Estimated effect on competition and employment will be minimal.

Gus Von Bodungen
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Application for Licensing of Radioactive Material
(LAC 33:XV.Chapter 3, Appendix E) (NE09)**

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2101 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection Division Regulations, LAC 33:XV.Chapter 3, (Log NE09).

This rule will amend the Radiation Protection Division's regulations concerning licensing of radioactive material. This rule will affect an applicant seeking a radioactive materials license in excess of the quantities set forth in Appendix E of LAC 33:XV.Chapter 3. This rule will incorporate standards set by the Nuclear Regulatory Commission in their federal rule published as final in the *Federal Register* (Volume 56, Number 98, Page 23391) on May 21, 1991. NRC states in their rule that "Agreement States" have three years to adopt these regulations. The deadline for Louisiana to adopt this rule will be January, 1994.

These proposed regulations are to become effective on January 20, 1994, or upon publication in the *Louisiana Register*.

**Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection
Chapter 3. Licensing of Radioactive Material
Subchapter D. Specific Licenses
§324. Filing Application for Specific Licenses**

H. Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in Appendix E (Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release) must contain either:

- 1. an evaluation showing that the maximum dose to a person off-site due to a release of radioactive materials would not exceed one rem effective dose equivalent or five rems to the thyroid; or
- 2. an emergency plan for responding to a release of radioactive material.

I. One or more of the following factors may be used to support an evaluation submitted under LAC 33:XV.324.H.1:

1. the radioactive material is physically separated so that only a portion could be involved in an accident;
2. all or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;
3. the release fraction in the respirable size range would be lower than the release fraction shown in Appendix E due to the chemical or physical form of the material;
4. the solubility of the radioactive material would reduce the dose received;
5. facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in Appendix E.
6. operating restrictions or procedures would prevent a release fraction as large as that shown in Appendix E; or
7. other factors appropriate for the specific facility.

J. An emergency plan for responding to a release of radioactive material submitted under LAC 33:XV.324.H.2 must include the following information:

1. facility description. A brief description of the licensee's facility and area near the site;
2. types of accidents. An identification of each type of radioactive materials accident for which protective actions may be needed;
3. classification of accidents. A classification system for classifying accidents as alerts or site area emergencies;
4. detection of accidents. Identification of the means of detecting each type of accident in a timely manner;
5. mitigation of consequences. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers on-site, and a description of the program for maintaining the equipment;
6. assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials;
7. responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying off-site response organizations and the division. Also, responsibilities for developing, maintaining, and updating the plan will be included;
8. notification and coordination. A commitment to and a brief description of the means to promptly notify off-site response organizations and request off-site assistance, including medical assistance for the treatment of contaminated injured on-site workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee shall also commit to notify the division immediately after notification of the appropriate off-site response organizations and not later than one hour after the licensee declares an emergency¹;
9. information to be communicated. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to

be given to off-site response organizations and to the division;

10. training. A brief description of the frequency, performance objectives and plans for the training that the licensee will provide workers on how to respond to an emergency including any special instructions and orientation tours the licensee would offer to fire, police, medical, and other emergency personnel. The training shall familiarize personnel with site-specific emergency procedures. Also, the training shall thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios;

11. safe shutdown. A brief description of the means of restoring the facility to a safe condition after an accident;

12. exercises. Provisions for conducting quarterly communications checks with off-site response organizations and biennial on-site exercises to test response to simulated emergencies. Quarterly communications checks with off-site response organizations must include the check and update of all necessary telephone numbers. The licensee shall invite off-site response organizations to participate in the biennial exercises. Participation of off-site response organizations in biennial exercises, although recommended, is not required. Exercises must use accident scenarios postulated as most probable for the specific site, and the scenarios shall not be known to most exercise participants. The licensee shall critique each exercise using individuals not having direct implementation responsibility for the plan. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedure, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected; and

13. hazardous chemicals. A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499, if applicable to the applicant's activities at the proposed place of use of the by-product material.

K. The licensee shall allow the off-site response organizations expected to respond in case of accident 60 days to comment on the licensee's emergency plan before submitting it to the division. The licensee shall provide any comments received within the 60 days to the division with the emergency plan.

¹These reporting requirements do not supersede or release licensees of complying with requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other state or federal reporting requirements.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 20:

Chapter 3
Appendix E

| Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release | | |
|---|------------------|-------------------|
| Radioactive Material ¹ | Release Fraction | Quantity (curies) |
| Actinium-228 | 0.001 | 4,000 |
| Americium-241 | .001 | 2 |
| Americium-242 | .001 | 2 |
| Americium-243 | .001 | 2 |
| Antimony-124 | .01 | 4,000 |
| Antimony-126 | .01 | 6,000 |
| Barium-133 | .01 | 10,000 |
| Barium-140 | .01 | 30,000 |
| Bismuth-207 | .01 | 5,000 |
| Bismuth-210 | .01 | 600 |
| Cadmium-109 | .01 | 1,000 |
| Cadmium-113 | .01 | 80 |
| Calcium-45 | .01 | 20,000 |
| Californium-252 | .001 | 9 (20 mg) |
| Carbon-14 | .01 NON CO | 50,000 |
| Cerium-141 | .01 | 10,000 |
| Cerium-144 | .01 | 300 |
| Cesium-134 | .01 | 2,000 |
| Cesium-137 | .01 | 3,000 |
| Chlorine-36 | .5 | 100 |
| Chromium-51 | .01 | 300,000 |
| Cobalt-60 | .001 | 5,000 |
| Copper-64 | .01 | 200,000 |
| Curium-242 | .001 | 60 |
| Curium-243 | .001 | 3 |
| Curium-244 | .001 | 4 |
| Curium-245 | .001 | 2 |
| Europium-152 | .01 | 500 |
| Europium-154 | .01 | 400 |
| Europium-155 | .01 | 3,000 |
| Germanium-68 | .01 | 2,000 |
| Gadolinium-153 | .01 | 5,000 |
| Gold-198 | .01 | 30,000 |
| Hafnium-172 | .01 | 400 |
| Hafnium-181 | .01 | 7,000 |
| Holmium-166m | .01 | 100 |

| Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release | | |
|---|------------------|-------------------|
| Radioactive Material ¹ | Release Fraction | Quantity (curies) |
| Hydrogen-3 | .5 | 20,000 |
| Iodine-125 | .5 | 10 |
| Iodine-131 | .5 | 10 |
| Indium-114m | .01 | 1,000 |
| Iridium-192 | .001 | 40,000 |
| Iron-55 | .01 | 40,000 |
| Iron-59 | .01 | 7,000 |
| Krypton-85 | 1.0 | 6,000,000 |
| Lead-210 | .01 | 8 |
| Manganese-56 | .01 | 60,000 |
| Mercury-203 | .01 | 10,000 |
| Molybdenum-99 | .01 | 30,000 |
| Neptunium-237 | .001 | 2 |
| Nickel-63 | .01 | 20,000 |
| Niobium-94 | .01 | 300 |
| Phosphorus-32 | .5 | 100 |
| Phosphorus-33 | .5 | 1,000 |
| Polonium-210 | .01 | 10 |
| Potassium-42 | .01 | 9,000 |
| Promethium-145 | .01 | 4,000 |
| Promethium-147 | .01 | 4,000 |
| Ruthenium-106 | .01 | 200 |
| Samarium-151 | .01 | 4,000 |
| Scandium-46 | .01 | 3,000 |
| Selenium-75 | .01 | 10,000 |
| Silver-110m | .01 | 1,000 |
| Sodium-22 | .01 | 9,000 |
| Sodium-24 | .01 | 10,000 |
| Strontium-89 | .01 | 3,000 |
| Strontium-90 | .01 | 90 |
| Sulfur-35 | .5 | 900 |
| Technetium-99 | .01 | 10,000 |
| Technetium-99m | .01 | 400,000 |
| Tellurium-127m | .01 | 5,000 |
| Tellurium-129m | .01 | 5,000 |
| Terbium-160 | .01 | 4,000 |
| Thulium-170 | .01 | 4,000 |

| Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release | | |
|---|------------------|-------------------|
| Radioactive Material ¹ | Release Fraction | Quantity (curies) |
| Tin-113 | .01 | 10,000 |
| Tin-123 | .01 | 3,000 |
| Tin-126 | .01 | 1,000 |
| Titanium-44 | .01 | 100 |
| Vanadium-48 | .01 | 7,000 |
| Xenon-133 | 1.0 | 900,000 |
| Yttrium-91 | .01 | 2,000 |
| Zinc-65 | .01 | 5,000 |
| Zirconium-93 | .01 | 400 |
| Zirconium-95 | .01 | 5,000 |
| Any other beta-gamma emitter | .01 | 10,000 |
| Mixed fission products | .01 | 1,000 |
| Mixed corrosion products | .01 | 10,000 |
| Contaminated equipment beta-gamma | .001 | 10,000 |
| Irradiated material, any form other than solid noncombustible | .01 | 1,000 |
| Irradiated material, solid noncombustible | .001 | 10,000 |
| Mixed radioactive waste, beta-gamma | .01 | 1,000 |
| Packaged mixed waste, beta-gamma ² | .001 | 10,000 |
| Any other alpha emitter | .001 | 2 |
| Contaminated equipment, alpha | .0001 | 20 |
| Packaged waste, alpha ² | .0001 | 20 |
| Combinations of radioactive materials listed above ¹ | | |

¹ For combinations of radioactive materials, consideration of the need for an emergency plan is required if the sum of the ratios of the quantity of each radioactive material authorized to the quantity listed for that material in Appendix E exceeds one.

² Waste packaged in Type B containers does not require an emergency plan.

A public hearing will be held on November 29, 1993, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact David Hughes at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Tuesday, November 30, 1993, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282; or to 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA, 70810; or to fax number (504) 765-

0486. Commentors should reference this proposed regulation by the Log NE09.

James B. Thompson, III
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Application for Licensing of Radioactive
Material (LAC 33:XV.Chapter 3)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on implementation costs to state or local governmental units is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No implementation cost or economic benefit to directly affected persons is anticipated as a result of this rule, since it is required to maintain authorization from the NRC to regulate radioactive material.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect of this proposed rule on competition and employment is anticipated.

Gus Von Bodungen
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Office of the Governor
Architects Selection Board**

Selection Procedure (LAC 4:VII.125)

Pursuant to the provisions of R.S. 38:2310 et seq., as amended, the Louisiana Architects Selection Board, hereinafter referred to as board, has amended such rules and procedures as it deemed necessary to carry out the provisions of the said statutes. These rules are established by the board, and are subject to change by said board, in accordance with the Administrative Procedure Act.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 1. Architects Selection Board

Subchapter B. Selection Procedure

§125. Application

A. . . .

B. The Louisiana Architects Selection Board adopts the use

of the Form LASB-1 as the format for submitting a firm's experiences to the board. In this Form LASB-1, principal shall be defined as follows: "Principal: a licensed architect who has the right and authority to exercise control over the project; who shares in profits, losses, and responsibility for incurred liabilities." The board has the right to require proof of compliance with the above definition.

C-E. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 20:

Persons interested in making comments relative to this rule change may do so in writing until the close of business November 22, 1993 to Roger Magendie, Director of Facility Planning and Control, Box 94095, Baton Rouge, LA 70804-9095.

Roger Magendie
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Selection Procedure**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
There are no implementation costs or savings. This rule change is to change the name of the form in the rules.
- 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 NON-GOVERNMENTAL GROUPS (Summary)**
There will be no costs or economic benefits associated with this rule change.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
This rule change is to change the name of the form in the rules and will not affect competition.

Roger Magendie
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Members; Travel (LAC 4:VII.905,911)

The Department of Veterans Affairs intends to amend LAC 4:VII, §§905 and 911. These rules are currently published in the Volume 7, Number 10, October 20, 1981 issue of the *Louisiana Register*.

LAC 4:VII.905.A is being amended to read that no more than \$600 is to be paid in any one fiscal year to each member for each day devoted to the work of the commission, bringing this rule in conformity with Act 354 of the 1989 Regular Legislative Session, which has already been implemented.

LAC 4:VII.911.B is being amended to read that members may not be authorized travel reimbursement for out-of-state trips, also bringing this rule in conformity with Act 354 of the 1989 Regular Legislative Session, and consequently deleting Subsections E and F in their entirety.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 9. Veterans Affairs

Subchapter A. Veterans Affairs Commission

§905. Members

A. Each member shall be paid \$50 each day devoted to the work of the commission, but not more than \$600 in any one fiscal year.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:486 (October 1981), amended LR 20:

§911. Travel

* * *

B. Commission members may not be authorized travel reimbursement for out-of-state trips.

C. - D. . . .

E. - F. Delete

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:486 (October 1981), amended LR 20:

These proposed amendments are to become effective on January 20, 1994, or upon publication in the *Louisiana Register*.

All interested persons are invited to submit written comments on the proposed amendments. Such comments should be submitted no later than November 30, 1993, 4:30 p.m., to Ernie P. Broussard, Executive Director, Box 94095, Capitol Station, Baton Rouge, LA 70804-9095 or to 1885 Wooddale Boulevard, Tenth Floor, Baton Rouge, LA 70806.

Ernie P. Broussard
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Members/Travel**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The adoption of the proposed amendments to Title 4, Part VII, Governor's Office, Chapter 9, Veterans Affairs, Subchapter A, Veterans Affairs Commission will not have any implementation costs to state or local governmental units. It will only bring the administrative rules in compliance with Act 354, Regular Session of 1989, which has already been implemented. However, there was a cost reduction to the state when the law changed in 1989, as a result of a decrease in per diem and the elimination of out-of-state travel for commission members.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The adoption of the proposed amendments will not have any effect on revenue collections of state or local governmental units.

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

The adoption of the proposed amendments will not affect any benefits or costs to the Veterans Affairs Commission. However, at the time of the law change, the commission members were affected because of a decrease in the per diem maximum and the elimination of out-of-state travel.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The adoption of the proposed amendments will not have any effect on competition and employment.

Ernie P. Broussard
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Community Development**

FY 1994 LCDBG Program Final Statement

The proposed rule identifies the state's community development objectives and the method by which the state will distribute community development block grant funds to units of general local government.

These regulations are to become effective upon publication as a rule in the *Louisiana Register* and are to remain in force until they are amended or rescinded. Anyone having any comments should submit them in writing by November 30, 1993, to Susan Elkins, Policy and Programs Director, Office of Community Development, Division of Administration, Box 94095, Baton Rouge, LA 70804-9095.

Copies of these proposed rules may be obtained from the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802, phone (504) 342-5015.

Raymond Laborde
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: FY 1994 LCDBG Final Statement**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Approximately \$780,000 in federal funds will be provided to administer the FY 1994 LCDBG Program; a state match of \$680,000 is required and will be allocated in the division's budget over a six-year period. As in the past, the state will maximize the use of in-kind services to match the federal funds.

To ensure that the local units of government do not have to expend local funds to administer these grants, administrative funds are allowed to cover the cost of program implementation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The state anticipates receiving approximately \$34,000,000 in federal funds of which \$32,880,000 will be used to benefit local governing bodies in the program areas of housing, public facilities, economic development, and demonstrated needs. The allocation of these funds by program category will increase the amount initially available for housing and public facilities projects and decrease the amount initially available for economic development projects.

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

The LCDBG Program basically benefits persons of low and moderate income throughout the state. The impact on those persons will be through improved housing conditions and infrastructure (water, sewer, and street systems) and the creation of jobs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The allocation of less funds to economic development will result in less funds being initially available for financial assistance to businesses. This will, however, be offset by more monies being initially available to small contractors participating in the housing rehabilitation program and to construction contractors participating in the public facilities program.

All construction projects are subject to state and federal bid laws. All professional contracts must be awarded in accordance with OMB Circular A-102.

Raymond J. Laborde
Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Office of the Governor
Division of Administration
Office of Community Development

Supplemental Appropriations Disaster Recovery Program

Chapter IX, "Community Planning and Development, Community Development Grants," of the Supplemental Appropriations Act, 1993 (Public Law 103-50) appropriates \$2,776,000 in CDBG funds only for repair, renovation, or replacement, or other authorized community development activities affecting structures damaged or destroyed by Hurricane Andrew, and \$3,763,000 in CDBG funds for authorized community development activities in areas impacted by Hurricane Andrew. The provisions are construed to include authorization for use of any of the funds for construction of new housing. The secretary is authorized to waive entirely, or in part, any requirement set forth in Title I of the Housing and Community Development Act of 1974, as amended, (42 USC 5301 et seq.) except a requirement pertaining to fair housing and nondiscrimination, the environment, or labor standards, if the secretary finds that such waiver will further the purposes of the use of the funds. The waiver authority is construed to extend to the program regulations implementing Title I (24 CFR Part 570) except with respect to the requirements expressly excepted. Provisions not specifically waived will remain in effect. Any applicant receiving funds under this program must have completed their approved project and drawn down funds to reimburse approved expenditures prior to September 30, 1995.

These regulations are to become effective upon publication as a rule in the *Louisiana Register* and are to remain in force until they are amended or rescinded. Anyone having any comments should submit them in writing by November 30, 1993, to Susan Elkins, Policy and Programs Director, Office of Community Development, Division of Administration, Box 94095, Baton Rouge, LA 70804-9095.

Copies of this proposed rule may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802, phone (504) 342-5015.

Raymond Laborde
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Supplemental Appropriations Disaster Recovery Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Approximately \$130,000 in federal funds will be provided to administer the FY 1993 - FY 1995 Supplemental Appropriations Disaster Recovery Program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The state has received \$6,539,000 in federal funds to be used to assist local governing bodies in their disaster recovery efforts,

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

This program will basically benefit principally persons of low to moderate income in areas of the state impacted by Hurricane Andrew.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Monies will be available to contractors for public facility and housing rehabilitation projects: all construction contracts are subject to state and federal bid laws. All professional services contracts must be awarded in accordance with OMB Circular A-102.

Raymond Laborde
Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Office of the Governor
Division of Administration
Office of Facility Planning and Control

Demolition or Disposing of State Owned Buildings (LAC 34:III.701)

Title 34 GOVERNMENT CONTRACTS PROCUREMENT AND PROPERTY CONTROL

Part III. Facility Planning and Control Chapter 7. Demolition or Disposing of State Owned Buildings

§701. Preface

Act 537 of 1982 enacted R.S. 38:2212.1 to provide for the demolition of state buildings. The statute prohibits the demolition of state buildings unless the appropriate legislators have been notified and unless disposition has been approved by the Office of Facility Planning and Control (FPC). Following are the procedures adopted and promulgated pursuant to this statute.

1. Any state agency proposing to raze, demolish or otherwise dispose of any building or structure owned by the State of Louisiana (except highways, bridges, and railroads), shall first submit such proposal directly to Facility Planning and Control. The request from the user agency must contain the state building identification number, the reason for the request, pictures of the structure, estimated costs involved, the source of funding, the legislative district where the building is located (both senatorial and representative), and information regarding whether the building has been surveyed for asbestos containing materials.

2. Upon receipt of the properly authorized request from the state agency, Facility Planning and Control will notify the legislators representing the district in which the structure is located. This letter from Facility Planning and Control will

identify the building or structure, location, reasons for such action, brief description of the work involved and copies of the pictures. In the event that demolition involves historic properties within the city of Baton Rouge, Facility Planning and Control will also notify the state historic preservation officer as required by R.S. 25:781 through 785. A copy of these letters and the attachments are sent to the Louisiana property assistance agency and to the engineering section of Facility Planning and Control. All recipients of such letters are to be assured that under no conditions shall a request for property disposition be approved by Facility Planning and Control prior to 30 days from the date of the notification letter.

3. After receipt of the letter requesting approval for disposition, a Facility Planning and Control field engineer will make an inspection of the subject building or structure. His report shall include his recommendations regarding disposition, any suggested alternatives or possible use of the structure by other state agencies, a description of any movable property which may have a value as surplus property and any asbestos abatement activity which may be necessary prior to demolition/disposal.

4. Copies of the field engineer inspection report are sent to the user agency and to the Louisiana Property Assistance Agency. Contents of the report may require a response from the agency.

5. If capital outlay funds are to be used for demolition, Facility Planning and Control will authorize contracts to be awarded for the demolition. When the demolition has been completed, Facility Planning and Control will notify the State Land Office and Office of Risk Management so the building can be removed from the statewide building inventory and insurance coverage will be deleted.

6. If other than capital outlay funds are to be used, the user agency will be responsible for demolition of the structure in accordance with State Purchasing laws and regulations. When the demolition has been completed the user agency must notify the State Land Office and the Office of Risk Management so the building can be removed from the statewide building inventory and insurance coverage will be deleted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2212.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:473 (September 1982), amended LR 20:

Persons interested in making comments relative to this rule change may do so in writing until the close of business November 22, 1993 to Roger Magendie, Director of Facility Planning and Control, Box 94095, Baton Rouge, LA 70804-9095.

Roger Magendie
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Demolition or Disposing of State Owned Buildings

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs or savings. This change is to update procedures.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collection.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits associated with this rule change.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This rule change is to update procedures and will not affect the competition.

Roger Magendie
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals Board of Embalmers and Funeral Directors

Funeral Establishments (LAC 46:XXXVII.1107)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 37:840, notice is hereby given that the Department of Health and Hospitals, Board of Embalmers and Funeral Directors intends to amend LAC 46:XXXVII, Chapter 11, Funeral Establishments.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXVII. Embalmers and Funeral Directors Chapter 11. Funeral Establishments §1107. Inspection

* * *

B. Each establishment must consist of and be inspected for an adequate building containing a display room, which must contain a minimum of six adult caskets, embalming room, office or arrangement room, rest rooms (separate for men and women), parlors or chapel. They shall also contain suitable furnishings, equipment and other facilities that meet the standards of the Fire and Sanitary Codes of the state of Louisiana as well as all city, parish and state licensing and zoning requirements.

* * *

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

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors,

August 1966, amended November 1972, February 1973, amended and promulgated LR 4:227 (June 1978), amended LR 4:295 (August 1978), LR 4:356 (September 1978), LR 4:510 (December 1978), LR 5:278 (September 1979), LR 6:615 (October 1980), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 20:

Inquiries concerning the proposed rule may be directed in writing to Dawn P. Scardino, Executive Director, at the address below. Interested persons may submit written comments, data, views, or arguments no later than 60 days from the date of this notice to the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011-8757. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Dawn Scardino
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Funeral Establishments**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No costs or savings to the board are expected.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that the proposed amendment to the rule will have any effect on the board's revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The only known costs which may affect persons applying for licensure as a funeral home would be if variances or exceptions to local, city or parish ordinances would be required prior to obtaining local permits. These costs would vary based upon individual circumstances and costs levied by local, city or parish governmental agencies.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed rule amendment would have no known impact on competition or employment within the state of Louisiana.

Dawn P. Scardino
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Embalmers and Funeral Directors**

**Removal of Bodies From State
(LAC 46:XXXVII.1303)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 37:840, notice is hereby given that the Department of Health

and Hospitals, Board of Embalmers and Funeral Directors intends to amend LAC 46:XXXVII. Chapter 13, regarding removal of bodies from state.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XXXVII. Embalmers and Funeral Directors
Chapter 13. Prohibited Practices
§1303. Unlawful Practice**

- A. ...
- B. No one shall carry, transport or remove from within the confines of this state any dead human body unless said body has been embalmed or cremated. Nothing in this Section, however, shall be construed to prohibit transfer of an unembalmed dead human body which has been disposed of for the purpose of an advancement of medical science, or for use as "transplant" organs.

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

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmer and Funeral Directors, LR 8:189 (April 1982), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 11:688 (July 1988), LR 20:

Inquiries concerning the proposed rule may be directed in writing to Dawn P. Scardino, executive director, at the address below. Interested persons may submit written comments, data, views, or arguments no later than 60 days from the date of this notice to the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011-8757. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Dawn P. Scardino
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Removal of Bodies from State (LAC
46:XXXVII.1303)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No costs or savings to the board are expected.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that the proposed addition to the rule will have any effect on the board's revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Considering the dangers of infectious and contagious diseases, the welfare of the general public and certainly those coming in contact with the remains of the deceased, would be enhanced and further protected by requiring a body to be embalmed prior to its crossing state borders.

Out-of-state funeral establishments would, in all probability, experience a slight decrease in embalming revenues as the Louisiana licensed funeral establishments who are now picking up bodies for those out-of-state firms, filing death certificates

and obtaining burial transit permits would now also assess charges for embalming these bodies to the out-of-state firms.

Accordingly, Louisiana funeral directors would experience a slight increase in revenue.*

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no known impact on competition and employment within the state of Louisiana.

*In considering the necessity for making the rule, it is the board's understanding that many local funeral homes have already made it a practice, for health reasons, to embalm the body prior to shipping and transporting out of state.

Dawn P. Scardino
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Office of Management and Finance

Health Services Provider Fees

The Department of Health and Hospitals, Office of Management and Finance, proposes to adopt the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. In March, 1993 the Department of Health and Hospitals adopted the final rule (*Louisiana Register*, Vol. 19, No. 3, pages 347-348), implementing R.S. 46:2601-2605, which imposed a fee on the providers of certain health care services as authorized under P.L. 102-234.

Interim final regulations published by the Health Care Financing Administration (HCFA) limit the amount of certain taxes, fees and assessments to six percent of the provider revenues. In order to comply with HCFA limitations on provider fee collections, the Department of Health and Hospitals is required to revise the fees placed on nursing facility and Intermediate Care Facility services for the mentally retarded and developmentally disabled. These revised fees were adopted through emergency rulemaking on July 1, 1993 and published in the July 20, 1993 issue of the *Louisiana Register* (Vol. 19 No. 7, page 850).

In conjunction with the above emergency rule, the department also redefined the composition of the calendar quarters which changed the month of the payment due dates. However, the department later reversed the calendar quarter schedule back to the schedule in effect during state fiscal year 1993 and an emergency rule was published on this in the August 20, 1993 issue of the *Louisiana Register* (Vol. 19, No. 8, pages 1000-1001).

PROPOSED RULE

Provider fees for nursing facility services and Intermediate Care Facility services for the mentally retarded (ICF-MR) shall not exceed six percent of the average revenues received by providers of each class of services. The fee amounts shall be calculated annually in conjunction with updating provider

reimbursement rates under the Medical Assistance Program. Notice to providers subject to fees shall be given in conjunction with the annual rate setting notification by the Bureau of Health Services Financing.

Interested persons may submit written comments to the following address: H. K. Sweeney, Box 629, Baton Rouge, LA 70821-0629. A public hearing on this proposed rule will be held on Tuesday, November 23, 1993 in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at the public hearing.

Rose V. Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Health Services Provider Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no projected cost or savings to state or local governmental units associated with the implementation of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections to the state are projected to decrease as a result of the implementation of this rule, due to the fact that the provider fees being imposed on nursing facilities and intermediate care facilities for the mentally retarded and developmentally disabled have been decreased substantially beginning with the effective date of the emergency rule of July 1, 1993. The reduction in provider fees is a result of the HCFA requirement which limits provider fee collections to six percent of the provider revenues. Revenue collections are projected to decrease (as outlined in the chart below) by the following amounts:

\$114,739,430 in SFY 1993-94
\$120,476,401 in SFY 1994-95
\$126,500,221 in SFY 1995-96

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

Long term care facility rates were decreased significantly effective July 1, 1993, in accordance with emergency rulemaking. Private pay residents should benefit from these rate adjustments through lower monthly costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

H.K. Sweeney
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Case Management Services for Infants and Toddlers

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing to adopt the following rule in the Medical Assistance Program in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Bureau of Health Services Financing has developed program policy and payment standards which allow federal financial participation in the funding of Optional Targeted Case Management Service for Title XIX eligible infants and toddlers who are ages birth through two inclusive (0 - 36 months) who have established medical conditions as defined in Part H of the Individuals with Disabilities Education Act. The criteria for establishing the state's definition of developmental delay are further defined in 34 Code of Federal Regulations Section 303.300 as published in the *Federal Register*, Volume 54, page 26309, June 22, 1989 and Volume 54, page 53156, August 23, 1989. The bureau published the notice of intent on February 20, 1992 (Vol. 18, No. 2) and the rule was published on August 20, 1992, (Vol 18, No.8) to fund such services under Medicaid as authorized by Section 1915(g) of the Social Security Act.

Since the above rule was promulgated, it has been determined that Medicaid providers are having extreme difficulty in locating persons to serve as family service coordinators and supervisors of family service coordinators who meet the requirement of having completed 40 hours of approved annual in-service education in family service coordination and related areas. Lack of qualified family services coordinators in sufficient numbers to arrange services for these children jeopardizes the welfare of the children and limits the department's ability to collect federal funds for this optional program, thereby creating an emergency situation. Therefore, in order to insure the availability of these services this particular experience will no longer be required. Instead, family service coordinators and supervisors of family service coordinators will be required to complete at least 16 hours of orientation prior to performing any family service coordination tasks. An additional 24 hours of related training must be obtained during the first 90 days of employment. The contents of these hours are specified by the BHSF. The family service coordinators supervisors will also be required to complete specified hours of training during the first 90 days of employment and to obtain in-service training each year in particular areas.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

Disapproval of this change by the Health Care Financing Administration will automatically cancel the provisions of this proposed rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this proposed rule. A public hearing will be held on this matter on November 23, 1993. Copies of this proposed rule and all other Medicaid rules and regulations are available at the parish Medicaid offices for review by interested parties.

Rose V. Forrest
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Case Management Services for Infants and
Toddlers**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule is projected to increase state expenditures by \$150 in SFY 1993-94, but no expenditures are expected for SFY 1994-95 and 1995-96.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will result in increased federal revenue collections in SFY 1993-1994 by \$75 but no increases are expected for SFY 1994-95 and 1995-96.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no estimated costs to directly affected persons or non-governmental groups. The economic benefits to developmentally delayed infant and toddlers and their families, resulting from these health services, cannot be estimated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed rule will have no known impact on competition, but may provide some increase in employment opportunities for case management services providers.

Thomas D. Collins
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Standards for Payment for Inpatient Psychiatric Services - Distinct Part Psychiatric Units

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule as authorized by R.S. 46:153 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Standards of Payment for Inpatient Psychiatric
Services - Distinct Part Psychiatric Units**

The State of Louisiana, Department of Hospitals published the *Rules, Regulations and Minimum Standards Governing Hospitals* (1962) in accordance with the Hospital Licensing Law R.S. 40:2100 et seq. Distinct part psychiatric units located in general or acute care hospitals must meet these state licensing requirements and must also comply with the federal regulations contained in 42 CFR 412.20 et seq. (Subpart B - Hospital Services Subject to and Excluded from the Prospective Payment System for Inpatient Operating Costs and Inpatient Capital-Related Costs).

The purpose of this notice is to establish standards for payment for these distinct part psychiatric units, including alcohol and drug abuse treatment units under the Medical Assistance Program. The current *Standards for Payment for Psychiatric Hospitals* will remain in effect for free-standing psychiatric hospitals.

**STATEMENT OF TERMS AND SUBSTANCE OF
PROPOSED RULE**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing shall adopt criteria entitled *Standards for Payment, Distinct Part Psychiatric Units* which establish requirements for Medicaid reimbursement of distinct part psychiatric units, including alcohol and drug treatment units in general hospitals in this state. These criteria will be required in addition to all existing state licensure, federal and state certification and accreditation standards for general hospitals. These standards will address the following: programmatic setting and description including required services; staff composition and qualifications; diagnostic admission criteria and dimensional admission criteria; patient service needs; assessments; treatment plan and therapies; length of stay and continued stay criteria; discharge and aftercare planning; discharge criteria; records; quality assessment; support services; planning and evaluation; information management; utilization review; research; patient rights and facility policy applicable to patient neglect and abuse; and special treatment procedures. The standards for payments for these units also contain a provision for provider appeals.

Copies of this notice of intent are available from the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802, (504) 342-5015, and at DHH local and regional offices for the Office of Mental Health, Office of Alcohol and Drug Abuse, and Bureau of Health Services Financing's Medical Assistance Program.

Interested persons may submit written comments to the following address: Thomas D. Collins, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule will be held on Tuesday, November 23, 1993 in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at the public hearing.

Rose V. Forrest
Secretary

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no cost or savings to state or local governments associated with the implementation of this notice.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated impact of this notice on the state's total annual Medicaid expenditures is \$0 for SFY 1994; \$2,081,398 for SFY 1995; and \$4,553,640 for SFY 1996.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The projected increase on distinct part psychiatric units' staffing requirements as a result of the implementation of this rule is \$1,333,660 for SFY 1994; \$3,334,149 for SFY 1995 and \$3,500,856 for SFY 1996.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There may be an effect on competition and employment depending on the current staffing level of each hospital.

Thomas D. Collins
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Insurance
Commissioner of Insurance**

**Group Health Insurance Coordination of Benefits
Regulation 32**

Pursuant to the provisions of R.S. 49:950 et seq. and R.S. 22:2H the Commissioner of Insurance hereby gives notice of his intent to amend Regulation 32 governing the coordination of benefits in group health insurance. The amendments are needed to avoid conflicts with federal COBRA legislation and to maintain uniformity.

REGULATION 32

**Regulations Relating to the Use of Coordination
of Benefits Provisions in Group Health Insurance**

Policies and Group Service Plan Corporation Contracts

Table of Contents

- Section 1. Authority
- Section 2. Purpose and Applicability
- Section 3. Definitions
- Section 4. Model COB Contract Provisions
- Section 5. Rules for Coordination of Benefits
- Section 6. Procedure to be Followed by Secondary Plan
- Section 7. Miscellaneous Provisions
- Section 8. Effective Date; Existing Contracts
- Appendix A. Model COB Provisions

A copy of the proposed amendments to Regulation 32 may be obtained from the address below or by telephone at 504-

342-8391. Copies may also be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802, phone 504-342-5015.

The proposed amendments to Regulation 32 are scheduled to become effective January 20, 1994. Interested parties may submit written comments on the proposed regulation until 4:30 p.m., November 15, 1993 to: C. Noël Wertz, Senior Attorney, Box 94214, Baton Rouge, LA 70804-9214.

James H. "Jim" Brown
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Regulation 32 - Coordination of Benefits in
Group Health Insurance**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing this regulation. The regulation does not impose any new duties on the department.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Adoption of this regulation will not have any effect on revenue collections by the state or local governmental units. There are no fees, fines or other revenue generating activities imposed.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

It is not anticipated that this regulation will impose any additional costs on those companies which market medicare supplement insurance policies in Louisiana.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

It is not anticipated that there will be any effect on either competition or employment resulting from the adoption of this regulation.

Brenda St. Romain
Assistant Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation
Engineering Division**

Statewide Order 29-F (LAC 43:XIX.Chapter 21)

In accordance with the provisions of R.S. 49:950 et seq. and R.S. 30:4, notice is hereby given that the Department of Natural Resources, Office of Conservation gives notice of its intent to amend Statewide Order 29-F as follows:

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation: General Operations

Subpart 8. Statewide Order No. 29-F

Chapter 21. Allowable Production of Natural Gas

§2101. Scope

The following are promulgated in order to adopt revised and restated rules and regulations for non-associated gas pools concerning the calculation of allowable rates of production, the balancing of production to allowable for unit/wells, and gas well deliverability tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (November 8, 1955), amended (July 1, 1959), amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:

§2103. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meaning when found in this statewide order:

District Manager—generally refers to the manager of any one of the district offices of the Office of Conservation, and refers specifically to the manager within whose district any unit/well affected by this order is located.

Efficient Rate of Production—the rate of sustainable production:

a. which will maximize the total efficient recovery of reserves and limit the production of sand and/or prevent the premature and irregular encroachment of water; and

b. which may, if exceeded, result in an increase in bottomhole pressure drawdown and production of sand and/or premature and irregular encroachment of water, which reduces or tends to reduce the total ultimate recovery of gas from any pool.

The **Efficient Rate of Production** shall be redetermined semi-annually in conjunction with the deliverability test and certified as such on the Form DT-1.

Field—the general area as so designated by the Office of Conservation which is underlaid or appears to be underlaid by at least one non-associated gas pool.

Natural Gas (gas)—hydrocarbons and other substances normally occurring in a gaseous state and produced from a non-associated gas pool.

Non-associated Gas Pool (pool)—an underground reservoir containing a common accumulation of gas. Each zone of a general reservoir which is completely separated, whether stratigraphically or structurally, from any other zone

in the reservoir is covered by the term pool. A zone may contain one or more common accumulations and the overall stratigraphic interval of the zone may be considered a pool.

Operator—the party designated or permitted by the commissioner of conservation to serve as operator of a unit/well.

Producer/Owner—as defined in LSA-R.S. 30:3(8) and 3(9).

Recompletion/Workover—reperforation or rework of an existing well bore in a new or the same pool.

Tight Gas Pool (tight)—an underground reservoir with low permeability and/or porosity containing a common accumulation of gas which can only be produced economically with stimulation by hydraulic fracturing or other such techniques.

Unit—all exploration, drilling, production or reservoirwide units established for a particular pool, by agreement, by order of the commissioner of conservation or otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (November 8, 1955), amended (July 1, 1959), amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:

§2105. Application

A. Except as provided in §2105.B and C below, this order shall apply to all units/wells in Louisiana producing gas, whether covered by special field order or not. Any provisions of prior orders, including special field orders, in conflict herewith are hereby modified to the extent of such conflict only.

B. This order shall not apply to casinghead gas produced from underground reservoirs classified by the Office of Conservation as oil pools.

C. The commissioner may by special order after notice and public hearing exempt:

1. gas cycling or pressure maintenance projects; or
2. units/wells that the commissioner determines should be exempt in order to maximize total recoverable reserves or to protect correlative rights. There shall be no reallocation of allowables among remaining proratable units within a pool as a result of such special orders; or
3. pools have reached a stage of depletion which would render the enforcement of this order impracticable or unduly burdensome.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (November 8, 1955), amended (July 1, 1959), amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:

§2107. Allowables

A. Allowable rates of production ("assigned allowables") are to be established by the commissioner for each unit/well in a pool on a quarter-by-quarter basis for the periods March through May, June through August, September through November, and December through February, respectively. The commissioner shall use actual production from the prior year and information from the most recent

deliverability test as reported on Form DT-1 in establishing allowable rates of production. Subject to the adjustments hereinafter discussed, the commissioner shall set assigned allowables at the actual rate of production from the units/wells in the pool for the same quarter of the previous calendar year ("base unadjusted allowable").

B. Any operator of a unit/well in a pool may apply for an allowable rate of production higher or lower than the base unadjusted allowable by submitting a specific proposal to that effect ("alternate nomination") to the commissioner (with a copy to the district manager) not later than 45 days preceding the quarter in question, that is by January 15, April 15, July 15, and October 15 of each year. However, the operator bears the burden of establishing that a deviation from the base unadjusted allowable should be made for that quarter by virtue of a change in market demand or an increase or decrease in the efficient rate of production for units/wells in the pool as provided for in §2107.C.2 below. The operator seeking an alternate nomination must so notify all other operators in the pool by mail on the same date the alternate nomination is filed with the commissioner. If no objections are filed by any other operator with the commissioner (with a copy to the district manager) within five days of receipt of the alternate nomination by the commissioner and the request is properly substantiated by the documentation submitted, the operator's alternate nomination shall be used in calculating the assigned allowable. If any operator in the pool timely objects to the alternate nomination in writing, the operator seeking a change in allowables must then file an application for public hearing after notice to present evidence in support of the alternate nomination. If the alternate nomination and ultimately the assigned allowable is granted on the basis of a stated change in market demand in lieu of the base unadjusted allowable but actual production in the quarter for which the change was requested does not approximate the granted increase in allowable rate of production, the operator may not apply for an assigned allowable for the next quarter in excess of the actual rate of production for the quarter in which the initial increase was granted.

C. In setting the assigned allowables for the quarter in question, the commissioner shall then take the applicable base unadjusted allowable or alternate nomination, as the case may be, and make adjustments therefrom in accordance with the following principles and determinations ("deliverability adjustment"), to wit:

1. the assigned allowable for any unit/well may never exceed the efficient rate of production for that unit/well. The efficient rate of production may be adjusted from time to time by virtue of DT-1 test results reflecting changes in sustainable rates of deliverability, rate of production of sand or water and bottomhole pressure draw down;

2. deliverability adjustments shall be made for net increases or decreases from the base unadjusted allowable or alternate nomination for the pool by virtue of:

a. new wells, and recompletions/workovers within the pool (completed since the allowable for the comparable quarter in the previous calendar year was set) if the operator can verify the change through submission of petroleum engineering data. Such data shall include a Form DT-1 deliverability test

performed or conducted within 20 days of the recompletion/workover or date of initial production of the new well to market or for field/lease use; or

b. increase or decrease in the efficient rates of production of any producing wells in the pool as established by the DT-1 test; or

c. loss of deliverability for any wells that have been temporarily abandoned or plugged and abandoned since the quarter in question for the previous calendar year.

D. A deviation from the base unadjusted allowable or alternate nomination may be made by the commissioner if the commissioner determines that:

1. the base unadjusted allowable or the alternate nomination and the deliverability adjustment thereto do not reflect reasonable market demand for the pool in question; or

2. the production for the pool in question for the prior year's comparable quarter was attributable in part to unusual weather and/or market conditions; or

3. the correlative rights of producers/owners in the pool are not adequately protected; or

4. production in the prior year's comparable quarter exceeded the assigned allowable for that quarter.

E. There need be no allocation of allowable rates of production among individual units/wells to determine assigned allowables for:

1. non-competitive pools;

2. for non-unitized wells, which shall be treated as completed in non-competitive pools until the commissioner, after notice and public hearing, finds to the contrary; or

3. any pool determined by the commissioner after notice and public hearing to be geologically classified as tight or stratified and/or lenticular (as in the case of a large zone definition) provided that production of the assigned allowable from individual units [with or without alternate unit well(s)] in such pool would not occasion reasonably avoidable net drainage across the unit boundaries and the correlative rights of producers/owners in the pool are adequately protected.

F. The assigned allowable for such units/wells shall be determined in accordance with the procedures set forth in §2107.A, B, C, and D, but may not exceed the efficient rate of production as determined on Form EDG-1 for such units/wells. As to any pool which qualifies pursuant to §2107.E.3, the assigned allowables for each unit on which there is located one or more alternate unit wells shall be the total of the allowables for each well on such unit determined as to each well in accordance with the procedures set forth in §2107.A, B, C, and D.

G. Attached hereto as Appendix "A" is a list of the pools which the commissioner finds presently qualify under §2107.E.3. After notice and public hearing, the commissioner may identify additional pools which qualify for the assignment of allowables pursuant to §2107.E.3, or may reconsider whether the pools listed on Appendix "A" do in fact qualify pursuant to §2107.E.3.

H. The sum of the applicable base unadjusted allowables or alternate nominations, as the case may be, for all units in a competitive pool and the deliverability adjustments relating thereto shall then be apportioned among the units within the pool in accordance with the allowable allocation formula

adopted for such pool, by special field order applicable to such pool, or, if no formula has been adopted by special field order, the allowable shall be apportioned among the producing units in the pool as hereinafter provided. The allowable rates of production as so apportioned among the units/wells in a competitive pool shall be the assigned allowables for such units/wells.

I. Any unit/well that is certified by the operator to be incapable of producing more than 250 MCF per day shall be considered an incapable unit/well. Such incapable units/wells that qualify for "no allocation of allowable" pursuant to §2107.E shall be exempt from Form DT-1 and EDG-1 testing and reporting requirements. All other incapable units/wells (i.e. all those in a pool for which an allowable allocation is necessary) shall be tested and reported on Form DT-1 and EDG-1 pursuant to §§2111 and 2107.R. Such incapable units/wells shall not be used in determination of assigned allowable for other units/wells in the pool. Such incapable units/wells shall be granted an assigned allowable based on its actual production but not more than 250 MCF per day.

J. Any unit that is determined by the commissioner to be a "deficient unit" shall not be used in determination of the assigned allowable of the remaining proratable units in the pool. A deficient unit shall include:

1. any unit whose efficient rate of production is less than or equal to 50 percent of the average unit rate for all units other than incapable units in the pool;

2. any unit so designated by special field order;

3. the "average unit rate" shall be determined by dividing the proratable rate of production for the pool (excluding production from incapable units) by the number of units in the pool (excluding incapable units).

K. A deficient unit shall be granted an assigned allowable in accordance with the procedures set forth in §2107.A, B, C, and D, but in no event in excess of its efficient rate of production.

L. The assigned allowable for each competitive unit in a pool shall be determined in accordance with the following principles and determinations, to wit:

1. the commissioner must first determine the "proratable rate of production";

2. the proratable rate of production for a pool shall be determined by calculating the sum of the base unadjusted allowable or alternate nomination as the case may be, and the deliverability adjustments thereto, for the pool. The proratable rate of production for the pool may not exceed the efficient rate of production for all units in the pool;

3. the commissioner must then determine the "calculated unit allowable";

4. the calculated unit allowable for each remaining proratable unit in a pool shall be determined by deducting from the proratable rate of production of the pool the sum of the assigned allowable for incapable units and deficient units and multiplying that resulting number by a fraction the numerator of which is the number of surface acres in the individual unit and the denominator of which is the total surface acres in the units which are not incapable or deficient;

5. the assigned allowable for each such proratable unit shall be the lesser of the calculated unit allowable and the efficient rate of production for the unit;

6. the difference between the calculated unit allowable and the assigned allowable calculated for each unit shall not be reassigned to other proratable units within the pool unless the commissioner grants an exception. The operator may file an application for exception which can be granted only if the commissioner determines after notice and public hearing that to do so:

- a. would maximize efficient recovery of reserves; and
- b. would not result in reasonably avoidable net drainage between units within the pool, or otherwise impair correlative rights; and
- c. does not preclude the ability to balance production within the pool.

The commissioner may reach such a determination during initial unit hearings, based upon permeability, porosity, or other petroleum engineering data and disparity in acreage assigned to a unit(s).

M. The commissioner may deviate from the foregoing if:

1. special field orders which provide for a different formula are adopted; or
2. there is agreement of all owners in the pool as to a different formula; or
3. the commissioner determines that the application of this Section is not in the interest of conservation or will not protect correlative rights.

N. The assigned allowable for a newly completed well or recompletion/workover in a pool during any quarterly allowable period shall be established by the same formula that was used in fixing the allowable for wells already producing from such pool at the beginning of the allowable period. Assigned allowables for newly completed or recompleted gas wells shall commence no sooner than the date of initial production to market or for field/lease use in accordance with the provisions of LAC 43:XIX, Subpart 1.

O. Allowables must be assigned to units with an alternate unit well(s) in a manner which will preclude such unit from obtaining a production advantage over other units in the pool. This provision shall not apply to allowables assigned to units which are described in §2107.E.

P. The schedule of assigned allowables for each unit/well issued by the commissioner for each quarterly period shall be expressed as an average daily allowable for the period. For the purpose of reporting monthly production to the commissioner, the daily allowable for each unit/well times the number of days in the calendar month shall be reported as the monthly allowable.

Q. No unit/well shall be entitled to an assigned allowable, nor shall any assigned allowable be granted, until all necessary physical connections to a pipeline for field/lease use or marketing have been made to permit full utilization of the allowable.

R. All information and calculations required for determination of allowables must be provided on Form EDG-1, entitled "29-F Allowable Calculation Worksheet," which must be completed by the operator(s) within each pool and returned to the commissioner and the district manager on

or before the first day of the month preceding the quarter for which the allowable is being determined. Allowables will not be assigned to any unit/well in a given pool unless the forms are completed and returned timely by the operator of such unit/well, and the operator shall be required to shut-in the unit/well if no assigned allowable is granted. Any violation hereof may result in fines under LSA-R.S. 30:17 and 18, of not more than \$5,000 per day.

S. Allowables may not be increased for overproduced units/wells from quarter-to-quarter in order solely to achieve balancing pursuant to §2109. Moreover, allowables may not be reduced by the commissioner simply because the operator in a unit elects voluntarily to market gas on a seasonal basis (that is, reduction in production attributable to its interest in one or more months and increase in production in other periods during the year).

T. In periods of emergency, the commissioner shall issue an emergency allowable in order to satisfy an increase or decrease in demand for gas through adjustment of the quarterly assigned allowables. Production pursuant to any emergency allowable may not be continued beyond a 15-day period without notice and public hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (November 8, 1955), amended (July 1, 1959), amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:

§2109. Balancing of Production to Allowable

A. Except as limited by the efficient rate of production, any unit/well may produce during any calendar month, twice the allowable assigned to it, provided that its production shall be brought into balance at the times and in the manner herein prescribed. When the monthly production from a unit/well exceeds its monthly allowable, the excess shall be termed "overproduction," and when a unit's/well's monthly production is less than its monthly allowable, the deficiency shall be termed "underproduction."

B. Each operator shall keep a monthly account of the cumulative production status of each unit/well as to overproduction and underproduction and shall report such cumulative production status on Form R5P filed monthly with the Office of Conservation and the district manager of the district in which the pool is located.

C. When any unit/well has a cumulative overproduction status on November 30 of any year, the operator of such overproduced unit/well shall reduce the production of gas from the unit/well during the next six months below the assigned allowable so as to bring its production into balance with its cumulative assigned allowable by the thirty-first day of May of the next year. Such reduced production may be at varying rates of withdrawal, normally experienced in gas production and marketing, so long as the overproduction is eliminated by the first day of June. Any unit/well having a cumulative overproduction status in a competitive pool on the thirty-first day of May of any year shall be shut-in and not produced until such overproduction is entirely eliminated. When any unit/well shall have a cumulative underproduction status as of November 30, such underproduction may be made up during the next six months, but any underproduction remaining on

June 1 of any year shall be canceled as of that date and shall not thereafter be made up, unless the commissioner grants an exception after notice and public hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (November 8, 1955), amended (July 1, 1959), amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:

§2111. Capability of Wells to Produce

A. Anything herein contained to the contrary notwithstanding, no unit/well shall be produced in excess of its efficient rate of production nor at a monthly rate in excess of twice its monthly assigned allowable, even during makeup periods.

B. Except as otherwise provided herein, each operator shall conduct semi-annual deliverability tests of each producing gas well by methods approved by the commissioner. The results of such tests shall be reported on Form DT-1 entitled "Gas Well Deliverability Test," and shall be certified by a petroleum engineer or other person with technical knowledge and familiarity with the production characteristics of the units/wells in the pool in question. The deliverability test shall be designed to determine the efficient rate of production for each well by simulating the maximum sustainable rate of production into pipeline gathering or transmission facilities under prevailing operating and marketing circumstances. The test shall be conducted for 24 consecutive hours at the end of a three-day uninterrupted period of production. The test should be conducted using the same choke size and other operational conditions in effect for day-to-day long term production and marketing; in short, no changes shall be made in the manner in which the wells are normally produced in testing same for sustainable deliverability.

C. The Form DT-1 shall include information regarding the most recent shut-in wellhead pressure of each well in the pool, the date such pressure was measured, and the number of hours the well was shut-in before the shut-in wellhead pressure was measured. The most recent bottomhole pressure test or estimated bottomhole pressure shall also be included on the Form DT-1. The deliverability test as reported on Form DT-1 shall specify the efficient rate of production as determined in accordance with these procedures. The Form DT-1 shall also contain a certification statement which must be signed verifying that the well is being produced at or below the efficient rate of production (which may be less than the physical deliverability of the well).

D. Form DT-1 shall be filed in duplicate with the district manager no later than the fifteenth day of January and July of each year. District managers may schedule deliverability tests for the purpose of having such tests witnessed by a representative of the Office of Conservation. The operator shall be notified at least five days in advance of any test so scheduled.

E. False certification may result in fines and other sanctions in accordance with LSA-R.S. 30:17 and 18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (November 8, 1955), amended (July 1, 1959), amended

and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:

§2113. Ratable Production

The commissioner may make a survey of the production of gas from each pool, field, or unit/well. Should the commissioner find that during the preceding six months period, gas has not been produced ratably from the units/wells producing from any pool in accordance with the assigned allowables, he shall call a conference of all operators of the units/wells in the pool and determine the reason gas has not been produced ratably in accordance with the assigned allowables and shall make such adjustments in assigned allowables or take such further action as deemed appropriate to accomplish a ratable production of gas from the various units/wells in such pool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (November 8, 1955), amended (July 1, 1959), amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:

§2115. Owner's Share of Production

A. In order to assure each owner the opportunity to recover or to receive his just and equitable share of production, the commissioner (without in any way affecting the assigned allowable granted by the commissioner for the unit/well hereunder), may, after notice and public hearing:

1. enter an order to assure any underproduced owner in a unit/well not a party to a gas balancing agreement, the reasonable opportunity to produce, for such time and of such productive volume as is appropriate, a share of the production from that unit/well that is just and reasonable under the circumstances to make-up such underproduction; or

2. in the alternative, if the commissioner finds that a balancing in-kind is not feasible or appropriate, order cash balancing.

B. Balancing in-kind is the preferred method of making up underproduction. The commissioner may modify or deny the right to take in-kind and may order cash balancing if balancing in-kind:

1. causes waste;

2. precludes another owner from recovering or receiving its just and equitable share; or

3. infringes on the correlative rights of another owner by limiting his liberty to enjoy his rights or causes damage to him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (November 8, 1955), amended (July 1, 1959), amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:

§2117. Owner's Right of Appeal

If any owner in the applicable pool objects to the assignment of the allowable requested by the operator of a unit/well or to the assigned allowable for any unit/well granted by the commissioner, such owner may file an application for public hearing after notice for a review of such request or assigned allowable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (November 8, 1955), amended (July 1, 1959), amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:

APPENDIX "A"

| FIELD | RESERVOIR | |
|--------------------|---------------------|-------------------|
| Ada | James Lime | Buffalo Bayou |
| | HOSS A RA | Caddo-Pine Island |
| | HOSS B RA | Calvin |
| | HOSS C RA | Canadian Bayou |
| | Davis | Carterville |
| | HOSS G | |
| | Hill | |
| | Pettit | |
| | CV RA | |
| | Jeter | |
| | Cook | |
| Antioch | SMK RA | |
| Arcadia, West | U HOSS RA | |
| | U HOSS RB | |
| | Pettit | |
| | 7250' HOSS RA | |
| | 7300' HOSS RA | |
| | 8100' HOSS RA | |
| Arkana | Haynesville RA | |
| Athens | HOSS | |
| | PET RA | |
| | LCV RA | |
| | L PET RA | |
| | CV RA | |
| | TFL RA | |
| | U CV RA | |
| Bear Creek | TILLEY HOSS | |
| | HOSS B RA | |
| | HOSS C RA | |
| | HOSS B RB | |
| | Continental Can Sd | |
| | Brown-Ozley | |
| | Poland RC | |
| | Hodge-Hunt | |
| | SLI RA | |
| | BAIN RA | |
| Belle Bower | PXY | |
| | U HOSS RA | |
| | PET RA | |
| | CV RA | |
| Benson | U HOSS RA | |
| | L HOSS RA | |
| | JAMES LM | |
| Benton | M HOSS RA | |
| | L HOSS RA | |
| | U HOSS RA | |
| | HOSS 6014' RA | |
| | HOSS A | |
| Bethany-Longstreet | HILL | |
| | PAGE | |
| | GLOYD | |
| | HOSS RA | |
| | GLOYD RB | |
| | CRANE | |
| | PET RA | |
| | RODESSA | |
| Blackburn | McCREARY RA | |
| | BODCAW | |
| Blackburn, East | U DAVIS | |
| Black Lake | PET | |
| Bracky Branch | HOSS RA | |
| | U GR RA | |
| | L GR RA | |
| | GLEN ROSE RA | |
| | NAC RA | |
| Bryceland | HOSS A | |
| | HOSS B | |
| Bryceland, West | U HILL RA | |
| | HOSS A | |
| | HOSS B | |
| | Buffalo Bayou | LAFITTE RA |
| | Caddo-Pine Island | SLIGO RC |
| | Calvin | SLIGO RA |
| | Canadian Bayou | RODESSA RA |
| | Carterville | GR RB |
| | | GR RC |
| | | Smackover RA |
| | | Smackover RB |
| | | Smackover RC |
| | | Haynesville RA |
| | Carterville, North | PETTIT RA |
| | | Haynesville RA |
| | | L Haynesville RA |
| | Caspiana | CV RA |
| | | HOSS RA |
| | | ROD RA |
| | | PET RA |
| | Castor | HOSS RA |
| | | Rod RC |
| | Cedar Grove | HOSS RA |
| | | ROD RA |
| | Chatham | JAMES LM |
| | | L HOSS RA |
| | | JAMES SAND |
| | Chemard Lake | GR RB |
| | | GR RC |
| | | NAC RA |
| | Choudrant | 6000' RA |
| | | 6500' RB |
| | | 6500' RC |
| | | 8600' RA |
| | | JAMES RB |
| | | DAVIS RA |
| | | PIPES RA |
| | | CV D RA |
| | | UCV RA |
| | Clay | CV RA |
| | | CV RB |
| | | HOSS RA |
| | | L JAMES |
| | Clear Branch | HOSS RA |
| | Colquitt | HA RA |
| | | SMK C RA |
| | Converse | HOSS RA |
| | | JAMES RA |
| | | 7190' HOSS RA |
| | Cotton Valley | CV SU |
| | | CV C RA |
| | | GRAY RB |
| | | GRAY |
| | | T-1-5 TRAVIS PEAK |
| | | NORTH CV D |
| | | DAVIS |
| | Danville | HOSS A |
| | | HOSS B |
| | | HOSS C |
| | | HOSS D |
| | | CV RA |
| | | RODESSA RA |
| | Dodson | WX RA |
| | Downsville, South | SMK RA |
| | Driscoll | HOSS RA |
| | | U PETTIT |
| | | JAMES RA |
| | Dykesville, East | McCREARY RA |
| | | HA RA |
| | | SMK C RA |
| | | SMK C RB |
| | | SMK C RC |
| | | CV RA |
| | Elm Grove | HOSS RA |
| | | CV RA |
| | | ROD RA |
| | | LCV RA |
| | Eros | U WX RA |
| | Five Forks | MIDD CV RA |
| | Forest Grove School | PET RA |
| | Gahagan | HOSS RA |

| | | | |
|-----------------------|------------------|----------------------|-----------------|
| | HOSS RB | Joyce | WX RA |
| | HOSS RD | Kingston | HOSS RA |
| | U GLEN ROSE | | PETTIT RA |
| Grand Cane | RUSS RA | | CV RA |
| | PET RA | Lake Bistineau | RODESSA RA |
| | GR RA | Leatherman Creek | CV RA |
| | HOSS RA | | HOSS A RA |
| | L GR RB | | HOSS B RA |
| | ROD RA | Liberty Hill | HOSS RA |
| Greenwood-Waskom | NORRIS RA | | HODGE HUNT |
| | CV BOD RA | Lisbon | TFL RC |
| | GLOYD RA | | L ALFORD |
| | ROD HILL RA | | BURGESS SIMMONS |
| | PXY SUA | | SMK A RA |
| | TRAVIS PEAK | | SMK A RC |
| | LCV RA | | SMK A RD |
| | CV D | | HALL SD |
| | AGURS RA | | U HOSS RA |
| | HEROLD SD (TP) | | KILPATRICK |
| | PET | | L HOSS |
| Grogan | U DAVIS RA | | SEXTON |
| | PXY RA | | TERRYVILLE RA |
| | NAC RA | | 5100' HOSS RA |
| | SMK RA | | HAYNESVILLE A |
| Haynesville | SMK C RB | | HAYNESVILLE B |
| | SMK C RC | Lisbon, West | HAYNESVILLE |
| | HAYNESVILLE RA | | CV RA |
| | HAYNESVILLE RC | | VAUGHN RB |
| | HAYNESVILLE RD | Logansport | JETER |
| | HAYNESVILLE RB | | PETTIT |
| Haynesville, East | KILPATRICK | | ASHTON |
| | KILPATRICK RB | | WALNUT PALUXY |
| | SMK LM B | | PALUXY |
| | SMK C RA | | U HOSS |
| | HAYNESVILLE RA | | MPT RB |
| | HAYNESVILLE RB | | M HOSS |
| | HAYNESVILLE RC | | L HOSS |
| | TAYLOR RC | | HOSS |
| | U HAYNESVILLE RA | | L GLEN ROSE |
| | U HAYNESVILLE RB | Longwood | CV RA |
| | U HAYNESVILLE RC | | PET |
| | SMK RC | | CV RA |
| | HILL RB | | HOSS RA |
| Hickory Valley | HILL RC | | HOSS RC |
| | WX RA | | BODCAW |
| Hickory Valley, North | SPARTA | | CV D |
| | WX A RA | McKenzie | HILL RB |
| | WX B RA | | HA RA |
| Hickory Valley, West | WX RA | | SMK RA |
| Hico-Knowles | TATUM | | CV RA |
| | BODCAW | Metcalf | PET RA |
| | HALL | Middlefork | CV DAVIS RB |
| | VAUGHN | Minden | MOORINGSPOINT A |
| | McFEARIN | | JAMES LM RB |
| | HOSSTON | | L HOSS |
| | HOSS E | | BLOSSOM RA |
| | HOSS A-3 | Missionary Lake, N. | CV RA |
| | HOSS F | | PET RA |
| | TAYLOR | | SMK A RA |
| | HOSS D | Mount Sinai | BUCKNER RB |
| | 6900' HOSS | Newport | WX RA |
| | CV RA | | WX RB |
| Hodge | HOSS A-2 | | WX RC |
| | HOSS A-4 | Oaks | SMK B |
| | HOSS A | | SMK B RA |
| | HOSS B | | SMK RA |
| | HOSS B RA | | U SMK A RA |
| | HOSS C | Panther Creek | SMK RA |
| | JAMES LM | | SMK RB |
| Hodge, Northeast | HOSS | | PET RA |
| Holly | HOSS RA | Plain Dealing | HOSS RB |
| | CV RA | | HOSS RA |
| | PXY RA | | CV RB |
| Honore | HILL RA | Redoak Lake | U GR RA |
| Ivan | CV RA | | ROD RA |
| | GRAY RA | Red River-Bull Bayou | LAF RA |
| Jamestown | JAMES RA | | LAF RB |
| Johnson Branch | CV RA | | HOSS RA |

Robeline
Rocky Mount

Rodessa
Ruston

Sailes

Sandy Creek
San Miguel Creek
Sarepta, South
Sentell

Shongaloo

Shongaloo Red Rock, N.

Shreveport

Sibley

Simsboro

Simsboro, West

LAF RC
SLIGO RA
JENKINS RA
HOSS RA
GRAY RA
DEMOSS
MID CV RA
SMK HEATH RA
D SAND
VAUGHN
FEAZEL DAVIS SD
FEAZEL
McCRARY RA
McCRARY RB
U HOSS
M HOSS
L HOSS
CV C
DAVIS RC
5450' HOSS RA
5500' HOSS RA
6700' HOSS RA
6860' HOSS RA
6932' HOSS RA
6975' HOSS RA
8050' HOSS RA
8600' HOSS RA
8974' HOSS RA
McFEARIN RA
DAVIS RA
PRICE RA
PRICE RB
HOSS A
HOSS B
CV RA
WX RA
LAF RA
GRAY RA
BODCAW
HILL RA
MITCHELL RA
KILPATRICK RA
HAYNESVILLE
SMK A RB
SMK B RB
SMK B RC
SMK C RA
SMK C RB
SMK C RC
SMK C RD
HAYNESVILLE RD
HAYNESVILLE RE
L CV RA
HILL RE
HOSS RA
HOSS B RA
HOSS C RA
PET RA
PET RB
HOSS A
HOSS B
ROD RA
HOSS L
U HOSS L
GARDNER
U SLIGO RA
HOSS K
U HILL
WEST SAND
HOSS
7990' HOSS RA
8120' HOSS RA
8600' HOSS RA
HOSS R
BROYLES RA
L HOSS RA
CV RA
7800' HOSS RA

Sligo

Spider

Springhill
Sugar Creek

Terryville

Thorn Lake
Tremont

Trenton
Unionville

Vernon

Walnut Bayou
Whelless Branch

HOSS TP
L CV RA
CV D
6300' PET RA
HOSS RA
PET
NORRIS SD
HAYNESVILLE RA
TRAVIS PEAK
CV RA
HOSS FORSTON RA
PET RB
HOSS HASS RA
5460' HOSS RA
6015' HOSS RA
DURRETT RA
LCV RA
CV D
UCV RA
GRAY RA
CV RA
HOSS RA
DAVIS
BODCAW
VAUGHN
PET RA
CV DAVIS RA
CV D RB
CV L DAVIS
BODCAW RA
LCV RA
CV C RA
U CV RA
HOSS RA
HOSS B RA
1700' WX RA
SPARTA RA
2000' RA

The commissioner of conservation will conduct a public hearing at 9:00 a.m., Monday, November 29, 1993, in the Conservation Auditorium, located on the First Floor of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

At such hearing the commissioner shall consider the promulgation of amendments to Statewide Order No. 29-F by adopting filing requirements for gas nominations and gas well deliverability tests and rules and regulations concerning the calculation of allowables and balancing of production to allowable for wells completed in non-associated gas pool.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at said public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., December 6, 1993 at the following address: John R. Aldridge, Office of Conservation, Engineering Division, Box 94275, Baton Rouge, LA 70804-9275, Re: Docket No. 93-470.

H. W. Thompson
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Amendment to Statewide Order No. 29-F**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Estimated costs to state government units is \$124,350 for FY 93-94, \$255,361 for FY 94-95, and \$265,575 for FY 95-96.

Please note, the difference between the cost totals for FY 93-94 and FY 94-95/FY 95-96 is due to the fact the amended regulation is proposed to become effective January 20, 1994; therefore, personal services for FY 93-94 would only include cost for the last five months of the fiscal year.

There will be no implementation costs or savings to location government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state governmental units will be increased by an estimated \$300,000 per year. However, the estimated revenue collection for FY 93-94 is prorated over the last five months of the fiscal year for a total of \$125,000.

There will be no effect on revenue collections of local governmental units.

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

Estimated additional costs for FY 93-94 will be approximately \$1,127,500 due to the fact the amended regulation is proposed to become effective January 20, 1994; therefore, costs are prorated over the last five months of the fiscal year.

Estimated additional costs to producers of non-associated gas is:

| | |
|--------------------------------------|--------------------|
| Public Hearing Cost | \$2,500,000 |
| 29-F Allowable Calculation Worksheet | <u>210,000</u> |
| TOTAL | \$2,710,000 |

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

H. W. Thompson
Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

**Disciplinary Rules and Procedures for Juvenile Offenders
(LAC 22:I.Chapter 3)**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to promulgate new rules and regulations, all relative to the manual of Disciplinary Rules and Procedures for Juvenile Offenders.

Copies of the proposed rule may be obtained from Corrections Services, 504 Mayflower Street, Baton Rouge, LA 70802 or from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802, phone (504) 342-5015.

Interested persons may submit written comments to Richard L. Stalder, Secretary, Department of Public Safety and Corrections, Box 94304, Baton Rouge, LA 70804-9304. Comments will be accepted through the close of business, 4:30 p.m., November 15, 1993.

Richard L. Stalder
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Disciplinary Rules and Procedures for Juvenile Offenders (LAC 22:I.Chapter 3)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs or savings to state or local governmental units associated with 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 associated with this rule.

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

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups associated with this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no effect on competition and employment.

Richard L. Stalder
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Alcoholic Beverage Control**

**Fairs, Festivals, and Special Event Permits
(LAC 55:VII.323)**

In accordance with R.S. 49:950 et seq., and under the authority conferred by Title 26 of the Revised Statutes, in general, and R.S. 26: 793, in particular, the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, gives notice that rulemaking procedures have been initiated to amend the Liquor Credit Regulations, LAC 55:VII.323.

The current language does not prohibit or limit contributions or sponsorships between a licensed wholesaler and a holder of a special temporary retail alcoholic beverage permit. This lack of a prohibition or limitation can lead to the exclusion in whole or in part of licensed wholesaler from a special event in violation of Title 26 of the Revised Statutes. LAC 55:VII.323 is being amended to prohibit contributions or sponsorships between a licensed wholesaler and a holder of a special temporary retail alcoholic beverage permit.

LAC 55:VII.323 is also being amended to delete the permit for a nonprofit organization which does not have tax exempt status.

The text of this proposed rule may be viewed in its entirety in the emergency rule section of this October, 1993 *Louisiana Register*.

All interested persons are invited to submit written comments on the proposed regulation. Such comments should

be submitted no later than November 30, 1993 at 4:30 p.m. to Raymond Holloway, assistant secretary, Office of Alcoholic Beverage Control, Department of Public Safety and Corrections, Box 66404, Baton Rouge, LA 70896 or to 1885 Wooddale Boulevard, Sixth Floor, Baton Rouge, LA 70806.

Raymond Holloway
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fairs, Festivals and Special Events**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no additional costs as this rule amends a current rule on the same subject and there should be no increase in the number of applications.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no effect on revenues as the fees charged are remaining the same and there should be no increase in applications as a result of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There should be no new or additional costs as this rule does not affect the cost of permits and this rule does not change the costs an industry member will charge the permit holder.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This will improve competition between wholesalers as wholesaler will not be required to give anything of value to get the business from the special event.

Raymond Holloway
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police
Transportation and Environmental Safety Section**

**Motor Carrier Safety and Hazardous Materials
(LAC 33:V.10303 and 10305)**

The Department of Public Safety and Corrections hereby gives notice of intent to amend the current rules adopted pursuant to R.S. 32:1501 et seq., relating to the Motor Carrier Safety and Hazardous Materials Regulations for Carriage by Public Highway.

The department intends to re-insert paragraphs 4 and 5 under §10305 in the Motor Carrier Safety and Hazardous Materials regulations. These paragraphs were inadvertently deleted in earlier rulemaking. These paragraphs existed in the November 20, 1991 rule. By error, these paragraphs were deleted in the July 20, 1992 rule due to the failure to place asterisks below the published paragraph to indicate additional text not printed.

These proposed rule changes also incorporate into LAC 33:V.10303 any technical changes that have occurred since September 30, 1992 in the Federal Motor Carrier Safety Regulations and Hazardous Materials Transportation Regulations as found in 49 CFR.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Materials and Hazardous Waste

**Subpart 2. Department of Public Safety
and Corrections—Hazardous Materials**

**Chapter 103. Motor Carrier Safety and Hazardous
Materials Regulations for Carriage by
Public Highways**

§10303. Adopted Regulations

A. The following federal motor carrier safety regulations and hazardous materials regulations promulgated by the United States Department of Transportation, revised as of December 20, 1993, and contained in the following parts of 49 CFR as now in effect or as hereafter amended, are made a part of this Chapter.

Hazardous Material Regulations

Part 171 - General Information, Regulations, and Definitions

Part 172 - Hazardous Materials Tables and Hazardous Materials Communications Regulations

Part 173 - Shippers - General Requirements for Shipping and Packagings

Part 177 - Carriage by Public Highway

Part 178 - Shipping Container Specifications

Part 180 - Qualification and Maintenance of Packagings

Motor Carrier Safety Regulations

Part 383 - Commercial Drivers' License Standards

Part 390 - Federal Motor Carrier Safety Regulations:
General

Part 391 - Qualifications of Drivers

Part 392 - Driving of Motor Vehicles

Part 393 - Parts and Accessories Necessary for Safe Operation

Part 395 - Hours of Service of Drivers

Part 396 - Inspection, Repair, and Maintenance

Part 397 - Transportation of Hazardous Materials, Driving and Parking Rules

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:1115 (November 1991), LR 19:351 (March 1993), LR 20:

§10305. Applicability of Regulations

A. For the purpose of this Chapter, the federal regulations, as adopted or amended herein, shall govern all carriers, drivers, persons or vehicles:

1. to which the federal regulations apply;

2. engaged in the transportation of hazardous materials within this state.

B. For the purpose of this Chapter, the federal motor carrier safety regulations, as adopted or amended herein, shall also govern all carriers, drivers, persons or vehicles not subject to the federal regulations if the operated vehicle has a

single or combined gross vehicle weight rating greater than 20,000 pounds and is used in commerce or industry.

C. The adopted federal regulations applicable to all carriers, drivers, persons or vehicles set forth in Subsections A and B of this Section shall be amended as follows:

1. For the adopted regulations governing all carriers, drivers or vehicles as specified in Subsection B, substitute "20,000 pounds" for all references made to "10,000 pounds."

2. Part 391.11(b)(1) shall read, "is at least 21 years old, or is at least 18 years old and lawfully possesses an appropriately classified driver's license secured from the Louisiana Department of Public Safety and Corrections."

3.a. If a driver has been regularly employed by a motor carrier for a continuous period of no less than three years immediately prior to January 20, 1988, such driver is exempt from complying with Parts 391.21, 391.23, and 391.33.

b. If a driver has been employed as a commercial motor vehicle operator for a minimum of 24 months prior to March 31, 1992, such driver is exempt from complying with Parts 391.41(b)(1), (2), (3), (4), (5), (10), and (11).

c. However, such a driver may remain qualified only as long as an examining physician determines, during the biennial medical examination required in 49 CFR Part 391.45, that the existing medical or physical condition that would otherwise render a driver unqualified has not significantly worsened or that another disqualifying medical or physical condition has not manifested. The medical examiner's certificate must display upon its face the inscription *MEDICALLY UNQUALIFIED OUTSIDE LOUISIANA* when a driver is qualified in accordance with the provisions stated herein.

4. When applicable, the words "Louisiana Department of Public Safety and Corrections" and/or "Office of State Police" shall be substituted where "U.S. Department of Transportation," "Federal Highway Administration," "Federal Highway Administrator," "Director," "Bureau of Motor Carrier Safety" or "Office of Motor Carrier Safety" appear;

5. Where special U.S. Department of Transportation forms or procedures are specified or required, substitute the compatible Louisiana Department of Public Safety and Corrections forms or procedures if such are required by the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 14:298 (May 1988), LR 17:1115 (November 1991), repromulgated LR 18:78 (January 1992), amended LR 18:746 (July 1992), LR 20:

For further information on this rulemaking action, please contact Sgt. Max LeBleu, Transportation and Environmental Safety Section, Office of State Police, Box 66614, Baton Rouge, LA 70896.

Interested persons may comment on the proposed rules in writing at the above address until November 19, 1993.

Col. Paul W. Fontenot
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Hazardous Motor Carrier Safety Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no expected costs or savings to state or local governmental units from the proposed amendments to the rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected effect on revenue collections for state or local governmental units as a result of the proposed rule.

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

There is no projected impact to directly affected persons arising from adoption of these regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no known impact on competition or employment.

Linda M. Dawkins
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Transportation and Development Office of Weights and Standards

Multiple Overweight Violations for Vehicles (LAC 73:I.901)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to adopt the following rule entitled Multiple Penalties for Vehicle Overweight Violations in accordance with Act 692 of 1993, R.S. 32:388.1.

An emergency rule to this effect was published in the September 1993 issue of the *Louisiana Register*.

Title 73

WEIGHTS, MEASURES AND STANDARDS

Part I. Weights and Standards

Chapter 9. Overweight Penalties

§901. Multiple Overweight Penalties

Whoever owns or drives any vehicle or combination of vehicles in violation of two or more of the provisions of R.S. 32:386 shall be assessed the greater or the greatest of the penalties, in the full amount of the penalty, and additionally, the owner or driver shall be assessed a penalty of \$10 for each other violation committed at the same time and arising out of the same incident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:388.1 as amended by Act 692 of the 1993 Regular Session of the Legislature.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Standards, LR 20:

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this notice of intent to Anthony G. Navarre, Weights and Standards Enforcement and Vehicle Permits Administrator, Department of Transportation and Development, Box 94042, Baton Rouge, LA 70804-9042, phone (504) 377-7101.

Jude W. Patin
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Multiple Penalties for Vehicle Overweight**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs will be necessary.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is estimated that the state will collect \$60,000 to \$80,000 in additional revenues annually as a result of implementation of this rule. It is also anticipated that the withholding of federal funds for not implementing this rule will be avoided.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
It is anticipated that the owners of vehicles which travel in excess of legal weight limits will pay \$10 per weight violation over and above their largest penalty; and this will amount to \$60,000 to \$80,000 spread over the entire trucking industry.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition or employment.

Jude W.P. Patin
Secretary

David W. Hood
Senior Fiscal Analyst

ADMINISTRATIVE CODE UPDATE

**CUMULATIVE ADMINISTRATIVE CODE UPDATE
January, 1993 through September, 1993**

| Vol, Title | Part.Section | Effect | Location LR 19 Month | Page |
|------------|---------------|---------|----------------------------|------|
| 1, LAC 10 | | | | |
| | I.541,545 | Adopted | Jan | 35 |
| | I.531,533,535 | Adopted | Jan | 35 |
| | I.551-559 | Adopted | Jan | 37 |
| | I.571,573 | Adopted | May | 611 |
| | I.1951 | Adopted | Jun | 736 |
| | V.Chap. 7 | Adopted | May | 612 |

LAC 35

I.1503,1511 Amended May 614
I.Chap. 17 Amended May 612

2, LAC 7

V.Chap. 15 Amended Sep 1120
XXIII.13139,13205 Amended Sep 1119
XXV.Chap. 141 Amended Aug 1009
XXVII.14728 Amended Jul 889
XIII.8735,8783 Amended Jul 888
XXIII.Chap. 131 Adopted May 609
XXIII.13123 Amended Jun 735
XXXIX.20101 Amended May 611
XXXIX.20301 Amended May 610

3, LAC 46

V.3603,3605 Amended Aug 1021
XXI.309 Amended Aug 1010
XXIX.Chap. 1-13 Amended Sep 1125
XXXI.Chap. 1-17 Amended May 611
XXXIII.411,420 Adopted Feb 207
XXXIII.Chap. 5 Amended Feb 205
XXXIII.701 Amended Feb 206
XXXIII.1206 Repromulgated Feb 207
XXXIII.Chap. 13 Adopted Mar 333
XXXV.Chap 1-21 Amended Sep 1144
XXXVII.501,505,903 Amended Jun 744
XLI.749 Adopted May 613
XLV.1940 Adopted Sep 1114
XLV.1942,4925 Adopted Mar 340
XLV.Chap. 21,51 Adopted Mar 334
XLV.Chap. 25,55 Amended Jun 744
XLVII.Chap. 3 Adopted Mar 341
XLVII.3331 Amended Sep 1145
XLVII.Chap. 35 Amended Sep 1146
XLVII.3536 Adopted Sep 1145
XLVII.Chap. 40 Adopted Sep 1150
XLIX.703 Amended Aug 1023
XLIX.903,905 Amended Aug 1023
XLIX.1107 Amended Aug 1024
LIII.Chap. 9 Amended/Repromul Aug 1024
LIV.Chap. 1,3 Amended Feb 208
LV.Chap. 3 Amended Jul 897
LXI.902,1103 Amended Jul 907
LXI.Chap. 3-25 Amended Jan 56
LXI.Chap. 27-31 Amended Jan 54
LXIII.Chap. 8 Amended Jan 46
LXIII.1702 Adopted Apr 496
LXVII.2403 Amended Feb 171
LXVII.3401-3411 Amended Sep 1128
LXVII.Chap. 63 Adopted Jun 736
LXXX.Chap. 1-19 Amended May 627
LXXXV.Chap. 1 Amended Mar 344
LXXXV.Chap. 3 Amended Mar 343
LXXXV.1103 Amended Feb 208
LXXXV.307 Amended Jan 48

4, LAC 4

III.Chap. 1 Amended Mar 318
VII.1237 Amended May 627
VII.1239 Adopted Mar 327

LAC 34

III.151 Adopted Apr 488

5, LAC 76

I.169 Adopted Jul 909
I.323,325 Adopted Mar 359
I.323 Repromulgated Apr 513
I.323 Repromulgated May 660

| | | | | | | | | | |
|-------------------|---------------|-----------------|-----|------|---------------------|--------------------|-----------------|-----|------|
| | III.321 | Adopted | Jul | 910 | | V.Chap. 103 | Amended | Mar | 351 |
| | V.701 | Amended | Feb | 215 | | V.3715 | Repromulgated | Apr | 486 |
| | VII.110 | Amended | Jun | 790 | | V.4411 | Repromulgated | May | 626 |
| | VII.145 | Amended | Apr | 511 | 14SW, LAC 33 | | | | |
| | VII.161 | Adopted | Apr | 510 | | VII.Chap. 1-11 | Amended | Feb | 187 |
| | VII.165 | Adopted | Mar | 361 | | VII.Chap. 3,5,7 | Amended | Sep | 1143 |
| | VII.167 | Adopted | Jun | 790 | 14UT, LAC 33 | | | | |
| | VII.307 | Amended | Sep | 1179 | | XI.713 | Amended | Aug | 1022 |
| | VII.307 | Amended | Jan | 58 | 15, LAC 33 | | | | |
| | VII.327 | Amended | Apr | 513 | | XV.Chap. 25 | Amended | May | 624 |
| | VII.329 | Amended | Feb | 216 | 16, LAC 70 | | | | |
| | VII.901 | Amended | Apr | 511 | | I.505 | Adopted | Mar | 352 |
| 6, LAC 22 | | | | | | III.Chap. 3 | Adopted | Mar | 352 |
| | I.Chap. 3 | Amended | May | 648 | | III.501 | Amended | Mar | 359 |
| | IX.205,209 | Amended | Jul | 892 | | XIX.Chap. 1 | Adopted | Apr | 507 |
| | IX.401 | Amended | Jul | 892 | | XVII.Chap. 1 | Adopted | Apr | 507 |
| | IX.402,403 | Amended | Jul | 893 | 17, LAC 43 | XVII.301 | Adopted | Jun | 785 |
| LAC 55 | | | | | | | | | |
| | I.Chap. 6 | Adopted | Jun | 780 | | I.Chap. 5 | Repealed | Apr | 489 |
| | I.Chap. 19 | Amended | Apr | 502 | | I.1515 | Amended | Apr | 501 |
| | VII.109 | Amended | Sep | 1175 | | III.101 | Amended | Aug | 1031 |
| | VII.325 | Adopted | Jul | 904 | | V.103 | Repealed | Apr | 489 |
| | IX.113 | Amended | Jul | 904 | | XIX.Chap. 9 | Amended | Jun | 770 |
| | IX.Chap. 15 | Amended | Jul | 898 | | XIX.Chap. 13 | Amended | Jun | 766 |
| 7, LAC 25 | XI.101,103 | Adopted | Jun | 779 | | XIX.Chap. 15,17 | Amended | Jun | 768 |
| | | | | | | XIX.Chap. 23 | Amended | Jun | 758 |
| LAC 37 | IX.Chap. 1-7 | Amended | Mar | 308 | | XIX.Chap. 25 | Amended | Jun | 767 |
| | | | | | | XIX.Chap. 27 | Amended | Jun | 777 |
| LAC 40 | III.703,1311 | Amended | Feb | 204 | | XIX.Chap. 29 | Amended | Jun | 775 |
| | | | | | | XIX.3101,3105 | Amended | Jun | 776 |
| | I.Chap. 9 | Amended | Jun | 755 | | XIX.Chap. 31,39,41 | Repromulgated | Aug | 1030 |
| | I.Chap. 11 | Adopted | Jul | 896 | | XIX.Chap. 33 | Amended | Jun | 773 |
| | I.Chap. 21 | Amended | Mar | 350 | | XIX.Chap. 39,41 | Amended | Jun | 759 |
| | I.Chap. 25-51 | Adopted | Jan | 53 | | XXVII.2101 | Repeal/Repromul | Apr | 489 |
| | I.Chap. 25-51 | Adopted | Feb | 212 | | XXVII.2301 | Repeal/Repromul | Apr | 491 |
| 9, LAC 48 | I.Chap. 53 | Adopted | Sep | 1161 | | XXVII.2501 | Repeal/Repromul | Apr | 492 |
| | | | | | | XXVII.2701 | Repeal/Repromul | Apr | 493 |
| 10, LAC 61 | VII.Chap. 7 | Amended | Mar | 346 | | XXVII.2901 | Repeal/Repromul | Apr | 494 |
| | | | | | | XXVII.3101-3104 | Repeal/Repromul | Apr | 494 |
| | I.1510 | Adopted | Sep | 1176 | | XXVII.3333:01 | Repeal/Repromul | Apr | 495 |
| | I.4303 | Amended | Aug | 1033 | 18, LAC 28 | XXVII.3501 | Repeal/Repromul | Apr | 496 |
| | I.4910 | Adopted | Aug | 1032 | | | | | |
| | V.Chap. 7-35 | Amended | Feb | 212 | | I.313 | Amended | Feb | 173 |
| 11, LAC 33 | | | | | | I.313 | Repromulgated | Jun | 739 |
| | I.Chap. 15 | Adopted | Apr | 487 | | I.903 | Amended | May | 614 |
| | I.1505 | Repromulgated | Jun | 742 | | I.909 | Amended | Sep | 1131 |
| | I.Chap. 39 | Amended | Aug | 1022 | | I.909 | Amended | Sep | 1131 |
| | III.504 | Adopted | Feb | 176 | | I.913 | Amended | Jun | 738 |
| | III.504 | Repromulgated | Apr | 486 | | I.915 | Amended | Jul | 890 |
| | III.919 | Repeal/Repromul | Feb | 184 | | I.917 | Amended | Feb | 171 |
| | III.919 | Repromulgated | Apr | 485 | | I.917 | Amended | Feb | 173 |
| | III.927,5107 | Amended | Aug | 1022 | | I.917 | Amended | Jun | 739 |
| | III.2115 | Amended | Mar | 317 | | III.1801 | Adopted | Feb | 173 |
| | III.2132 | Repromulgated | Jan | 45 | | III.1801 | Adopted | Jun | 740 |
| | III.3175 | Adopted | May | 615 | | III.1803 | Adopted | Feb | 174 |
| | III.Chap. 51 | Amended | Jul | 890 | | VII.Chap. 1 | Adopted | Aug | 1021 |
| | III.5107 | Repromulgated | Sep | 1142 | | | | | |
| | III.5115 | Repromulgated | Jan | 45 | | | | | |
| | III.5143 | Amended | Jan | 39 | | | | | |
| 13, LAC 33 | III.6081 | Repromulgated | Feb | 186 | | | | | |
| | V.105 | Amended | Aug | 1022 | | | | | |
| | V.109 | Repromulgated | May | 626 | | | | | |
| | V.2242 | Amended | Feb | 186 | | | | | |

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Department of Economic Development Used Motor Vehicles and Parts Commission

Licensure Qualifications and Eligibility

The Used Motor Vehicle and Parts Commission is repealing the notice of intent published on page 1191 of the September 20, 1993 *Louisiana Register* pertaining to the licensure of dealers who sell used motor vehicle parts and accessories.

John W. Alario
Executive Director

POTPOURRI

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

Relocating Air Fees

The Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, hereby gives notice that all information presently located in LAC 33:III.Chapter 65. Rules and Regulations for the Fee System of the Air Quality Control Programs will be renumbered and moved to Chapter 2 of the regulations. No changes to the text of the regulations are involved in this renumbering.

James H. Brent, Ph.D.
Administrator

POTPOURRI

Department of Environmental Quality Office of Legal Affairs and Enforcement

Semiannual Regulatory Agenda

The fall 1993 edition of the semiannual Regulatory Agenda is now available for distribution. This edition contains information concerning rules which have been proposed but not finalized and rules which are anticipated to be proposed during the remainder of 1993 and in 1994. Interested persons may obtain a copy for the cost of printing by contacting Cora James, (504) 765-0399, or through the Department of

Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA 70884-2282. Check or money order is required in advance.

James H. Brent, Ph.D.
Administrator

POTPOURRI

Office of the Governor Office of the Oil Spill Coordinator

Scheduled Meeting

In accordance with R.S. 30:2458(A), notice is hereby given that the Oil Spill Interagency Council will meet on November 4, 1993, at 2 p.m. in the Louisiana Public Facilities Authority Board Room, 8555 United Plaza Boulevard, Suite 100, Baton Rouge, LA. All interested persons are cordially invited to attend.

If you should need any further information, please call (504) 922-3230.

Roland J. Guidry
Coordinator

POTPOURRI

Department of Health and Hospitals Board of Embalmers and Funeral Directors

Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, December 4, 1993, at Delgado Community College, 615 City Park Avenue, New Orleans.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, phone (504) 838-5109.

Dawn Scardino
Executive Director

POTPOURRI

**Department of Health and Hospitals
Office of the Secretary
Commission on Perinatal Care and
Prevention of Infant Mortality**

Levels of Care for Perinatal and Neonatal Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Policy and Program Development, and the Louisiana Commission on Perinatal Care and Prevention of Infant Mortality is convening a public meeting on Tuesday, November 23, 1993, regarding proposed criteria changes for certification of levels of care designations of medical facilities providing specific perinatal and neonatal services in Louisiana. The purpose of the meeting is to receive input and solicit comments from the public on these proposed changes.

The meeting will be held in the Auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, Louisiana, beginning at 8:30 a.m. Interested persons may submit oral or written comments at this meeting. For information regarding this meeting, contact Madeline McAndrew, Director, Bureau of Policy and Program Development at (504) 342-9513.

Rose V. Forrest
Secretary

POTPOURRI

**Department of Natural Resources
Office of Conservation
Injection and Mining Division**

Public Hearing - Docket No. IMD 93-09

Pursuant to the provisions of the laws of the State of Louisiana and particularly Title 30 of the Revised Statutes of 1950 as amended, and the provisions of the Statewide Order No. 29-B, notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6 p.m., Monday, November 29, 1993, in the Plaquemines Parish Port Sulphur Community Center located off Highway 23, Port Sulphur, LA.

As such hearing, the commissioner, or his designated representative will hear testimony relative to the application of Newpark Environmental Services, Inc., Box 31480, Lafayette, LA 70593. The applicant intends to construct and operate a commercial nonhazardous oilfield waste transfer station/treatment facility in Section 17, Township 21 South, Range 31 East, Plaquemines Parish, LA.

The application is available for inspection by contacting Pierre Catrou, Office of Conservation, Injection and Mining Division, Room 253, Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA, or by visiting the Plaquemines Parish Council Office in Pointe a La Hache, LA. Verbal information may be received by calling Pierre Catrou at (505) 342-5515.

All interested persons will be afforded an opportunity to

present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 5 p.m., December 6, 1993, at the Baton Rouge Office. Comments should be directed to: Office of Conservation, Injection and Mining Division, Box 94275, Baton Rouge, LA 70804, Re: Docket No. IMD 93-09, Commercial Facility, Plaquemines Parish.

H.W. Thompson
Commissioner

POTPOURRI

**Department of Public Service
Public Service Commission**

Notice of General Orders

Notice is hereby again given that the Louisiana Public Service Commission has adopted a number of general orders pertaining to the regulation of public utilities and common carriers. These general orders, past and present, are available for inspection at the office of the Public Service Commission, One American Place, Suite 1630, Baton Rouge, LA 70825-1697.

Marshall B. Brinkley
Secretary

POTPOURRI

**Department of Public Service
Public Service Commission**

Rules of Practices and Procedures

Notice is hereby given that the Louisiana Public Service Commission has previously adopted Rules of Practices and Procedures of the Louisiana Public Service Commission which became effective on July 1, 1976. Since that date, a limited number of amendments to the rules have been adopted. The rules and the amendments are available for inspection at the office of the Public Service Commission. Copies of the Rules of Practices and Procedures manual may be requested by contacting the Public Service Commission, One American Place, Suite 1630, Baton Rouge, LA 70825-1697.

Marshall B. Brinkley
Secretary

POTPOURRI

Department of Transportation and Development Sabine River Compact Administration

Fall Meeting Notice

The fall meeting of the Sabine River Compact Administration will be held at the Chesterfield Hotel, 363 Coconut Row, Palm Beach, Florida 33480 on Friday, November 12, 1993, at 9 a.m.

The purpose of the meeting will be to conduct business as programmed in Article IV of the bylaws of the Sabine River Compact Administration.

The spring meeting will be held at a site in Louisiana to be designated at the above described meeting.

Contact person concerning this meeting is Mary H. Gibson, Secretary, Sabine River Compact Administration, Route 1, Box 780, Many, LA 71449 (318) 256-4112.

Mary H. Gibson
Secretary

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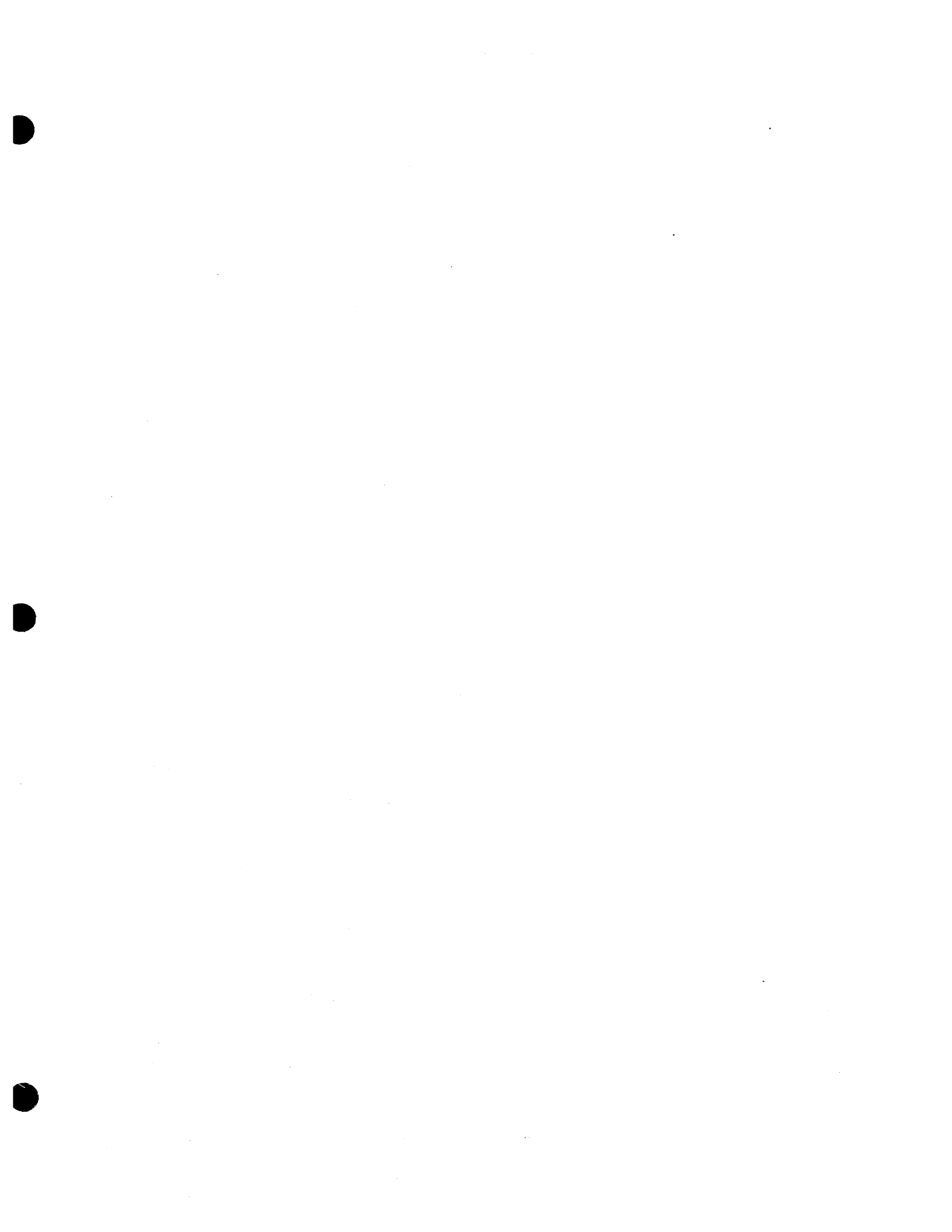
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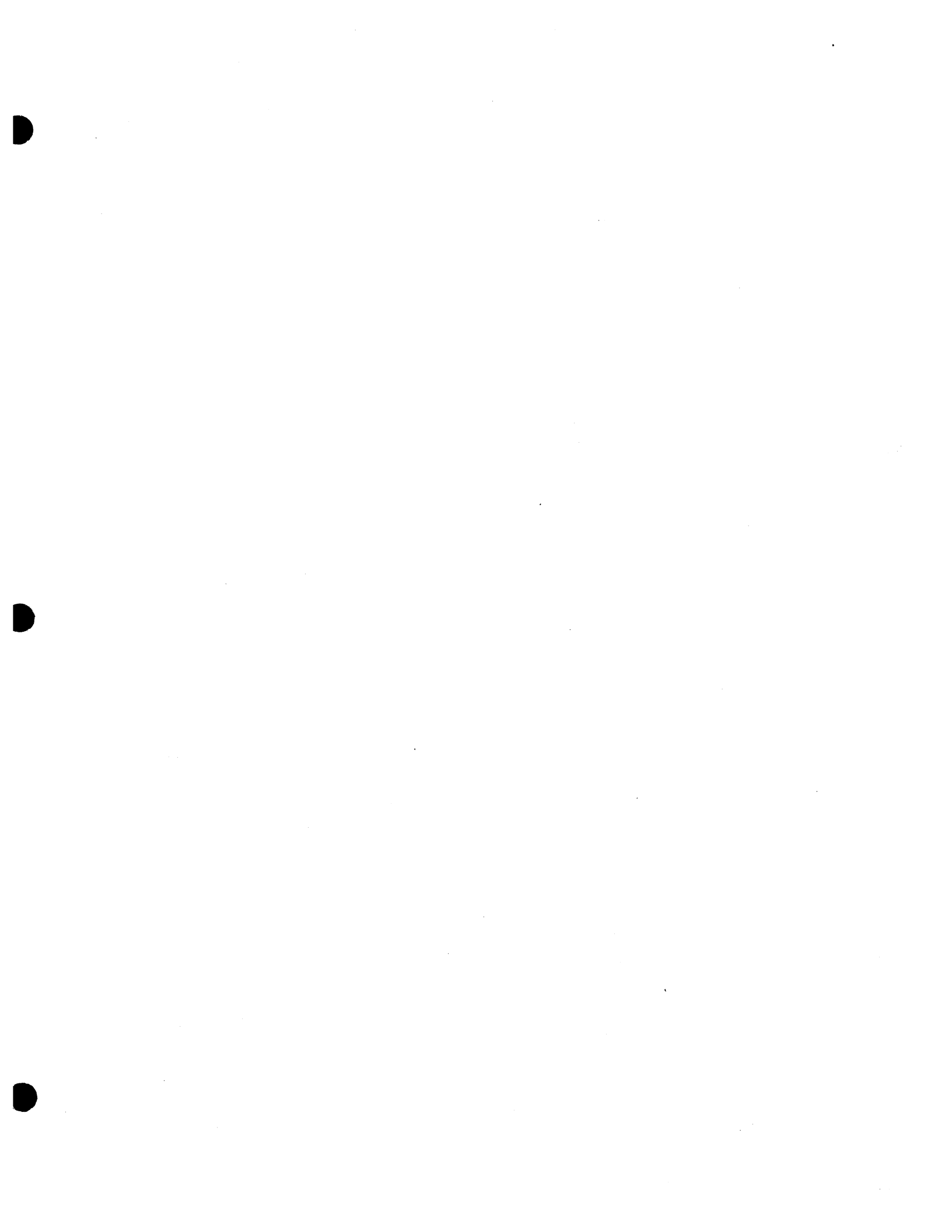
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Terrebonne Barrier Islands, 307ER, 424N, 734ER, 910R
Toledo Bend, 254N, 790R
Trapping season, 307ER
Waterfowl hunting, 1118ER

CR—Committee Report
ER—Emergency Rule
L—Legislation
P—Potpourri
PPM—Policy and Procedure Memorandum

EO—Executive Order
FA—Fee Action
N—Notice of Intent
PFA—Proposed Fee Action
R—Rule









**Statement of Ownership,
Management and
Circulation**
(Required by 39 U.S.C. 3685)

| | | | | | | | | |
|--|---------------------|---|---|---|---|---|---|-------------------|
| 1A. Title of Publication LOUISIANA REGISTER | 1B. PUBLICATION NO. | | | | | | | 2. Date of Filing |
| | 0 | 0 | 0 | 7 | 5 | 4 | 5 | 0 |

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|--------------------------------------|--|--|
| 3. Frequency of Issue MONTHLY | 3A. No. of Issues Published Annually 12 | 3B. Annual Subscription Price \$110 |
|--------------------------------------|--|--|

4. Complete Mailing Address of Known Office of Publication (*Street, City, County, State and ZIP+4 Code*) (*Not printers*)
P O BOX 94095 BATON ROUGE LA 70804-9095

5. Complete Mailing Address of the Headquarters of General Business Offices of the Publisher (*Not printer*)
SAME AS ABOVE

6. Full Names and Complete Mailing Address of Publisher, Editor, and Managing Editor (*This item MUST NOT be blank*)
Publisher (*Name and Complete Mailing Address*)

OFFICE OF THE STATE REGISTER P O BOX 94095 BATON ROUGE LA 70804-9095

Editor (*Name and Complete Mailing Address*)
SUZANNE MCANDREW, OFFICE OF THE STATE REGISTER P O BOX 94095 BATON ROUGE LA 70804-9095

Managing Editor (*Name and Complete Mailing Address*)

7. Owner (*If owned by a corporation, its name and address must be stated and also immediately thereunder the names and addresses of stockholders owning or holding 1 percent or more of total amount of stock. If not owned by a corporation, the names and addresses of the individual owners must be given. If owned by a partnership or other unincorporated firm, its name and address, as well as that of each individual must be given. If the publication is published by a nonprofit organization, its name and address must be stated.*) (*Item must be completed.*)

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| | |
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8. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages or Other Securities (*If there are none, so state*)

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|-----------|--------------------------|
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| | |

9. For Completion by Nonprofit Organizations Authorized to Mail at Special Rates (*DMM Section 424.12 only*)
The purpose, function, and nonprofit status of this organization and the exempt status for Federal income tax purposes (*Check one*)

(1) Has Not Changed During Preceding 12 Months (2) Has Changed During Preceding 12 Months
(If changed, publisher must submit explanation of change with this statement.)

| 10. Extent and Nature of Circulation <i>(See instructions on reverse side)</i> | Average No. Copies Each Issue During Preceding 12 Months | Actual No. Copies of Single Issue Published Nearest to Filing Date |
|---|--|--|
| A. Total No. Copies (<i>Net Press Run</i>) | 1159 | 1085 |
| B. Paid and/or Requested Circulation | | |
| 1. Sales through dealers and carriers, street vendors and counter sales | - | - |
| 2. Mail Subscription (<i>Paid and/or requested</i>) | 945 | 908 |
| C. Total Paid and/or Requested Circulation (<i>Sum of 10B1 and 10B2</i>) | 945 | 908 |
| D. Free Distribution by Mail, Carrier or Other Means Samples, Complimentary, and Other Free Copies | 54 | 62 |
| E. Total Distribution (<i>Sum of C and D</i>) | 999 | 970 |
| F. Copies Not Distributed | | |
| 1. Office use, left over, unaccounted, spoiled after printing | 160 | 115 |
| 2. Return from News Agents | 1159 | 1085 |
| G. TOTAL (<i>Sum of E, F1 and 2—should equal net press run shown in A</i>) | | |

11. I certify that the statements made by me above are correct and complete

Signature and Title of Editor, Publisher, Business Manager, or Owner
Suzanne McAndrew Editor