

CONTENTS

I. EXECUTIVE ORDERS	
EWE 94-7—Establishes Higher Education Commission for the Twenty-first Century	372
EWE 94-8—Amends Executive Order No. EWE 94-2	373
EWE 94-9—Rescinds Executive Order No. EWE 93-30	373
EWE 94-10—Bond Allocation by Public Facilities Authority for Belmont Water System, Inc.	373
EWE 94-11—Bond Allocation by the Industrial Development Board of Parish of Jefferson, LA, Inc.....	374
II. POLICY AND PROCEDURE MEMORANDA	
Governor's Office:	
Division of Administration, Office of the Commissioner—Taxable Compensation on Employee Provided Parking (LAC 4:V.Chapter 41)	374
III. EMERGENCY RULES	
Agriculture and Forestry	
Office of Marketing, Market Commission—Red River Valley Tomatoes (LAC 7:V.1735).....	376
Economic Development:	
Motor Vehicle Commission—Brokers of New and Unused Motor Vehicles (LAC 46:V.1801 and 1802).....	378
Education:	
Board of Elementary and Secondary Education—Bulletin 741—Math Requirements.....	378
Bulletin 1525—Principal Evaluation Committee Report.....	378
Bulletin 1794—Textbook Adoption	383
Environmental Quality:	
Office of the Secretary—Importation of Foreign Hazardous Waste (LAC 33:V.1101, 1113) (HW38E).....	386
Health and Hospitals:	
Office of the Secretary, Bureau of Health Services Financing—Disproportionate Share Payment Methodologies for Inpatient Hospital Services.....	388
Labor:	
Office of Labor—Minor Labor Law (LAC 40:VII.103)	391
Social Services:	
Office of Family Support—Food Stamp Recovery (LAC 67:III.2005).....	391
Treasury:	
Board of Trustees of the State Employees Group Benefits Program—Ambulance Services	392
Plan Document	392
Wildlife and Fisheries:	
Wildlife and Fisheries Commission—Sabine Lake Crabs.....	393
IV. RULES	
Agriculture and Forestry:	
Office of Agricultural and Environmental Sciences—Certified Organic Farming (LAC 7:XLIII.31101-31129)	393
Office of Agro-Consumer Services, Dairy Stabilization Board—Technical Revisions (LAC 7:XXXI.Chapter 161)	398
Office of Animal Health Services, Livestock Sanitary Board—Equine Infectious Anemia (LAC 7:XXI.Chapter 117)	405
Office of Forestry—Timber Stumpage Values (LAC 7:XXXIX.Chapter 201)	408

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Culture, Recreation and Tourism:

Office of Cultural Development, Division of Archaeology—Archaeologist Qualifications; Fees; Archaeological Survey and Antiquities Commission (LAC 25:I.Chapter 1)409

Economic Development:

Board of Examiners of Certified Shorthand Reporters—Continuing Education Credits (LAC 46:XXI.603)412
Office of Financial Institutions—Bond for Deed Escrow Agents (LAC 10:XV.Chapter 9)412
Used Motor Vehicles and Parts Commission—Identification Cards (LAC 46:V.2801)415

Education:

Board of Elementary and Secondary Education—Bulletin 1938—Church-Based Tutorial Program (LAC 28:I.906)416
Education Specialist Salary for 60-Hour Planned/Master’s Program416
Student Financial Assistance Commission, Office of Student Financial Assistance—Honors Scholarship417
LEO Adverse Credit Guarantee420

Environmental Quality:

Office of Air Quality and Radiation Protection, Air Quality Division—Chemical Accident Prevention and Fees (LAC 33:III.Chapters 2 and 59) (AQ31)421
Minor Sources of Air Toxins (LAC 33:III.Chapter 53) (AQ87)430
Office of Water Resources—Numerical Criteria Tables (LAC 33:IX.1123) (WP15)431

Governor’s Office:

Patient’s Compensation Fund Oversight Board—Payment of Surcharges (LAC 37:III.711-713)432

Health and Hospitals:

Board of Chiropractic Examiners—Accident Solicitation Letters (LAC 46:XXVII.310)433
Office of the Secretary—Establishment of Rural Health Care Authority433
Bureau of Health Services Financing—Transfers of Assets433
Bureau of Protective Services—Referral and Investigation Procedures (LAC 48:I.17101-17125)434

Justice:

Office of the Attorney General—Open Housing Act (LAC 16:I.101)438

Natural Resources:

Office of Conservation—Hazardous Liquid Safety (LAC 33:V.Chapter 301)439
Natural Gas Safety Standards (LAC 43:XIII.Chapters 1-29)442
Injection and Mining Division—Statewide Order 29-O-1 (LAC 43:XV.Chapters 1-73)447

Public Safety and Corrections:

Office of State Police, Charitable Gaming Division—Charitable Bingo, Keno, Raffle (LAC 42:I.1785 and 1789)448

Revenue and Taxation:

Tax Commission—Timber Stumpage Values (LAC 7:XXXIX.Chapter 201)408

Social Services:

Office of Family Support—Child Support Non-IV-D Program (LAC 67:III.Chapter 28)449
Individual and Family Grant Maximum and Flood Insurance (LAC 67:III.6501, 6502)449
Office of the Secretary—Child Care Centers (LAC 48:I.Chapter 53)450
Child Care Assistance (LAC 67:I.Chapter 1)459

Transportation and Development:

Office of Weights and Standards—Truck Permits; Sunday Curfews (LAC 73:I.Chapters 3 and 5)463

Treasury:

Board of Trustees of the State Employees’ Retirement System—Deferred Retirement Options Plan (DROP)464

V. NOTICES OF INTENT

Agriculture and Forestry:

Office of Marketing, Market Commission—Red River Tomatoes (LAC 7:V.1735)464

Culture, Recreation and Tourism:

Office of State Museum—Building Rental Policy (LAC 25:III.103)465
Museum Admission Fees (LAC 25:III.105)467

Economic Development:

Office of Commerce and Industry—Industrial Ad Valorem Tax Exemption Program (LAC 13:I.Chapter 15)467

Environmental Quality:

Office of Air Quality and Radiation Protection, Air Quality Division—Mobile Sources Emissions Reduction (LAC 33:III.611) (AQ91)471
Radiation Protection Division—Certification of Radiographers (LAC 33:XV.575) (NE12F)474
Certification of Radiographers (LAC 33:XV.575, 578, 579) (NE12L)475
Office of Solid and Hazardous Waste, Hazardous Waste Division—HSWA I and II (LAC 33:V.Subpart 1) (HW39F)478
HSWA I and II Revisions (LAC 33:V.Subpart 1) (HW39L)478

Governor’s Office:

Commission on Law Enforcement and Administration of Criminal Justice, Sentencing Commission—Felony Sentencing Guidelines (LAC 22:IX.Chapters 1-4)479

Health and Hospitals:

Board of Medical Examiners—Clinical Laboratory Personnel; Licensure and Certification (LAC 46:XLV.3501-3543)482
Illegal Payments; Required Disclosures of Financial Interests (LAC 46:XLV.Chapter 42)483

Office of the Secretary, Bureau of Health Services Financing—Advance Directives	486
Case Management Services for the Chronically Mentally Ill	488
Public Safety and Corrections:	
Office of Motor Vehicles—Driver's License Retesting Fee (LAC 55:III.127)	490
Social Services:	
Office of Family Support—Jobs Opportunities and Basic Skills Training Program (LAC 67:III.2916)	490
Office of the Secretary—Sanctions; Fee Scales (LAC 67: 101, 107)	491
Treasury:	
Board of Trustees of the State Employees Group Benefits Program—Ambulance Services	493
Plan Document	493
VI. ADMINISTRATIVE CODE UPDATE	
Cumulative-January 1994 through March 1994	494
VII. POTPOURRI	
Agriculture and Forestry:	
Office of Agricultural and Environmental Sciences—Annual Plant Pest Quarantine	495
Environmental Quality:	
Office of Air Quality and Radiation Protection, Air Quality Division—Notice of Substantive Changes to AQ85	496
SIP Hearing for Redesignation of New Orleans CSMA	498
Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division—Semiannual Regulatory Agenda	498
Office of the Secretary—Environmental Equity	499
Health and Hospitals:	
Office of the Secretary, Bureau of Health Services Financing—Inpatient Hospital Services	499
Natural Resources:	
Office of Conservation—Orphaned Oilfield Sites	499
Office of the Secretary—Fishermen's Gear Compensation Fund—Claims	502
Revenue and Taxation:	
Severance Tax Division—Natural Gas Severance Tax Rate	503
Tax Commission—1993 Ratio Study	503
Social Services:	
Office of Community Services—Social Services Block Grant (SSBG) State Plan	504

EXECUTIVE ORDERS

EXECUTIVE ORDER EWE 94-7

WHEREAS: higher education in Louisiana is a crucial asset, and it is at risk; and

WHEREAS: Louisiana's colleges and schools are the public nurseries of our future, and neglect of their welfare is a kind of silent social suicide; and

WHEREAS: the public and many state leaders have not sufficiently recognized the value of higher education; and

WHEREAS: as the chief administrative officer of the State, it is my duty to make clear the relationship between higher education and economic growth, higher education and social progress, higher education and a responsible citizenry, and higher education and Louisiana's future; and

WHEREAS: colleges and universities are the institutions to which we turn to acquire the knowledge and skills that are critical to succeed in a technologically-advanced society; and

WHEREAS: an increasingly open, global economy requires that all Louisiana citizens be better educated, more skilled, more adaptable, and more capable of working collaboratively; and

WHEREAS: a strong postsecondary education is the great equalizer in our society; and

WHEREAS: higher education needs to change in fundamental ways; and

WHEREAS: more students come to campus after being out of high school for years, more come from diverse backgrounds; and

WHEREAS: more students are employed, more have families, more attend college part-time; and

WHEREAS: the Southern Regional Education Board's Commission for Educational Quality has provided a blueprint for states to make the necessary changes in higher education for the public good;

NOW, THEREFORE, I EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the state constitution and laws of the State of Louisiana, do hereby establish a special Higher Education Commission for the 21st Century, which shall be domiciled in the Office of the Governor and hereinafter referred to as the 21st Century Commission.

FURTHER: The 21st Century Commission shall:

1. prepare a specific strategy to re-state the case for higher education; and
2. recommend specific changes that higher education needs to make in order to respond more effectively to students and to the state.

FURTHER: The 21st Century Commission shall be composed of the following to be appointed by and to serve at the pleasure of the governor, and the 21st Century Commission shall select the chairperson from the following members:

1. Representative Jimmy Long, Member, Southern Regional Education Board's Commission, Natchitoches, LA;
2. Bill Fenstermaker, President, Lafayette Chamber of Commerce and Fenstermaker & Associates, Lafayette, LA;
3. Aldan McDonald, President, Liberty Bank & Trust, New Orleans, LA;

4. Sam Williams, Owner and Operator of McDonalds at Baton Rouge, LA, and at Central, LA, and Member of Executive Committee, Chamber of Commerce, Baton Rouge, LA;

5. Monica Azar, Student Bar Association President, Southern University, Baton Rouge, LA;

6. Stanley W. Muller, Architech, The Muller Group, Metairie, LA;

7. Dr. Larry Crain, Commissioner of Higher Education, Baton Rouge, LA;

8. Dan Packer, General Manager, Plant Operations, Watterford III, Luling, LA;

9. Dr. Mary Ella Sanders, Radiation Oncologist, Turo Hospital, New Orleans, LA;

10. Harry McInnis, Jr., Vice President, McInnis Brothers, Inc., Minden, LA;

11. Mary Washington, Practicing Classroom Teacher, Northside High School, Lafayette, LA;

12. Jimmy Don Hudson, Assistant Manager, Corporate and External Affairs, South Central Bell, Monroe, LA;

13. Chuck McCoy, Retired Banker and Education Activist, Baton Rouge, LA;

14. Senator Cecil Picard, Chairman, Senate Education Committee, Abbeville, LA;

15. Victor Bussie, President, Louisiana AFL-CIO, Baton Rouge, LA;

16. Dr. Mary Lou Applewhite, Dermatologist, Private Practice, Baton Rouge, LA;

17. James D. Serra, Vice President and General Manager, KPLC-TV, Lake Charles, LA.

FURTHER, staff support shall be provided by the State Board of Regents, and when necessary by members of the other governing boards of higher education, as well as the Governor's Office.

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 10th day of March, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 94-8

WHEREAS: Executive Order EWE No. 94-2 establishes and creates Louisiana Task Force on the Sexual Abuse of Minors to conduct reviews, develop a protocol, establish a training and educational system, and present a report, inter alia, on cases involving the sexual abuse of minors; and

WHEREAS: it is necessary to expand the Louisiana Task Force on the Sexual Abuse of Minors to include one additional member;

NOW, THEREFORE, I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the state of Louisiana, do hereby amend Section 2 of Executive Order No. EWE 94-2 by adding one additional member to be appointed by the governor for a total of 12 members.

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 16th day of March, 1994.

Edwin W. Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 94-9

WHEREAS: following the publication of Executive Order No. EWE 93-30, representatives of the Department of Public Safety and the Department of Environmental Quality met and determined that Executive Order EWE No. 93-22 provides for responsibilities of state agencies in the area of emergency preparedness and that Executive Order EWE No. 93-30 provides for those same responsibilities; therefore EWE 93-30 should be rescinded to prevent unnecessary duplication;

NOW, THEREFORE, I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the state of Louisiana, do hereby rescind Executive Order EWE No. 93-30.

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 16th day of March, 1994.

Edwin W. Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 94-10

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order No. EWE 92-47 establishing (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1994 (the "1994 Ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1994 Ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS: the Louisiana Public Facilities Authority has requested an allocation from the 1994 Ceiling to be used in connection with the financing of the acquisition, constructing and equipping of a public water supply system for the Belmont, Louisiana Community to be located in the Parishes of Sabine, Natchitoches, and DeSoto for the Belmont Water System, Inc.; and

WHEREAS: the governor has determined that the project serves a crucial need and provides a benefit to the state of Louisiana, the Parish of Jefferson and surrounding parishes; and

WHEREAS: it is the intent of the governor of the state of Louisiana that this executive order, to the extent inconsistent with the provisions of Executive Order EWE 92-47, supercedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, Governor of the State of Louisiana, as follows:

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1994 Ceiling in the amount shown:

<u>Amount of Allocation</u>	<u>Name of Issuer</u>	<u>Name of Project</u>
\$3,700,000	Louisiana Public Facilities Authority	Belmont Water System, Inc.

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

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through December 31, 1994, provided that such bonds are delivered to the initial purchasers thereof on or about December 31, 1994.

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

SECTION 5: That this executive order, to the extent conflicting with the provisions of Executive Order No. 92-47, supercedes and prevails over the provisions of such executive order.

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

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

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

of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of March, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 94-11

WHEREAS, pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order No. EWE 92-47 establishing (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1994 (the "1994 Ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1994 Ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS, the Industrial Development Board of the Parish of Jefferson, Louisiana, Inc. has requested an allocation from the 1994 Ceiling to be used in connection with the financing of the acquisition, constructing and installing a coffee warehouse and distribution facility in Elmwood Industrial Park, Jefferson Parish, Louisiana for Sara Lee Corporation, a Maryland corporation; and

WHEREAS, the governor has determined that the project serves a crucial need and provides a benefit to the State of Louisiana, the Parish of Jefferson and surrounding parishes; and

WHEREAS, it is the intent of the Governor of the State of Louisiana that this Executive Order, to the extent inconsistent with the provisions of Executive Order EWE 92-47, supercedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, Governor of the State of Louisiana, as follows:

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1994 ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$4,600,000	Industrial Development Bd. of Parish of Jefferson, LA, Inc.	Sara Lee Corporation

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

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through December 31, 1994, provided that such bonds are delivered to the initial purchasers thereof on or about December 31, 1994.

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

SECTION 5: That this Executive Order, to the extent conflicting with the provisions of Executive Order EWE No. 92-47, supercedes and prevails over the provisions of such Executive Order.

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

SECTION 7: This Executive Order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of March, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

POLICY AND PROCEDURE MEMORANDA

POLICY AND PROCEDURE MEMORANDUM

Office of the Governor
Division of Administration

Taxable Compensation on Employee Provided Parking
(LAC 4:V.Chapter 41)

Title 4 ADMINISTRATION

PART V. Policy and Procedure Memoranda Chapter 41. Taxable Compensation - PPM No. 73 §4101. Purpose And Scope

A. The purpose of this memorandum is to establish a policy for the reporting of all taxable compensation provided to employees, withholding of applicable amounts to meet the employee's tax liability associated with the taxable compensation, to provide guidelines for establishing a value for taxable compensation and to provide guidelines for inclusion or exclusion of fringe benefits as taxable compensation.

B. All boards, commissions, departments, agencies, institutions and offices of the executive branch of state government shall comply with this memorandum.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15: 528 (July 1989), repromulgated LR 20: (April 1994).

§4103. Definitions

For purposes of this memorandum the following definitions shall apply.

Compensation—includes wages, salaries, bonuses, tips, commissions, fringe benefits, termination or severance pay, commission per diem and any and all similar items.

Fair Market Value (FMV)—that amount of compensation that would be paid between unrelated third parties to obtain a service or benefit.

Fringe Benefits—meals, lodging, allowances, vehicle personal usage, moving expenses, etc.

Inkind—noncash compensation, may include meals, lodging, vehicle personal use, moving expenses, etc.

Reimbursed Expenses—items of expenditure incurred by an employee in the performance of his job.

Tax Liability—includes federal and state tax withholding, FICA and Medicaid withholding and any penalty or interest payment due as a result of noncompliance.

Taxable Compensation—all compensation items not excludable as income under a specific IRS Code Section.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15: 528 (July 1989), repromulgated LR 20: (April 1994).

§4105. Policy

A. It shall be the policy of the state of Louisiana to report all taxable compensation and withhold all applicable taxes for such compensation as required by the Internal Revenue Code on each scheduled pay period.

B. Effective July 1, 1989 for calendar year 1989 and for each calendar year thereafter, all taxable compensation shall be reported and a withhold of applicable taxes shall be processed each pay period. For the period of January 1, 1989 through June 30, 1989 all taxable compensation not reported on a pay period basis shall be included on the employee's Form W-2 Wage and Tax Statement for calendar year 1989.

C. Applicable taxes for taxable compensation received in the form of cash during the period of January 1, 1989 through June 30, 1989 must be withheld during calendar year 1989.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15: 528 (July 1989), repromulgated LR 20: (April 1994).

§4107. Reporting Requirements

A. Each board, commission, department, agency, institution or office must develop a plan each fiscal year delineating those conditions under which an employee shall receive any compensation other than salary, wages, per diem for board members and those benefits provided by the State Employee Group Benefits Program and the various retirement systems. The plan must include the specific employee receiving the compensation, the valuation method of the compensation, the value of the compensation and any reason the compensation is partially or fully nontaxable to the employee. Such plan shall be submitted for approval to the commissioner of administration by September 1, 1990, and

each September 1, thereafter.

B. Department heads who fail to adequately value, report, or withhold applicable taxes for compensation provided employees shall be responsible for payment of any tax liability from the avails of the respective budget units' appropriations.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15: 529 (July 1989), repromulgated LR 20: (April 1994).

§4109. Reimbursed Expenses

Payments to employees in accordance with General Travel Regulations - PPM No. 49 for reimbursement of actual business travel expenses shall be treated as a noncompensation item.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15: 529 (July 1989), repromulgated LR 20: (April 1994).

§4111. Employment Contracts

For purpose of computing taxable compensation, the provisions of an employment contract, or state law fixing the terms of employment cannot be considered in determining if fringe benefits are intended as compensation.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15: 529 (July 1989), repromulgated LR 20: (April 1994).

§4113. Valuation Method

The general valuation rule will be FMV. Taxable cash compensation items, regardless of source, are to be reported and withheld at the dollar value paid. Taxable inkind noncash compensation, including fringe benefits, are to be included at FMV of the property transferred, excluding any payment offsets at the time of the transfer, unless excluded or adjusted under a specific Internal Revenue Code Section. There is no taxable compensation if the employee pays 100 percent of the FMV of the benefit.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15: 529 (July 1989), repromulgated LR 20: (April 1994).

§4115. Evaluation Tests For Exclusion From Taxable Compensation

The general rules of evaluation to be used in determining if and when a fringe benefit is exempt from inclusion as taxable compensation are as follows:

1. Meals

a. the value of meals furnished to an employee by and on behalf of the state, will be excludable from the employee's gross compensation if two tests are met:

i. the meals are furnished on the premises of the employer; and

ii. the meals are furnished for the convenience of the employer.

b. meals furnished by the state without charge will be considered furnished for the convenience of the employer if the meals are furnished for *substantial noncompensatory business reasons* of the state rather than as a means of providing additional compensation to the employee.

c. on the premises will be interpreted to mean either:

i. quarters that constitute an integral part of the business property; or

ii. premises on which the entity carries on some of its business activities.

2. Lodging

a. the value of lodging furnished to an employee by or on behalf of the state will be excluded from the employee's gross income, if three tests are met:

i. the lodging is furnished on the business premises of the employer;

ii. the lodging is furnished for the convenience of the employer; and

iii. the employee is required to accept such lodging as a condition of his employment. The third requirement means that the employee must be required to accept the lodging on the business premises in order to enable him to properly perform the duties of his employment, which in turn will mean that the lodging is furnished because the employee is required to be available for duty at all times or because the employee could not perform the services required of him unless he was furnished such lodging.

b. on the business premises will be interpreted to mean either:

i. living quarters that constitute an integral part of the business property; or

ii. premises on which the entity carries on some of its business activities.

c. ownership or control by the state of the premises furnished is not a test criteria.

d. lodging includes utilities and associated related items such as lawn maintenance, maid service, etc. The value of utilities, etc., furnished to the employee for the convenience of the state is excludable, unless the employee contracts directly with the utility, etc., for the service.

3. Transportation

a. the value of personal use of a state vehicle must be included as taxable compensation.

b. the value for use of a state vehicle for commuting purposes shall be a flat \$1.50 per one way commute trip (\$3 per day for round trip) if the following conditions are met:

i. the vehicle is owned or leased by the state and is provided for and used for state business;

ii. for bona fide noncompensatory business reasons, the state requires the employee to commute to and from work in the vehicle;

iii. the department, agency, etc., has a written policy which disallows personal use of the vehicle by the employee, or any individual whose use would be taxable to the employee, except for de minimus personal use such as a lunch stop between business meetings;

iv. neither the employee nor any individual whose use would be taxable to the employee uses the vehicle for any personal purpose other than commuting and de minimus personal use; and

v. the employee using the vehicle is not a control employee as defined in Temporary Regulation §1.61-2T(f)(5),(6).

c. for valuation of personal use of a vehicle for those employees who use a state vehicle to commute, but do not meet the conditions enumerated above and those employees who have personal use of other modes of transportation alternative valuation methods are available in the Internal Revenue Code and Regulations.

d. the alternative valuation methods, including the cents-per-mile rule or lease valuation method, may be utilized only upon prior approval of the commissioner of administration.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15: 529 (July 1989), repromulgated LR 20: (April 1994).

§4117. Parking - Taxable Benefits

The Energy Policy Act of 1992 amended the Internal Revenue Code provisions on taxing employer provided transportation benefits. Under these provisions, employer provided parking in a public parking facility valued up to \$155 per month may be excluded from taxable income. Any amounts of \$155 or higher must be considered taxable fringes and are to be included in taxable income. The value of the parking cost is to be based on the cost an employee would incur in an arm's-length transaction to obtain parking at the same site. If this cost cannot be determined, value should be based on the cost incurred in an arm's-length transaction to obtain other space in the same lot or a comparable lot in the same general area.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Commissioner's Office, LR 20: (April 1994).

Raymond J. Laborde
Commissioner

EMERGENCY RULES

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Marketing
Market Commission

Red River Valley Tomatoes (LAC 7:V.1735)

In accordance with R.S. 49:953(B), the commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in connection with the adoption of a rule regarding the inspection and grading of Red River Valley Tomatoes.

The purpose of the emergency rule is to avoid imminent peril to the welfare of the citizens of the state. Failure of the agency to adopt these emergency rules would harm the citizens of the state by possibly allowing inferior tomatoes to infringe on the market developed by the producers of Red River Valley Tomatoes. This emergency rule becomes effective on April 1, 1994, and remains in effect for 120 days or until this rule is adopted through the normal promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing

Chapter 17. Market Commission—Fruits and Vegetables

Subchapter B. Fruits and Vegetables Rules and Regulations

§1735. Red River Valley Tomatoes

A. Definitions

Red River Valley Tomatoes—tomatoes that are produced by farms in Louisiana that have been certified by the Red River Valley Research Station of Louisiana State University as being certified Red River Valley Tomato Producers, and which meet all horticulture practices prescribed by the Red River Valley Research station. No tomatoes that have been gassed to achieve ripeness or that do not meet the Louisiana Number 1 Grading Standard can qualify as a Red River Valley Tomato.

B. In addition to the standards referred to in LAC 7:V.1703, the following provisions govern the marketing and sale of tomatoes in Louisiana that are labeled as Red River Valley Tomatoes:

1. the U. S. Standards for Combination, 2, and 3 as stipulated by the United States Department of Agriculture (hereinafter "U.S.D.A."), shall be adopted as official State Grades;

2. the grade Louisiana Number 1 is hereby established, the standards of which are not less than those of the U. S. combination, except that not more than 15 percent tolerance for grade defects will be allowed;

3. the grades Louisiana Number 2 and Louisiana Number 3 are hereby established, these standards of which are not less than the U.S. Standards for Number 2 and Number 3;

4. color classification shall be the same as U.S. Standards;

5. size:

a. the size of tomatoes packed in any standard type shipping container shall be specified and marked according to one of the size designations set forth in Table 1. Individual containers shall not be marked with more than one size designation. Consumer packages and their master container are exempt; however, if they are marked, the same requirements apply;

b. Table 1

Louisiana Sizes		
Size Designations	Minimum Diameter*	Maximum Diameter†
LA Small	2 4/32 in.	2 9/32 in.
LA Medium	2 8/32 in.	2 17/32 in.
LA Large	2 16/32 in.	2 25/32 in.
LA Extra Large	2 24/32 in.	
LA Colossal	3 9/16 in. or Larger	
*Will not pass through a round opening of the designated diameter when tomato is placed with the greatest transverse diameter across the opening. †Will pass through a round opening of the designated diameter in any position.		

6. it shall be unlawful for any person, firm, or corporation to sell, offer for sale, ship, or move any tomato labeled as "Red River Valley Tomatoes" into the channels of fresh trade unless it meets Louisiana Number 1 grade;

7. all tomatoes offered for sale as "Red River Valley Tomatoes" are subject to inspection by U.S.D.A. licensed personnel of the Louisiana Department of Agriculture and Forestry. If a particular lot of tomatoes does not meet the Louisiana grade standards, a stop sale order will be issued on the entire lot, and the lot will be removed from retail sales until the lot has been reworked or relabeled;

8. the movement of tomatoes labeled as "Red River Valley Tomatoes" into channels of fresh trade is prohibited unless in conformance with this regulation;

9. the Louisiana Department of Agriculture and Forestry has the option of charging fees in accordance with federal rates for shipping point inspections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, 3:411 and 3:412.

HISTORICAL NOTE: Adopted by the Louisiana Department of Agriculture, State Market Commission, September 1949, repealed LR 12:826 (December 1986), promulgated by the Louisiana Department of Agriculture and Forestry LR 20:

Bob Odom
Commissioner

DECLARATION OF EMERGENCY

Department of Economic Development Motor Vehicle Commission

Brokers of New and Unused Motor Vehicles
(LAC 46:V.1801 and 1802)

The Department of Economic Development, Motor Vehicle Commission hereby rescinds its emergency rule as published on page 139 of the February 20, 1994 *Louisiana Register*.

Robert W. Benson, Jr.
Chairman

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 741—Math Requirements

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R. S. 49:953(B) and adopted as an emergency rule, an amendment to the math requirements for high school graduation. This amendment will permit more flexibility in the math requirements and is an amendment to Bulletin 741, Louisiana Handbook for School Administrators, pages 75 and 84.1 as noted below:

Page 75

Minimum Requirements for High School Graduation

(Effective Beginning 1994-95 and Thereafter for Incoming Freshmen)

* * *

MATHEMATICS

3 units

- OPTION I.** Shall be Algebra I and two of the following courses: Algebra II, either Geometry or Applied Geometry (effective 96-97 school year), Advanced Mathematics, Calculus, and either Consumer Mathematics or Business Mathematics; or
- OPTION II.** they shall be either Applied Algebra IA or Integrated Algebra/Geometry, Algebra I, and one of the following: Algebra II, either Geometry or Applied Geometry (effective 96-97 school year), Advanced Mathematics, Calculus, and either Consumer Mathematics OR Business Mathematics; or
- OPTION III.** they shall be Applied Algebra IA AND Applied Algebra IB and one of the following courses: Algebra II, either Geometry or Applied Geometry (effective 96-97 school year), Advanced Mathematics, Calculus, or Business Mathematics.

* * *

(All other requirements remain the same.)

Page 84.1

MATHEMATICS

2.105.15 Three units of mathematics shall be required for graduation.

- OPTION I.** They shall be Algebra I and two of the following courses: Algebra II, either Geometry or Applied Geometry (effective 96-97 school year), Advanced Mathematics, Calculus, and either Consumer Mathematics or Business Mathematics; or
- OPTION II.** they shall be either Applied Algebra IA or Integrated Algebra/Geometry, Algebra I, and one of the following: Algebra II, either Geometry or Applied Geometry (effective 96-97 school year), Advanced Mathematics, Calculus, and either Consumer Mathematics or Business Mathematics; or

OPTION III. they shall be Applied Algebra IA AND Applied Algebra IB and one of the following courses: Algebra II, either Geometry or Applied Geometry (effective 96-97 school year), Advanced Mathematics, Calculus, or Business Mathematics. The mathematics course offerings shall be as follows:

Course Title	Unit(s)	Refer to Bulletin
Advanced Mathematics	1	1583
Algebra I	1	1580
Algebra II	1	1582
Applied Algebra IA	1	
Applied Algebra IB	1	
Business Mathematics	1	1612
Calculus	1	
Consumer Mathematics	1	1606
Geometry	1	1581
Applied Geometry (96-97 School Year)	1	
Integrated Algebra/Geometry	1	1900
Trigonometry	½	

Business Mathematics May be taught by the business Education Department.

Students may not earn a unit in both Business Mathematics and Consumer Mathematics.

Consumer Mathematics is not an allowable course for meeting mathematics requirements using Option III.

Teachers selected to teach Applied Algebra IA and Applied Algebra IB or Applied Geometry shall be provided with the appropriate staff development/in-service.

Emergency adoption is necessary in order to assure that the implementation date would be effective for the 1994-95 incoming freshmen class. Effective date of emergency rule is March 24, 1994 for 120 days or until the final rule takes effect, whichever occurs first.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1525—Principal Evaluation Committee Report

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, the Principal Evaluation Report and printed below. This

report will become Appendix C of Bulletin 1525, Guidelines for Personnel Evaluation.

Addition of the Principal Evaluation Report also amends: (1) the dates on the title page to read: "Revised September, 1992; March, 1994", (2) Page ii of the Table of Contents to include: "Appendix C - Principal Evaluation Committee Report, 1994", and (3) revised page 22 of Bulletin 1525.

Emergency adoption is necessary in order for copies to be disseminated to the Local Education Agencies (LEAs). The Department of Education will send the required number of copies to the Personnel Evaluation contact person for dissemination within his/her LEA. The Local Education Agencies must have the revisions as soon as possible in order to incorporate them into Bulletin 1525. All personnel evaluation plans are based upon Bulletin 1525 and all revisions made to the LEA's personnel evaluation plans must be submitted to the State Department of Education by June 15, 1994 for review and approval by the Department prior to the beginning of the 1994-95 school year. Effective date of emergency rule is March 24, 1994, for 120 days or until final rule takes effect whichever occurs first.

Page 22, Revised 1994

The process must conform to the guidelines listed below:

- 1) The impact of the personnel evaluation process on improving teaching and learning at the school building and district levels is documented and discussed each spring.
- 2) The accomplishments of certified and other professional personnel in this regard are celebrated and shared with the school community.

Section 6.0

Evaluation Process Description

This section must address the LEA's evaluation procedures. The various procedures involved in the evaluation of personnel must be presented in such a way as to offer responses to the guidelines of the subsections within this section. All explanations must be presented, as required, in order that the procedures be readily discernible to all individuals involved.

Section 6.0, the Evaluation Process, of revised Bulletin 1525 incorporates the work of Panel 2 as it applies to classroom teachers. Furthermore, it integrates and applies the content to the extent applicable and appropriate to all certified and other professional personnel. For principal evaluation, the process must comply with the recommendations of the Principal Evaluation Committee Report presented in Appendix C.

Information Included in the Evaluation Process for Instructional Personnel

The evaluation of instructional personnel is based on one or a combination of the following:

- 1) The evaluator's assessment of teaching based on the criteria specified in the teacher's written job description, including the Louisiana Components of Effective Teaching,

* * *

APPENDIX C - Principal Evaluation Committee Report, Addendum 1994 BACKGROUND

As local school districts review their personnel evaluation plans, it is essential that the evaluation process be strengthened for all professional staff, not just classroom teachers. Panel 2 recommended that the Louisiana Department of Education (LDE) undertake leadership in developing state criteria and

appropriate procedures for the evaluation of principals, special area teachers, and guidance counselors. Panel 2 recommended that priority in this regard be given to school principals because of their critical leadership role in the teaching-learning process.

The Principal Evaluation Committee was authorized by the State Board of Elementary and Secondary Education (SBESE) in January 1993 and convened by the State Superintendent of Education in March 1993. Its charge was to recommend proposed revisions to the Principal's section of the *Guidelines for Personnel Evaluation, Bulletin 1525, Revised 1992*. SBESE requested that these recommendations be reported to the Elementary and Secondary Education Committee in June 1993.

The Principal Evaluation Committee met from March to May 1993 to address this charge. The committee commenced its work by reviewing the section on principal evaluation in *The Report of Panel 2* and then consulted numerous references on principal effectiveness and evaluation. These materials included the works of the following:

- Louisiana Administrative Leadership Academy;
- Connecticut Principals' Academy;
- National Elementary and Middle School Principals' Association;
- National Policy Board for Educational Administration;
- U. S. Department of Education Leadership in Educational Administration Development (LEAD) Project.

The perspective on the principal evaluation process developed by the Principal Evaluation Committee is presented in the subsequent sections of this report. The committee recommends that SBESE adopt this perspective as a guide for LEAs in the evaluation of school principals.

AN INTRODUCTION TO THE PRINCIPAL EVALUATION PROCESS

The effective principal is primarily a problem solver. Thus, the evaluation process should begin with a thorough assessment of school needs and problems. As a result of this needs assessment, three to four priority school problems or issues should be identified to serve as the basis for the principal's evaluation. Next, a professional growth plan that specifies how the principal will deal with these areas should be developed. This plan will include the specific outcomes the principal is expected to achieve in each area, a plan of action for achieving these outcomes, and the evidence that will be collected to determine how successful the principal is in achieving these outcomes. Usually such evidence is based on multiple data sources. Since the professional development and school change processes take time, principal evaluation should focus on longer term outcomes--what the principal hopes to accomplish over a two- to three-year period.

A broad range of outcomes can serve as the basis for a principal's evaluation. The role of internal and external forces on the school and school system should be considered carefully when identifying these outcomes. It is critical to distinguish between those outcomes which are primary because they have a significant impact on school quality and those which are secondary. While all outcomes are important, those which have a significant impact on school quality will be weighted heavily when evaluating a principal's effectiveness. The principal evaluation process should focus on outcomes

rather than on principals' behaviors. Behavioral checklists should not be used as the primary means to evaluate principals. However, if a principal cannot get the job done, then a behavioral checklist might be helpful in identifying the source of the principal's problems.

An effective school principal is both a good manager and a successful instructional leader. These are complementary rather than competing roles. Time management is key to the principal's ability to balance effectively one's role as instructional leader and building manager. As priorities are set during the evaluation process, it is critical to focus on the instructional leadership role of the principal. Research has shown that students in schools where principals exert a stronger instructional leadership role exhibit higher levels of achievement on performance measures than do students in schools where principals assume a weaker instructional leadership role.

It is important to tailor the evaluation process to the school needs of individual principals. Principals at different grade levels may be evaluated differently. Also, the unique characteristics of each school must be considered when evaluating principals at the same grade levels within a particular school district.

There are certain components which should be included in any effective principal evaluation process. However, there are alternatives within each of these components which can be explored as a school system develops a principal evaluation process to meet its needs. This second point is particularly important. A school system should not take an approach, even one which is being used successfully to evaluate principals in one district, and apply it without modification to the evaluation of its own principals. The school system must take the appropriate time to consider the basic beliefs and assumptions which serve as the basis of the evaluation process it is considering for adoption and tailor the process to its particular needs. Components which should be included in an effective principal evaluation process are:

- a philosophical statement on the role of the principal in the school system,
- clear definitions of the purposes of principal evaluation,
- an accurate listing of the proficiencies of the principal, and
- efficient procedures for evaluating the principal.

Consistency among these components of the evaluation process is critical. Purposes, proficiencies, and procedures must convey the same message as presented in the philosophical statement on the role of the principal. Procedures should address adequately each of the purposes of principal evaluation which have been defined. As a school system further develops and strengthens its principal evaluation process, it is essential that (a) each of the components listed is included in the process and (b) there is consistency among these components. Subsequent sections of this report will focus on these components of the principal evaluation process.

PHILOSOPHICAL STATEMENT ON THE ROLE OF THE PRINCIPAL

The effective principal works with staff to set a clear school mission aligned with the local school district mission and to develop goals for achieving that mission. These goals set high

expectations and create challenges for all members of the school community as they maintain their focus on the real purpose of the school, the enhancement of student learning. Learning is enhanced not only in the essential basic skill areas, but in all aspects of the broader school curriculum.

The effective school leader maintains a safe and orderly school environment and creates a positive school atmosphere where staff are empowered to make decisions collaboratively regarding the school's programs. The principal molds a school culture that reflects the community around it and utilizes community resources in the educational process.

Principals of outstanding schools are visible, positive role models who are respected by staff, students, and the school community. They are learners and thus encourage by example the learning and professional development of those around them. They promote leadership in others so all can learn to lead. They are fair and consistent, yet flexible enough to take risks when creative solutions to problems hold promise.

It is important for LEAs to review this statement on the role of the principal and to develop their own statements. An LEA's position statement on the role of the principal should be consistent with the beliefs of the school board members, the professional staff, and parents in that community. This philosophical statement on the role of the principal should capture the essence of the effective principal and thus will serve as the foundation for the principal evaluation process in that school district.

PURPOSES OF PRINCIPAL EVALUATION

The purposes of evaluation state why the principal is being evaluated. The basic reasons for which a principal is evaluated are as follows:

School Improvement—to promote the improvement of school programs and the enhancement of student learning.

Professional Growth and Development—to foster the professional growth and development of new and continuing principals.

Accountability—to insure that only effective principals continue in that role in school districts.

School districts tend to place more emphasis on those purposes dealing with school improvement and professional growth, and less emphasis on those dealing with accountability. This approach is most appropriate since the goal is to select highly qualified principals who focus their attention on school improvement needs and to strengthen the performance of these administrators using an evaluation process which fosters professional growth and development. In settings where this approach is taken, less attention needs to be paid to the traditional accountability purpose of evaluation.

PROFICIENCIES OF THE EFFECTIVE PRINCIPAL

The Proficiencies of the Effective Principal presented below are criteria that can be applied when evaluating a school principal. The term *proficiencies* is used here rather than *competencies*, since "competency" suggests mere adequacy, while "proficiency" connotes a high degree of knowledge or skill. The proficiencies listed incorporate those principal behaviors identified through a recent study conducted by the Louisiana Administrative Leadership Academy.

Leadership

1. Exercises vision in defining and gaining support for the school mission and goals.
2. Communicates effectively and gains support for goals within the school and the community.
3. Sets high expectations and performance standards that lead to the attainment of school and district goals.
4. Identifies and analyzes relevant information before making decisions or committing resources.
5. Provides incentives for both teachers and students to excel.
6. Serves as a model of professionalism and communicates educational values.
7. Identifies areas for instructional and program development through the collection and interpretation of student and school data.
8. Involves others effectively in the improvement of curriculum and instruction.
9. Evaluates professional and support staff constructively.
10. Coaches teachers to enhance their instructional effectiveness.
11. Engages in and promotes a program of ongoing professional development.
12. Recruits, selects, and assigns appropriate personnel for the effective delivery of the school program.

Human Relations

Consideration

13. Solicits and frequently gives specific and constructive feedback.
14. Maintains a positive sense of humor to enhance the school climate.
15. Demonstrates an appreciation for the accomplishments of others.
16. Listens actively to others.
17. Utilizes clear and meaningful oral and written expression.

Collaboration

18. Fosters teamwork and collegiality.
19. Elicits participation in decision making and cultivates leadership in others.
20. Facilitates group processes and effectively manages conflict.

Parental/Community Involvement

Communication

21. Communicates effectively with parents and the community and gains their support for school goals, programs, and policies.
22. Provides parents and the community with an appropriate voice in the school's decision making process.
23. Seeks input from parents and the community as to how the quality of education can be improved.

Participation

24. Involves parents and the community in the activities of the school to build a sense of shared responsibility for the quality of education being provided.
25. Encourages the volunteer participation of parents and the community and uses this resource to enhance the quality of education in the schools.

Management

School Program Management

26. Plans and prepares an appropriate budget and manages funds effectively.
27. Seeks and allocates appropriate resources (materials, money, time) to support the school program.
28. Implements school programs within the confines of the district's goals and policies.
29. Schedules curricular and co-curricular activities efficiently and effectively.
30. Understands and applies knowledge of organizations and community policies in generating support for the school.

Rules and Regulations

31. Identifies rules, guidelines, and procedures for total school operation and accepts responsibility for student, teacher, and staff compliance.
32. Collaboratively develops effective discipline and attendance policies.

General Operations

33. Maintains a visible presence in the school.
34. Protects instructional time when scheduling events and communication efforts.
35. Ensures that school facilities are conducive to a positive school environment.

These proficiencies provide a general framework for the principal evaluation process. Before they can be used, they need to be reviewed to identify how each proficiency is relevant to a principal in a particular context. It is well accepted that principals' responsibilities vary by school level and community, and even across schools within a community. Thus, it is important that these proficiencies be discussed with principals and tailored to their needs before they are used as a basis for the principal evaluation process. This might be accomplished in two steps. First, the school system's personnel evaluation steering committee might identify those proficiencies which will serve as a basis for the principal evaluation process. Secondly, this set of proficiencies might be tailored to the needs of particular principals during a conference conducted at the outset of the principal evaluation process.

PROCEDURES FOR PRINCIPAL EVALUATION

The evaluation procedure should be performance based with emphasis on the philosophical statement of the role of the principal and consistent with the goals of the local school system. The most commonly accepted process for evaluating principals is the approach outlined below.¹ When implementing such an approach, it is important to utilize a variety of sources of information and to involve all appropriate parties in the planning and implementation of the process (e.g., input from teachers, community members, business representatives). A team approach to the principal evaluation could be implemented.

It is evident that additional resources will be needed in most parishes to strengthen the principal evaluation process. School systems may need to identify additional personnel whose responsibility would be to evaluate principals and to supervise closely new and intern principals.

I. Determine Needs for Professional Growth

1. The principal reviews

- a. the position description, including the Proficiencies of the Effective Principal
- b. current district goals
- c. building goals
2. The evaluator reviews
 - a. the above three items
 - b. current performance in relation to the requirements of the job

II. Formulate Professional Growth Plan

1. Principal identifies shorter and longer term needs based on perceptions of past and current performance in light of school outcomes

2. Evaluator reflects on the principal's needs based on past and current performance in light of school outcomes

3. The two confer to decide whether the evaluation objective should be a development plan to strengthen or to enhance some aspect(s) of the school's operation or programs, an improvement plan to correct specific problems, or a combination of both

4. The two discuss necessary activities to achieve the objectives of the jointly agreed-upon plan

III. Complete and Implement Professional Growth Plan

1. Principal puts plan in writing, gets approval of evaluator and carries out plan's activities.

2. Evaluator reviews and reacts to principal's plan and monitors progress in carrying it out.

3. The two meet to conduct progress reviews at mid-year and make modifications in the plan if needed.

4. Principal continues to implement the plan.

IV. Assess Results of Professional Growth Plan

1. Principal completes self-evaluation and forwards it to evaluator.

2. Evaluator completes evaluation of principal's performance and notifies principal of date and place of evaluation conference.

V. Discuss Results of the Assessment

1. Principal and evaluator meet to review principal's performance based on their evaluations.

2. The two reach consensus on principal's evaluation and sign appropriate forms.

3. Principal and evaluator plan future evaluation activities.

¹Based on: McCurdy, J (1983). *The Role of the Principal in Effective Schools: Problems and Solutions* (an AASA Critical Issues Report). Arlington VA: American Association of School Administrators, p. 89.

IMPLEMENTING THE PRINCIPAL EVALUATION PROCESS

I. Determine Needs for Professional Growth

This aspect of the evaluation process is the most significant, since it identifies the needs the principal must address. Two types of needs are determined: school improvement needs; professional growth needs. When identifying school improvement needs, the question asked is What problems or issues should the principal address to strengthen the quality of the school and its programs? Some typical problems which confront principals are improving test scores, improving efforts to meet the instructional needs of the average child, strengthening communication between the school and home, and fostering cooperative relationships with business and industry. As the first step in the evaluation

process, it is important for the principal and the evaluator to identify the range of problems which impact on the quality of the school and its programs and then rank these problems according to the goals set by the board of education. Building staff should be involved in this process to the extent possible.

When identifying professional growth needs, the question asked is, What proficiencies should the principal address to strengthen performance? For example, a principal may need to foster greater participation in decision making, to evaluate staff more constructively, or to be more careful in protecting instructional time. Such professional growth needs usually are identified by the principal through personal reflection and discussions with an evaluator. Feedback from the staff is most helpful during this process. Some principals survey staff as part of the process of determining their professional growth needs. Such surveys are helpful to the extent that the anonymity of the staff is maintained and the results are fed back only to the principal for confidential use. Personal reflection, evaluator input, and feedback from the staff help the principal to identify a set of potential professional growth needs which are then ranked according to their perceived impact on the principal's effectiveness.

Timing is critical when identifying school improvement and professional growth needs. This process should begin toward the end of the school year and continue into the summer. The summer school vacation period might be a good time for the principal and evaluator to discuss potential needs and to identify those needs which will serve as a basis for the principal's evaluation during the coming year.

II. Formulate Professional Growth Plan

Deciding which needs will serve as a basis for the principal's evaluation is the first step in formulating a professional growth plan. This decision should be made collaboratively by the principal and the evaluator. Usually considerable thought must be given to this decision, since the principal and the evaluator are choosing from a broad range of worthwhile school improvement and professional growth needs. In weighing the alternatives, the basic question becomes, Where can we best focus the principal's efforts to achieve the greatest return with respect to improving the quality of the educational program in the school?

The next step in developing the professional growth plan is to translate the needs which will serve as a basis for the principal's evaluation into objectives. In doing so, the format used with principals should be similar to that used by teachers in the school system. When writing objectives, principals should keep in mind that a need is a discrepancy between some observed outcome and a desired standard. Thus, an objective states what the principal is going to do to resolve that discrepancy.

The next item in the professional growth plan is a description of the activities the principal will pursue to achieve the objective. When delineating these activities, it is essential to project how long it will take to achieve the objective. In some cases the objective may be achieved over the next year, while in other cases achievement may take two, three, or even four years. For objectives which take longer than a year to complete, it is important to indicate which activities will be conducted each year.

The final aspect of the professional growth plan is what the principal will accept as evidence that an objective has been met. This evidence must be observable. Consideration should be given to how this evidence will be weighted to assess the extent to which an objective has been achieved. In summary, translating a need into an objective consists of developing a growth plan through focusing on the following questions:

What am I going to do about the need or problem (objectives)?

How am I going to proceed (activities)?

How will I know if I am successful (evidence)?

III. Complete and Implement the Professional Growth Plan

As the principal develops a professional growth plan for each of the needs addressed through the evaluation process, the needs and growth plans are discussed with and finally approved by the principal's evaluator. Just as the principal and evaluator collaboratively developed the professional growth plan, it is important that they continue to work collaboratively during the implementation of this plan. It is also a matter of concern that the evaluator both monitors and supports the principal as progress is made with respect to the professional growth plan. As problems are encountered there may be a need to modify some aspects of the growth plan to achieve the desired outcome. A formal review of the principal's progress in implementing his/her professional growth plan should be conducted at mid-year. Necessary modifications in the growth plan usually are made during these formal reviews. The review process should focus on the following questions:

What actions has the principal taken to deal with each problem or need addressed in his/her professional growth plan?

What has been the impact of these activities?

IV. Assess Results of the Professional Growth Plan

Toward the end of the school year, the principal prepares an evaluation report which documents what the principal has accomplished. In developing this report, it is important to focus on the objectives of the growth plan. The emphasis of this evaluation report should be on results with respect to the objectives of the professional growth plan, rather than on the activities which were pursued. The principal should share this evaluation report with his or her evaluator and meet to discuss these results in April or May of the school year. Late April is a good time, since if there is a need to gather any further evidence with respect to any of the objectives in the growth plan, this can still be done before the close of the school year.

V. Discuss Results of the Assessment

The principal and evaluator meet toward the end of the school year to discuss the evaluation report and to determine what has been accomplished with respect to the professional growth plan. As a result of this conference an evaluation report is developed. A second purpose for this meeting is to begin planning for the next year's evaluation. In most cases work on some aspects of the principal's professional growth plan will be extended into the next year.

In thinking about this approach to principal evaluation, it is important to emphasize that commitment is critical to its success. In school settings where principals and their evaluators have committed themselves to and are pursuing this

process in an atmosphere of trust and collaboration, the benefits have been substantial in both the principal's growth and school improvement. The challenge to school systems is to make principal evaluation a productive process, one where trust and good communication between the principal and the evaluator minimize any unnecessary stress or conflict which could develop through the evaluation process.

Concluding Perspective

The committee recommends that this report be disseminated by including it in Bulletin 1525. In addition, regional meetings should be held with superintendents and appropriate professional organizations (i.e., both teacher and administrator groups) to insure that the contents of this report are understood clearly. These meetings should be followed by training sessions that prepare both principals and their evaluators to implement the principal evaluation process effectively. As a result of these training sessions, the principal evaluation process should be piloted in select school districts in each region. The results of these pilots should be shared openly and used to plan extended training in principal evaluation.

In addition to training, it is important to extend the development of the principal evaluation process. Instruments need to be designed which principals can use to obtain constructive feedback from staff, parents, and the community. Research needs to be conducted at the pilot sites to determine what impact such feedback has on a principal's performance and future development. Findings from such research must be used to revise and to expand the principal evaluation section of Bulletin 1525.

Finally, sufficient funds should be provided to enable the Louisiana Administrative Leadership Academy to assume a prominent role in implementing the recommendations of this report. The Academy should assume a strong leadership role in training and development activities in principal evaluation. These activities should be coordinated with the Academy's current work in principal preparation and certification.

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Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1794—Textbook Adoption Standards

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R. S. 49:953(B) and readopted as an emergency rule, the proposed changes in the Textbook Program. This is an amendment to Bulletin 1794, Textbook Adoption Standards and Procedures and was printed in the May 1993 issue of the *Louisiana Register*.

This amendment is being readopted as an emergency rule in order to continue the present emergency rule until it is

finalized as a rule. Effective date of this emergency rule is April 23, 1994 for 120 days.

Textbook Adoption Standards

I. The Louisiana Adoption Cycle is revised as follows:

1993	1994	1995	1996
Reading	Vocational Agricultural	Science K-12	Foreign Language
Special Ed.	Business	Health and Physical Education	Handwriting Education
	Home Economics	Special Ed.	Special Ed.
	Special Ed.		
Computer Literacy		Computer Literacy	

1997	1998	1999	2000
Math K-12	Social Studies K-12	Language Arts K-8	Language Arts 9-12
Computer Science	Special Ed.	Special Ed.	Special Ed.
Music/Fine Arts	Special Ed.		
Computer Literacy		Computer Literacy	

*Last Year for Reading

*Special Education materials are adopted each year in the area of the adoption disciplines.

II. State adoptions shall be limited to Basal Textbook, Teacher Edition, and Teachers Resource Binder only. Successful publishers will be allowed to add any ancillary materials that accompany their basal program after BESE approval. Ancillary material cost will be fixed for the period of the contract (seven years).

III. State Textbook Adoption Committee shall consist of 14 members (voting members):

a. Eight Curriculum Supervisors. The eight curriculum supervisors shall be recommended by city/parish superintendents (one from each of the governor's planning districts, with at least one being a special education supervisor).

b. One Non-public Parochial Educator. The one non-public parochial educator shall be recommended by the diocese superintendent.

c. One Non-public Private Educator. The one non-public private educator shall be recommended by the non-public school commission.

d. Four non-educators. The four non-educators shall be recommended by the members of BESE.

IV. State Textbook Adoption Sub-Committee (non-voting members):

Each of the eight curriculum supervisors and two non-public educators (one parochial and one private) on the State Textbook Adoption Committee shall have a subcommittee at the local level. This subcommittee shall: (1) be composed of a minimum of five teachers (at least one of whom shall be a special education teacher), and (2) assist in the evaluation of materials presented to the state committee. Each of the non-educators (four members of the State Textbook Adoption Committee) may also chose to have a subcommittee to assist them.

V. That the local school system be required to follow this ordering cycle when placing textbook orders with the publishers/depository to be paid for with the state textbook allocation:

1. March 15 - April 15: All textbooks currently adopted;
2. April 15- May 15: Newly adopted textbooks;
3. September 15 - October 15: Any adopted textbooks.

School systems may place orders in advance of the starting dates of each cycle.

VI. That local school systems be required to provide to the Bureau of Special Projects, a plan of implementation for the purchase of textbooks each year. That this plan shall be submitted prior to March 15 for currently-adopted materials that will be ordered for the upcoming school year and prior to April 15 for newly adopted materials that will be ordered for the upcoming school year.

VII. That the publisher/depository, centrally located in the state, be required to immediately notify the publisher when inventory level is not sufficient to meet the demands of orders on hand and that the publisher shall be required to immediately ship the appropriate quantity needed to fill all outstanding orders.

VIII. That all publishers with materials that are not under definite contract be required to amend their contract to provide a definite period to coincide with the next adoption cycle in that discipline. (This would assure that for all materials under contract, parishes would know exactly when they would not be available, therefore, avoiding titles being canceled within the adoption cycle.)

IX. That the publisher under contract with the state of Louisiana be required to pay a fine of one percent of the outstanding balance for all orders placed with that publisher by local schools within the ordering cycle that have not been received within 90 days after the closing date of that cycle.

X. In order to obtain the greatest utility from out-of-use textbooks and to protect the environment, the following options shall be available to the parishes. Authorization to donate or sell textbooks that have been out-of-use parish-wide for six months or longer shall be given to the local school district by the state Department of Education. Such books may be donated to any public hospital, any jail or prison or any public institution, or any individual for private use. All books that have not been donated or sold will be sold to the debinding company contracted by the state according to the following procedures.

Procedures for Disposal

1. The state Department of Education will contract with a debinding company by December 1 of each year and notifying the parishes of the awarding of the contract.

2. Each system shall determine which titles are eligible for disposal.

3. The list of the disciplines, publishers and copyright dates will be forwarded to the SDE by December 15. By January 15, the SDE will distribute the list to all school systems and each diocese. All local school systems shall notify the approved non-public schools of available titles.

4. The local superintendent or his designee may request titles from another system to be transferred at the requesting system's expense before March 15.

5. Local systems shall notify the SDE of the need for pick-up by the debinder by March 20.

6. By April 1, the SDE will establish a schedule for pick-up at one site in each school system during the month of April.

7. The local school system shall maintain appropriate records on the above procedure for three years. The local system shall derive all funds from the debinding.

XI. Escalation Clause. Because many school systems have just recently completed implementing their reading adoption and because a change to a new reading series for them would not be financially feasible, the following option shall be available to the parishes: parishes wishing to remain in their current reading series will be allowed to go through the next adoption cycle (1993-2000). Publishers with reading series that parishes will be rolling over into, will be allowed to keep their reading series on the state approved list through the next adoption cycle (1993-2000) at a set escalation price.

XII. Special Wavier. A local school system with the approval of its board, may petition in writing the State Department of Education for permission to spend in excess of the 10 percent allowance for non-adopted state textbooks. The Bureau of Special Projects will present the petition to BESE for action, and notify systems of the results. Request shall be made only during the month of February.

XIII. Local Adoption Procedures

Purpose

A structured local selection process is integral to the policies and procedures defined for state textbook adoption. The purpose of the local adoption process is as follows:

1. to assure local public and non-public school systems of establishing a defined procedure/guidelines for textbook adoption;

2. to provide an opportunity for teacher input in textbook selection;

3. to ensure curriculum content that reflects current national, state, and local standards of instruction.

Procedure

Each local school system will hold a formal textbook adoption. The local textbook adoption process focuses on those textbooks selected at the state level. After state committee textbook recommendations are approved by the Board of Elementary and Secondary Education, the list of state approved textbooks will then be sent to local school systems

within 30 days of state board approval. Said list should contain all cost items included with the basal text, supplementary materials, etc., as well as all items to be given at no cost to local school systems.

Local procedures must address the following:

1. Establishment of Timelines

a. Participation in state caravan must occur before February 1 in the school year of the adoption.

b. Local school systems must hold textbook adoption between February 1 and April 15 in the school year of the state adoption.

c. The state office of educational support must be notified as to the locally adopted textbooks and the school system's plan for implementation by April 15 in the school year of the adoption.

2. Committee Selection

a. The local adoption committee will be composed of administrators, teachers (at least one of whom should be special education), parents and/or community representatives with equitable representation by ethnic origin, gender, etc. reflective of the student constituency.

b. Committee members are to receive special training in textbook selection criteria, voting procedure and integrity of interaction with publishers.

3. State Textbook Caravan Participation

a. The caravan affords all school systems an equal opportunity to preview all state adopted textbooks and supplementary materials with on-site availability of publishers to answer questions.

b. All school systems, public, private and parochial, are eligible to participate in the caravan.

4. Local Hearings

a. Local school systems may use state caravan as the single opportunity for publishers' presentations.

b. Local school systems may use state caravan as vehicle for identifying those publishers to be called back for local presentations.

c. Only one call back of publishers will be permitted at the local level.

d. Call backs will only be allowed for clarification pending availability of publisher's consultant(s).

e. No call backs are permitted before February 1.

f. Publishers to be called back must be notified no later than February 15.

5. Sampling.

a. Publishers are to furnish examination copies only at the written request of the local school system textbook adoption coordinator.

b. Samples are to be limited to sufficient quantities to facilitate the designated local adoption committee members only.

c. Other persons choosing to examine samples must use samples provided by state department at predesignated sites for public review.

d. No other examination copies will be permitted.

e. Publishers must notify local school systems, in writing, of need to have samples returned.

f. If notified by publishers, all samples received by local school systems must be picked up by the publisher within 30 days after the local adoption.

g. Publishers must make all necessary arrangements for sample returns at publisher's expense.

6. Local Selection of Textbooks

a. An objective evaluation instrument incorporating a numerical rating system must be utilized.

b. An official summary report of the evaluation results is to be kept on file for a minimum of three years.

7. Notifying State of Local Textbook Selections

a. The state department must be notified of all text titles selected by discipline/course.

b. Said notification must be accompanied by the school system's plan for implementation of texts.

c. The total plan for implementation must be submitted. This plan must address the number of books to be ordered by subject, course, and grade level. If monies prevent total implementation during the school year following the adoption, the plan for remaining implementation in future years must also be indicated.

d. Said notifications must be made by April 15 in the school year of the state adoption.

8. Notifying Schools of Local Selected Textbooks

a. Each school will receive a list of all components of the basal, including those items purchasable with textbook funds and those items to be supplied by the publishers at no cost.

b. Local school systems may share with each school a list of the strengths and weakness of all textbooks selected.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

**Department of Environmental Quality
Office of the Secretary**

**Importation of Foreign Hazardous Waste
(LAC 33:V.1101, 1113) (HW38E)**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 30:2011, the secretary of the Department of Environmental Quality declares that an emergency action is necessary because Louisiana's laws prohibiting the importation of hazardous waste from foreign countries have been declared unconstitutional. It is necessary for the department to adopt this emergency rule to require such waste to comply with the hazardous waste regulations that govern the treatment, storage and disposal of hazardous waste in Louisiana. The following emergency rule is hereby adopted to carry out the intent of the legislature which is to ensure that the environment and the health of the citizens of this state are not endangered by the importation of hazardous wastes generated in foreign countries. The immediate effect of the rule is twofold: 1) to ensure that hazardous waste being imported to the United States does not contain unknown or unauthorized pollutants that could be released to the environment because of inadequate containment, labeling, or handling during transport;

and 2) to apprise the citizens in the area of the receiving facility, through public notice, of impending arrival of hazardous waste from a foreign country.

This emergency rule is effective on April 10, 1994, and shall remain in effect for the maximum of 120 days or until a final rule is promulgated, whichever occurs first.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality—Hazardous Waste

Chapter 11. Generators

§1101. Applicability

A. A generator who treats, stores, or disposes of hazardous waste on-site is not required to comply with the requirements of this Chapter except for the following with respect to that waste: LAC 33:V.1101.C, 1103, 1105, 1109.E, 1111.A.3, 1111.A.4, 1111.D, 1115, 1117, 1119, and 1121.

B. Any person who imports hazardous waste into Louisiana must comply with the standards applicable to generators established in this Chapter. Any person who imports hazardous waste from a foreign country into Louisiana must ensure that the generator in the foreign country is identified and will properly characterize and ship the waste pursuant to the LHWR and LDPS regulations. If the importer detects any discrepancy with, or violation of, the applicable regulations, his/her recourse will be to reject the hazardous waste shipment and notify the administrative authority and the generator within 24 hours of the determination of such discrepancy and/or violation of the LHWR.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:398-399 (May 1990), LR 19:

§1113. International Exports, Imports of Hazardous Waste

A. **Applicability.** Any person who exports/imports hazardous waste to/from a foreign country, from a point of departure or to a point of arrival in Louisiana, must comply with the requirements of this Chapter. This Section establishes requirements applicable to international exports and imports of hazardous waste. A transporter transporting hazardous waste for export or import must comply with applicable requirements of LAC 33:V.Chapter 13.

B. **Definitions.** The following terms are used in these regulations as defined (in alphabetical order) in LAC 33:V.109: consignee, Louisiana State Acknowledgement of Consent, primary exporter, receiving country, and transit country.

C. **General Requirements.** International exports and imports of hazardous waste must comply with the applicable requirements of LAC 33:V.Chapters 11 and 13. Persons who import or export hazardous waste must demonstrate that:

1. notification in accordance with LAC 33:V.1113.D has been provided;
2. the appropriate authority in the receiving foreign country has consented to accept the hazardous waste;

3. consent to the shipment and notice to the department accompanies and is attached to the manifest (or shipping paper for exports and imports by water [bulk shipment]); and

4. the hazardous waste shipment conforms to the terms of the manifest and, if applicable, to the terms of the receiving country's written consent.

D. Notification of Intent to Export or Import Hazardous Waste

1. A primary exporter or importer of hazardous waste must notify the administrative authority of an intended export or import before such waste is scheduled to leave or enter the United States. A complete notification must be submitted to the department 60 days before the initial shipment is intended to be shipped off-site. If the country from which the waste is shipped requires more than 60-days notice for the import of hazardous waste, then the greater time period for notice to the administrative authority will apply to the export/import of waste to/from Louisiana. This notification may cover export or import activities extending over a 12-month or lesser period. The notification must be in writing, signed by the primary exporter or importer, and include the following information:

a. name, mailing address, telephone number, and EPA ID number of the primary exporter or importer;

b. for each hazardous waste type:

i. a description of the hazardous waste and the EPA hazardous waste number (from 40 CFR Part 261, Subparts C and D, pp. 404-422, 1988), Louisiana Department of Public Safety and Corrections (or its successor agency) proper shipping name, hazard class, and ID number for each hazardous waste;

ii. the estimated frequency or rate at which such waste is to be exported and imported and the period of time over which such waste is to be exported and imported;

iii. the estimated total quantity of the hazardous waste in units as specified in the instructions to the Uniform Hazardous Waste Manifest Form (8700-22);

iv. all points of entry to and departure from each foreign country through which the hazardous waste will pass;

v. a description of the means by which each shipment of the hazardous waste will be transported (e.g., mode of transportation vehicle [air, highway, rail, water, etc.], type[s] of container [drums, boxes, tanks, etc.]);

vi. a description of the manner in which the hazardous waste will be treated, stored, or disposed of in the receiving country (e.g., land or ocean incineration, other land disposal, ocean dumping, recycling);

vii. the name and site address of the consignee and any alternate consignee; and

viii. the name of any transit countries through which the hazardous waste will be sent and a description of the approximate length of time the hazardous waste will remain in such country and the nature of its handling while there.

2. Notification shall be sent to the administrative authority of the Louisiana Department of Environmental Quality with "Attention: Notification to Export/Import" prominently displayed on the front of the envelope. Such notice shall be sent by certified mail.

3. Except for changes to the telephone number or decreases in the quantity indicated pursuant to Subsection D.1.b.iii of this Section, any changes to the original notification (including any exceedance of the estimate of the quantity of hazardous waste specified in the original notification), must be provided to the administrative authority with a written re-notification of the change. The shipment cannot take place until consent to the changes is obtained from the exporting country, or the Louisiana administrative authority in case of imports (except for changes to Subsection D.1.b.iv and viii of this Section).

4. Upon request by the administrative authority, a primary exporter or importer shall furnish to the administrative authority any additional information to complete a notification.

5. The administrative authority will provide copies of complete notifications to the receiving country and any transit countries. A notification is deemed complete by the administrative authority when it satisfies the requirements of this Subsection. Where a claim of confidentiality is asserted with respect to the notification information required, the administrative authority may find the notification not complete until any such claim is resolved in accordance with LAC 33:V.317.C and LAC 33:V.319.

6. When the foreign country consents to the receipt of the hazardous waste, the administrative authority will forward an acknowledgement of consent to the primary exporter for purposes of LAC 33:V.1113.E.8. Where the receiving country objects to receipt of the hazardous waste or withdraws a prior consent, the administrative authority will notify the primary exporter in writing. The administrative authority will also notify the primary exporter of any responses from transit countries.

7. Any Louisiana facility receiving hazardous waste generated in a foreign country must publish a notice of intent to receive hazardous waste in a major newspaper of general circulation in the area where the facility is located. Such notice shall be a minimum of 3" x 3" in size and will contain the following information: name and address of the receiving facility, name of the country of origin of the hazardous waste, a brief description of the waste, the amount to be shipped, and the scheduled date of arrival. Publication must be made at the time notice of intent is submitted to the department and proof thereof shall be submitted to the administrative authority within 10 days of publication date.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 20:

William Kucharski
Secretary

DECLARATION OF EMERGENCY

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

Disproportionate Share Payment Methodologies for Inpatient Hospital Services

The Department of Health and Hospitals, Office of Secretary, Bureau of Health Services Financing, has adopted the following emergency rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule, effective March 30, 1994, is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Medicaid Program currently reimburses hospitals serving a disproportionate share of low income patients via three pools with payments based on Medicaid days. These pools based on Medicaid days are acute care teaching hospitals, acute care non-teaching hospitals, and distinct part psychiatric units/free-standing psychiatric hospitals. This payment methodology was implemented effective March 1, 1993 by means of emergency rulemaking to ensure compliance with the state cap on disproportionate share payments as a result of Public Law 102-234 and federal regulations published November 24, 1992. This department published a notice of intent in the *Louisiana Register* on April 20, 1993 and a rule was adopted and published on November 20, 1993, in the *Louisiana Register*, Volume 19, Number 11, pages 1432-1433. In addition, disproportionate share payments for indigent care based on free care days were made by establishment of an additional disproportionate share indigent pool via emergency rulemaking originally adopted on January 1, 1993 and then continued in force through the adoption of subsequent emergency rules published in the April, September, and December 20, 1993 issues of the *Louisiana Register*. A notice of intent on the indigent payment methodology was published in the April 20, 1993 issue of the *Louisiana Register* and public hearings were held on May 25, 1993 and on January 25, 1994.

The Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) amended Section 1923 (Adjustment in Payments for Inpatient Hospital Services Furnished by Disproportionate Share Hospitals) of the Social Security Act (42 U.S.C. Section 1396r-4) by establishing individual hospital disproportionate share payment limits. Therefore the bureau is restructuring its disproportionate share payment methodology to address a fiscal crisis and to comply with the Health Care Financing Administration's policy on this federal statute. This restructuring incorporates provisions that will: establish pools and specify the qualifying criteria for each pool; limit indigent per diem payments to each hospital's total Medicaid per diem equivalent amount; allow the director of the Bureau of Health Services Financing to adjust original pool amounts within the

federal fiscal year; and allow the bureau to issue the disproportionate share pool amounts in multiple payments.

The February 1, 1994 emergency rule revised the disproportionate share payment methodologies for Medicaid days and indigent care days and established a reconciliation pool payment methodology. This emergency rule and a notice of intent on this matter were published in the February 20, 1994, *Louisiana Register*, Volume 20, No. 2. It amended the November 20, 1993 rule on Medicaid days payment methodology and superseded the December 27, 1993 emergency rule on indigent care days payment methodology. The following emergency rule, effective March 30, 1994, establishes the disproportionate share payment methodologies for Medicaid days and indigent care days and amends and supersedes the February 1, 1994 emergency rule. A public hearing was held on Tuesday, March 29, 1994 on the Medicaid days and indigent care payment methodologies in the auditorium of the Department of Transportation and Development at 1201 Capitol Access Road, Baton Rouge, Louisiana.

It is anticipated that these changes will have no impact on aggregate annual disproportionate share expenditures.

Emergency Rule

Effective March 30, 1994, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends its methodologies for calculating disproportionate share payments for inpatient hospital services for Medicaid days and indigent care days. Below are the following revised methodologies as modified in the State Plan, Attachment 4.19-A Items 1, 14, and 16 - Methodology for Disproportionate Share Adjustments.

Disproportionate Share Payments - Medicaid Days Pool Payments

Qualification and payment adjustment for disproportionate share shall be based on the hospital's year end cost report for the year ending during April 1 through March 31 of the previous year. Example: Hospital has a fiscal year ending November 30, any disproportionate payment made after April 1, 1994 would be based on the November 30, 1993 cost report. Effective April 1995, payment would be made on the hospital's November 30, 1994 cost report. Hospitals which have not filed a cost report by March 31, 1994 will not participate in the disproportionate share payment pools from April 1, 1994 through March 31, 1995. Hospitals which meet the qualification criteria outlined in Item 1, D.1. a-d, based on the latest filed fiscal year-end cost report as of March 31 of each year shall be included in not more than two of following 12 pools for calculation of disproportionate share payments. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization, but for purposes of disproportionate share hospital payment adjustments, the distinct part psychiatric units shall be placed in the psychiatric pools while the acute medical/surgical shall be included in the appropriate teaching or non-teaching pool. Hospitals must meet the criteria for the pool classification based on their latest filed fiscal year-end cost report as of March 31 of each year. These 12 pools are as follows:

1) Public State-Operated Teaching Hospitals. State-operated acute care general hospitals (exclusive of distinct part

psychiatric units) recognized as approved teaching hospitals under criteria specified below.

2) Public State-Operated Non-teaching Hospitals. State-operated acute care general hospitals (exclusive of distinct part psychiatric units) not recognized as approved teaching hospitals under criteria specified below.

3) Public State-Operated Teaching Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals. State-operated distinct part psychiatric units/freestanding psychiatric hospitals which meet the criteria for recognition as teaching hospitals under criteria specified below.

4) Public State-Operated Non-teaching Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals. State-operated distinct part psychiatric units/freestanding psychiatric hospitals which do not meet the criteria for recognition as teaching hospitals under criteria specified below.

5) Public Local Government Acute Hospitals. Local government-owned acute care general hospitals (exclusive of distinct part psychiatric units).

6) Public Local Government Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals. Local government-owned distinct part psychiatric units/freestanding psychiatric hospitals.

7) Private Rural Acute Hospitals. Privately owned acute care general hospitals which are designated as a rural hospital under criteria specified below.

8) Private Rural Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals. Privately-owned distinct part psychiatric units/freestanding psychiatric hospitals which are located in a rural area under criteria specified below.

9) Private Teaching Hospitals. Privately owned acute care general hospitals (exclusive of distinct part psychiatric units) which are recognized as approved teaching hospitals under criteria specified below.

10) Private Urban Non-teaching Hospitals. Privately owned acute care general hospitals (exclusive of distinct part psychiatric units) which are designated as urban hospitals and not recognized as approved teaching hospitals, under criteria specified below.

11) Private Teaching Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals. Privately owned distinct part psychiatric units/freestanding psychiatric hospitals which meet the criteria for recognition as approved teaching hospitals, under criteria specified below.

12) Private Urban Non-teaching Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals. Privately owned distinct part psychiatric units/freestanding psychiatric hospitals which are located in an urban area and do not meet the criteria for recognition as approved teaching hospitals, under criteria specified below.

The definitions for hospital classifications applicable to the above Medicaid days pools are given below.

Teaching Facility—a licensed acute care hospital in compliance with the Medicare regulations regarding such facilities, or a specialty hospital that is excluded from the prospective payment system as defined by Medicare. A teaching hospital must have a written affiliation agreement with an accredited medical school to provide post graduate medical resident training in the hospital for the specialty

services provided in the specialty hospital. The affiliation agreement must contain an outline of its program in regard to staffing, residents at the facility, etc. A distinct part or carve-out unit of a hospital shall not be considered a teaching hospital separate from the hospital as a whole. Teaching hospitals that are not recognized by Medicare as an approved teaching hospital must furnish copies of graduate medical education program assignment schedules and rotation schedules to the department.

Urban Hospital—a hospital located in a Metropolitan Statistical Area as defined per the 1990 census. This excludes any reclassification under Medicare.

Rural Hospital—a hospital that is not located in a Metropolitan Statistical Area as defined per the 1990 census. This excludes any reclassification for Medicare.

Distinct Part Psychiatric Unit/Free-standing Psychiatric Hospital—distinct part psychiatric units of acute care general hospitals or psychiatric units in long term care hospitals meeting the Medicare criteria for PPS exempt units and enrolled under a separate Medicaid provider number and freestanding psychiatric hospitals enrolled as such. Hospitals which qualify as of March 31 of each year under the provisions in the approved state plan with fiscal year-end cost reports which do not reflect 12 months of cost report data shall have Medicaid days annualized by the bureau for purposes of the above pools. This includes hospitals which have partial year fiscal year-end cost reports as well as hospitals which added beds during the year to ensure that these are equally represented in the pool for the period of time to which the DSH payments will apply. Hospitals which request annualization of Medicaid days for purposes of the above pools must submit sufficient documentation to the bureau. All days included in the pool will be weighted by a factor of 1.0. This includes days for hospitals that were previously recognized as "Medicaid dependent hospitals" and a factor of 1.25 was used.

Disproportionate share payments for each pool shall be calculated based on the product of the ratio determined by dividing each qualifying hospital's total Medicaid inpatient days for the applicable cost report as adjusted for annualization by the total Medicaid inpatient days provided by all such hospitals in the state qualifying as disproportionate share hospitals in their respective pools and then multiplied by an amount of funds for each respective pool to be determined by the director of the Bureau of Health Services Financing. Total Medicaid inpatient hospital days include Medicaid nursery days, but do not include SNF or swing-bed days.

Partial payments based on the above Medicaid pools may be made in February and March of 1994. Subsequent payments shall be made on dates as determined by the secretary of the Department of Health and Hospitals.

If at audit or final settlement of the cost reports on which the pools are based, the above qualifying criteria are not met, or the number of Medicaid inpatient days are reduced from those originally reported, appropriate action shall be taken to recover any over payments resulting from the use of erroneous data. No additional payments shall be made if an increase in days is determined after audit.

Hospitals/units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments.

Disproportionate Share Payments - Indigent Care (Free Care)

In addition to the 12 pools based on Medicaid days described above, the bureau will continue to reimburse qualifying hospitals (hospitals which meet the qualifying criteria in Item 1.D.1 a-d) an additional disproportionate share adjustment payment based on the hospital's number of indigent care days provided under a indigent care plan approved by the bureau. Payment(s) shall be made during the federal fiscal year to qualifying disproportionate share hospitals for indigent care days based on the following criteria.

1) The indigent disproportionate share adjustment per diem payment will be limited to each hospital's total Medicaid per diem equivalent amount. The Medicaid per diem equivalent amount is the sum of the provider's base Medicaid per diem (cost based or prospective, as applicable) plus the provider's Medicaid disproportionate share per diem as established according to the Medicaid DSH pool in which the facility participates. For federal fiscal year 1994, the Medicaid per diem amount will be each hospital's Medicaid per diem amount in effect as of March 1, 1994 and the Medicaid DSH pool per diem amount paid in accordance with the revised February 1994 pool amounts. For subsequent federal fiscal years, the Medicaid per diem amount will be the Medicaid per diem amount in effect the previous July 1 and the Medicaid DSH pool per diem amount as established for the federal fiscal year.

2) The indigent care payments will be determined based on each DSH hospital's (which qualified for DSH per the latest filed March 31 fiscal year-end cost report) indigent care days provided within the state fiscal year. Qualifying disproportionate share hospitals shall submit documentation of indigent care days provided during a state fiscal year within 120 days of the end of the state fiscal year in a format specified by the state and shall maintain documentation for all indigent care determinations for the same period Medicaid records for qualification for disproportionate share adjustment are maintained.

3) The department's indigent care plan criteria for recognition of indigent days in the indigent pool for additional disproportionate share payments are delineated below:

a) The annual family income for patients qualifying for indigent care may not exceed 200 percent of the federal poverty income guidelines for the period of time in which the services were provided.

b) The facility must advise the public of the availability of indigent care services and of its policies for qualifying patients for indigent care. The facility must post a written copy of its policy conspicuously in all patient treatment areas, admissions and provide individual written notices to patients and/or their family members upon admission.

c) The facility must provide a form for individuals to apply for indigent care services upon admission to the facility. These forms must be maintained on file and be available for audit in accordance with all state and federal rules and regulations. The application must be signed by the

applicant except for patients deemed mentally unstable by the physician and for which access for interview has been restricted by physician's orders. The facility must supply auditors with facility's procedures for verification of available payment sources for such patients. Medicaid eligibility resources must be demonstrated to have been exhausted (i.e. application denied) for recognition as an indigent care patient.

d) The facility must make a determination of the patient's eligibility for indigent care services within two working days after application, notify the patient properly of the decision, and keep a copy on file for audit in accordance with state and federal rules and regulations. Income verification should be attempted via review of pay stubs, W-2 records, unemployment compensation book, or collateral contact with employer etc. If income verification has not been completed within two working days, the facility may condition the determination of eligibility on income verification. The facility may also condition the determination of indigent care eligibility on application for Medicaid eligibility. The conditional determination must be completed within two working days of the request for indigent care. The facility must supply documentation that Medicaid eligibility was denied.

e) The facility must maintain a log of indigent care services provided each fiscal year for audit purposes in compliance with state and federal rules and regulations. Patient identifying information such as patient name, social security number, date of birth, dates of service, medical record number, patient account number, number of free care days, and amount of indigent care charges must be included on the log.

f) An indigent day may be included in the indigent care days count only to the extent that the entire day is deemed to be an indigent care day. If indigence is determined on a sliding scale which is based on total charges, any day for which the patient is liable for more than 50 percent of the charges may not be considered as an indigent care day. Inpatient days denied for Medicaid recipients who had exhausted their Medicaid inpatient days may be recognized as indigent days provided that documentation of the reasons for denial demonstrates that the recipient is over the limit of days. Medicaid days denied for other reasons resulting from failure to comply with Medicaid policies and procedures will not be recognized as indigent days. Prisoners receiving services in state hospitals are deemed indigent in accordance with state law. Inpatient days paid by Medicaid are not recognized as indigent days; Hill-Burton days that are utilized to meet an obligation under this program are not recognized as free care days. Medicare bad debt days are not allowable as indigent days. Days for accounts written off as bad debt are not allowable as indigent days.

g) For state-operated facilities an indigent care plan promulgated and implemented in accordance with state law and regulations shall be recognized in lieu of the above criteria for determining indigent care days eligible for disproportionate share payments.

If audit of the data submitted for indigent care days results in the hospital not meeting the disproportionate share qualification provisions in the approved state plan or the

number of indigent inpatient days are reduced from those originally reported, appropriate action shall be taken to recover such overpayments. No additional payments shall be made if an increase in indigent days is determined.

Hospitals/units which close or withdraw from the Medicaid program shall become ineligible for further DSH indigent care payments.

Disproportionate share payments/pool amounts shall be allocated based on consideration of the volume of days in each pool and allowable indigent days or the average cost per day for hospitals in each pool. Disproportionate share payments cumulative for all DSH payments under the pools or any other DSH payment methodology shall not exceed the federal disproportionate share state payment cap for each federal fiscal year.

Disapproval of any one of these payment methodology(ies) by the Health Care Financing Administration does not invalidate the one remaining methodology.

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. Copies of this emergency rule and all Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

Rose V. Forrest
Secretary

DECLARATION OF EMERGENCY

Department of Labor
Office of Labor

Minor Labor Law (LAC 40:VII.103)

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

The effective date of this emergency rule is May 1, 1994 and it shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first.

The Department of Labor intends to permanently adopt identical text of this emergency rule as a final rule, and plans to publish the notice of intent of such adoption in the May 20, 1994 issue of the *Louisiana Register*.

Title 40

LABOR AND EMPLOYMENT

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

Chapter 1. Minimum Age Standards for Nonagricultural Employment

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

* * *

A. Hours and Time Standards

1. - 9. - d. ...

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

f. the secretary of the Department of Labor may grant a waiver only under the following circumstances:

i. written notification through a listing of specific dates and times that the minor(s) shall be employed and/or present for either studio production or location production;

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:251.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:45 (February 1981), amended LR 15: 1086 (December 1989), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17: 357 (April 1991), amended by the Department of Labor, Office of Labor, LR 20:

Gayle F. Truly
Secretary

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

Food Stamp Recovery (LAC 67:III.2005)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Food Stamp Program effective March 16, 1994. This rule shall remain in effect for a period of 120 days.

Pursuant to compliance with the recent amendment of federal regulation 7 CFR 273.18 (d)(4)(i), emergency rulemaking is necessary to change the period of time which is allowed for households to elect a repayment method for food stamps that were overissued because of inadvertent household error. The Office of Family Support will now provide the household 20 days, instead of 10, to choose a method of repayment before taking action to recover the benefits.

Title 67

SOCIAL SERVICES

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

* * *

Chapter 19. Certification of Eligible Households

Subchapter P. Recovery of Overissued Food Stamp Benefits

§2005. Collection Methods and Penalties

D. Provisions relative to the recovery of recipient overissuance will also be implemented. First, the agency may collect any type of overissuance by using means other than allotment reduction or cash repayment. Second, the household of a disqualified individual is allowed 10 days to choose between cash repayment or a reduced allotment before the agency takes action to reduce the household's allotment. Likewise, the household responsible for any inadvertent overissuance will be allowed 20 days to choose between cash repayment or a reduced allotment before the agency takes action to reduce the household's allotment.

AUTHORITY NOTE: Promulgated in accordance with F.R. 48:6837 et seq., P.L. 97-35, 97-253, 101-624 §1746, and 102-237 §911, 7 CFR 272, 273, 276 and 277.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security in LR 9:323 (May 1983). Amended by the Department of Social Services, Office of Family Support, LR 18:1133 (October 1992), LR 20:

Gloria Bryant-Banks
Secretary

DECLARATION OF EMERGENCY

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

Ambulance Services

In accordance with the applicable provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby finds that imminent peril to the public health and welfare exists which requires the adoption of the following emergency rule relative to payment of benefits for ambulance services in order to avoid disruption of curtailment of such services to state employees and their dependents who are covered by the State Employees Group Benefits Program.

Effective March 14, 1994, the Plan Document for the State Employees Group Benefits Program, as approved and adopted by the Board of Trustees on December 9, 1993, is amended in the following particulars:

1. Article 3, Section I, Subsection F, Part 18 is amended by deleting sub-part c in its entirety.
2. Article 3, Section VIII is amended by deleting Subsection HH in its entirety and redesignating Subsections II through MM as HH through LL, respectively.

This emergency rule shall remain in effect for 120 days.

The purpose, intent, and effect of these amendments is to remove the exclusion of payment for ambulance services for any person who is a member of a prepaid ambulance service. In all other respects, the provisions of the plan document, as approved and adopted by the Board of Trustees on December 9, 1993, shall remain in full force and effect, except as specifically amended herein or by other action of the Board of Trustees for which due notice has been in accordance with the Administrative Procedure Act.

James R. Plaisance
Executive Director

DECLARATION OF EMERGENCY

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

Plan Document

In accordance with the applicable provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, finds that imminent peril to the public health and welfare exists which requires immediate readoption of the plan document for the State Employees Group Benefits Program. This emergency action is necessary in order to incorporate changes mandated by law and adopted by the Board of Trustees and to avoid disruption or curtailment of medical services to state employees and their dependents who are covered by the State Employees Group Benefits Program.

Effective April 8, 1994, the plan document for the State Employees Group Benefits Program is readopted. This emergency rule shall remain in effect for 120 days.

The plan document sets forth all terms and conditions pursuant to which eligibility and benefit determinations are made with regard to the self insured health and accident benefit plan provided for state employees and their dependents pursuant to R.S. 42:851 et seq.

Copies of the plan document can be obtained by contacting the Office of the State Register, Box 94095, Baton Rouge, LA 70804-9095 or by telephoning (504) 342-5015.

James R. Plaisance
Executive Director

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Sabine Lake Crabs

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act and R.S. 56:6(25)(a) and Act 285 of the 1993 Regular Session of the Louisiana Legislature, the Wildlife and Fisheries Commission hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

The Wildlife and Fisheries Commission does hereby prohibit the taking of crabs by the use of crab traps within the state waters of Sabine Lake for a period of 14 days beginning at sunset on the day prior to opening day of the 1994 Spring Inshore Shrimp Season. All crab traps must be removed from the waters of Sabine Lake by sunset of the day prior to the opening of the season and may not be returned to those same waters until 6 a.m. of the 15th day of the 1994 Spring Inshore Shrimp Season.

The Wildlife and Fisheries Commission finds that due to the fact that crabbing with crab traps is regulated within the Texas portion of the waters of Sabine Lake, the crab traps within the lake are concentrated within Louisiana's portion of the lake and place an undue hardship on the shrimpers of that area.

John F. "Jeff" Schneider
Chairman

RULES

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Certified Organic Farming (LAC 7:XLIII.31101-31129)

Title 7

AGRICULTURE AND ANIMALS

Part XLIII. Organic Farming

Chapter 311. Organic Certification Program

§31101. Definitions

For the purpose of this Chapter, the following terms shall have the following meanings:

Act—Act 825 of 1989, as amended.

Agricultural Product—any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock that is marketed for human or livestock consumption.

Certified Organic Farm—a farm or portion of a farm or a site where agricultural products or livestock are produced, that is certified by the department as utilizing a system of organic farming.

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

Department—the Louisiana Department of Agriculture and Forestry.

EPA—the United States Environmental Protection Agency.

Farm Plan—a plan of management of an organic farm that has been agreed to by the producer or handler and the department and that includes written plans concerning all aspects of agricultural production or handling including all practices required under LAC 7:XLIII.

FDA—the United States Food and Drug Administration.

Greenhouse Unit or Unit—a structure intended or used for the production of agricultural products.

Handler—any person engaged in the business of handling agricultural products, except such term shall not include final retailers of agricultural products that do not process agricultural products.

Livestock—any cattle, sheep, goats, swine, poultry, equine animals used for food or in the production of food, fish used for food, wild or domesticated game, or other nonplant life.

Louisiana Organic Materials and Practices (LOMP)—a list of approved and prohibited substances and practices as adopted by the commissioner.

Louisiana Organic Standards Advisory Council (LOSAC)—the advisory group appointed by the commissioner to make recommendations on organically produced commodities and livestock such as:

- a. crop, livestock and dairy production standards,
- b. manufacturing, processing, packaging and labeling standards,
- c. a materials list of permitted and prohibited substances,
- d. procedures governing the certification process, and
- e. standards and procedures for approving out of state organic products and ingredients.

Organic Farming—a food production system based on farm management methods or practices that rely on building soil fertility by utilizing crop rotation, recycling of organic wastes, application of unsynthesized minerals, and, when necessary, mechanical, botanical, or biological pest control.

Organic Food—a food which is labeled as organic or organically grown and which has been produced, transported, distributed, processed, and packaged without the use of synthetic pesticides, synthetically compounded fertilizers, synthetic growth hormones, or artificial radiation and which has been verified by the department as complying with all provisions of this Chapter.

Organically Managed or Produced—an agricultural product that is produced and handled in accordance with R.S. 40:608.3 and these regulations.

Person—an individual, group of individuals, corporation, association, organization, cooperative, or other entity.

Pesticide—any substance or mixture of substances intended for preventing, destroying, repelling or mitigating

any pest and any substance or combination of substances intended for use as a plant regulator, defoliant, desiccant or any substance the commissioner determines to be a pesticide.

Processing—cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, dehydrating, freezing, or otherwise manufacturing and includes the packaging, canning, jarring, or otherwise enclosing food in a container.

Producer—a person who engages in the business of growing or producing food, feed, ornamental plants and livestock.

Prohibited Substances, Fertilizers, Materials, Pesticides—those substances, fertilizers, materials, pesticides or practices prohibited by the act or these regulations from use in a certified organic farming operation.

Restricted—substances and practices whose use is limited or qualified as such by the commissioner.

Tolerance—the amount of a pesticide permitted on raw or processed agricultural commodities.

USDA—the United States Department of Agriculture.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20: (April 1994).

§31103. Certification

A. Any producer who sells or intends to sell organic food shall make application to the department for certification in accordance with the requirements of this Chapter.

B. An applicant for certification must document that the land, individual field, or greenhouse units to be certified will be managed organically. Documentation for certification shall be in the form of a detailed, three-year farm plan for land, fields or units and in a format acceptable to the department. The application will be reviewed by the Organic Farming Certification Program coordinator.

C. The farm plan must include:

1. three-year rotation and nutrient-stabilization plans for each field or unit under organic management;
2. one-year, agronomic field-by-field crop practice and spray plans for each field or unit of the farm which is organically managed;
3. a map of the field to be organically managed which also indicates all buffer zones and their width, with at least a 30-foot buffer zone separating land managed organically from other cultivated agricultural land and at least a 15-foot buffer zone separating greenhouse units managed organically from other units;
4. a description of facility and methods that will be used to keep organically managed crops and livestock from postharvest commingling with nonorganically managed crops and livestock;
5. a description of facilities and methods that will be used to keep farm equipment from contaminating organically managed fields;
6. a description of facilities and methods that will be used to store and handle prohibited materials separately from permitted materials.

D. A crop grown in an organically managed field, any part of which is located within 30 feet of a field to which a prohibited pesticide has been applied, must be tissue-tested for residues of that pesticide before the harvest of the organic crop.

E. The department shall not certify a field as organically managed that is part of a farm unless there exist distinct, defined boundaries between fields under organic management and other fields; and

F. The department may not certify land that has no previous history as cultivated cropland, orchard or improved pasture, and that is being converted to organic for the sole purpose of replacing land abandoned because of chemical contamination or depleted fertility resulting from previous farm-management practices.

G. In order to be certified, greenhouse units must be used solely for organically produced agricultural products in compliance with the provisions of the act and these regulations.

H. An applicant for certification must present soil fertility test results for each field or greenhouse unit to be certified initially and every third year thereafter.

I. An applicant must also present the results of water, residue, and plant-tissue tests as required by the department.

J. The department shall reserve the right to use a certification rating system in evaluating the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20: (April 1994).

§31105. Certification; Evaluation

A. Every precaution shall be taken to avoid pesticide or other contaminating residues on agricultural products sold or labeled as organic. In cases of unavoidable environmental contamination residues shall not exceed five percent of the FDA action level or of the EPA established tolerance. For any substance not currently regulated by federal law, the LOSAC may recommend action levels to the department for approval.

B. The department shall sample a percentage of organic raw agricultural commodities and organic processed food products as part of the state pesticide residue monitoring program. Results obtained from organic produce and organically processed product samples shall be compiled in a separate annual report and submitted to the USDA.

C. If a pesticide residue or residue of another prohibited substance is found on an organic raw agricultural commodity or an organically processed product by a state pesticide residue monitoring program, the department may conduct an investigation of the appropriate handler, producer or processor.

D. The department may conduct periodic residue testing of agricultural products sold as organic in the following situations:

1. in cases of pesticide drift;
2. when farm or handling facility inspection leads to suspicion of residue problems;
3. suspicion that the soil harbors contaminants;

4. suspicion that irrigation water or rainfall contains residues;

5. during the 36-month period immediately following treatment of a certified organic farm by a state or federal emergency spray program;

6. in response to complaints; or to follow up on positive residue testing results from federal, state, or local government testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20: (April 1994).

§31107. Certification; Transitional Period

A. The department may certify a crop as organic only if harvest occurs at least three years after the most recent use of a prohibited pesticide and at least two years after the most recent use of a prohibited fertilizer.

B. Farmers, growers or producers may be certified as "transition to organic" within the three-year period required for being certified as organic pursuant to LAC 7:XLIII.31107.A. A "transition to organic" certification shall not exceed three consecutive years for the same farm or unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20: (April 1994).

§31109. Recertification

If a certified farm, field or greenhouse unit is removed from organic management, it may be recertified after passage of three years without the application of a prohibited pesticide and two years without the application of a prohibited fertilizer or other prohibited material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20: (April 1994).

§31111. Required Records; Verification

A. The following records must be kept for each farm, field, or other agricultural production unit for which application for certification is made:

1. copy of farm questionnaires devised by the department and completed by applicants for certification;

2. field-by-field or unit-by-unit fertilization, cropping, and pest management histories;

3. records of all laboratory analyses performed for a farm, including soil tests, plant-tissue tests, forage tests, bacteria counts, and residue tests for toxic contaminants in soil, water, or crops for at least three years and made available for review by the department;

4. if a crop is produced from more than one field or unit, records should show via lot, bin, or shipment numbers and dates which field a particular lot came from;

5. a producer of both organic produce and other produce on the same farm must keep separate records for each of these two categories. The records shall include verification documents such as questionnaires, farm plans, affidavits, inspection reports, laboratory analyses, and documents

showing the path taken by an organic food product through postharvest handling and distribution;

6. other documentation required to complete the application for certification or recertification as required under LAC 7:XLIII.31105;

B. The following records shall be kept for processors:

1. the department devised questionnaire covering all nonfarm aspects of food processing and manufacturing, if applicable, to be prepared for each stage of the processing where a food is substantially changed from its previous state and covering every aspect of the product relevant to the department's certification standards;

2. notarized affidavits and agreements declaring that the information they provide is accurate.

C. verification inspection of producers and processors.

1. the department may conduct at least one on-site inspection per year of every farm or processing facility for which a questionnaire is required;

2. these inspections shall be reported on a form signed by a department inspector that includes the following information:

a. observations about the condition of the farm or processing facility;

b. comments about the use of restricted or prohibited practices;

c. an optional certification rating of the operation.

D. The department may conduct unannounced inspections of certified producers and certified processors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20: (April 1994).

§31113. Auditing

A. The department may conduct or provide for audits of all documents that it uses to verify that certified products meet organic standards.

B. These audits shall include, where appropriate:

1. an inventory audit, listing percent accuracy in labeling, the amount bought and sold per product and producer or destination, and the number of vendors and amount of product per vendor; or

2. a farm audit, listing the amounts sold per product, date and destination, and the area and location planted of each product, with dates of harvest.

C. Information contained in audit records that is exempt under the Public Records Law of Louisiana shall remain confidential. Such exempt, confidential information shall include but not be limited to:

1. information that, if released, would give advantage to competitors or bidders; and

2. trade secrets and commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20: (April 1994).

§31115. Louisiana Certified Organic Mark

A. Application

1. Applications submitted under this Section shall be in writing on a form prescribed by the department.

2. A separate application shall be submitted for each farm, farm unit, processing plant, distribution facility, or retail operation.

3. Applications and verification documents shall be submitted to the Louisiana Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, P.O. Box 3596, Baton Rouge, Louisiana 70821-3596.

B. Inspection. The department shall inspect the facility of each applicant who fulfills initial screening requirements.

C. Retailers and Distributors. The department shall authorize retailers to use the Louisiana certified organic mark upon satisfactory completion and approval of a department application form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20: (April 1994).

§31117. Conditions of Retail Sale

A. The following conditions apply generally to the retail sale of organic products.

1. Any person selling organic products shall be certified by the department on a one-time basis and shall abide by the provisions of this Chapter.

2. A certified retailer may use the department-approved mark to identify only certified organic or transition to organic food produced in Louisiana by a department certified producer.

3. Products bearing a Louisiana certified organic mark must be easily identifiable to consumers and must be clearly distinguishable from similar products that are not Louisiana certified organic.

4. A certified retailer may sell or hold out for sale as organic those agricultural products which have been certified as organically produced by the official certifying agent for the state of origin.

B. Contamination or Commingling. A retailer or distributor shall have in place physical facilities and management procedures adequate to prevent commingling of organic food or organic products with other nonorganic or contaminated food or products during distribution or stocking.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20: (April 1994).

§31119. Drugs and Medicinal Claims

The department shall not certify drugs or drug ingredients under this Chapter.

1. No person may use a Louisiana certified organic mark in connection with, nor represent as Louisiana certified organic, any product or any ingredient of a product that is regulated as a drug or that has been determined by a state or federal agency of competent jurisdiction to be subject to regulation as a drug.

2. No person may use a Louisiana certified organic mark or represent any product or ingredient as Louisiana certified

organic in an advertisement (including, but not limited to, a printed or broadcast advertisement, "advertorial," flier, point-of-purchase material, signage, or other printed material) that makes medicinal claims.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20: (April 1994).

§31121. Enforcement and Complaint Investigation

A. The department shall perform inspections of certified producers, processors, retailers, distributors, and applicants for certification at a time when normal production or sales activity can be observed.

B. The department may issue a stop sale on products which falsely or erroneously claim to be organic. The stop sale may be lifted at such time as the seller can show:

1. that the products were organically managed in compliance with the act and these regulations or that of the state of origin; or

2. that he agrees to drop any claim that the products were organically produced.

C. The department may conduct unannounced inspections in cases of suspected violations of standards.

D. Any person with cause to believe that any provision of this Chapter has been violated may file a written or oral complaint with the department setting forth the facts of the alleged violation.

E. The department shall maintain for three years records of all complaints, investigations, and remedial actions. These records shall become part of the reviewing record of any proceeding involving a certified person or applicant for certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20: (April 1994).

§31123. Organic Certification Inspection Fees

A. Producers and processors participating in the department's organic certification program will be charged an inspection fee and an annual renewal fee. Retailers and distributors will be charged an application fee for the initial inspection conducted by the department in accordance with these regulations.

B. The inspection fee shall be paid by the new applicant and those applicants renewing certification, and shall be paid in accordance with the following schedule:

Producer: Initial application		Renewal	Greenhouse producer: Initial application		Renewal
less than 5 acres	\$ 50	\$ 25	less than 250 sq. ft.	\$ 50	\$ 25
5 to 25 acres	\$ 75	\$ 50	250 to 1,000 sq. ft.	\$ 75	\$ 50
over 25 acres	\$150	\$ 50 plus \$2.50 per acre of production	over 1,000 sq. ft.	\$150	\$150
Distributors: Initial application \$150			Renewal \$150/year		
Processor (other than producer/processor): Initial application \$500			Renewal \$500/year		
Retailer: Initial application					\$100

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20: (April 1994)

§31125. Louisiana Organic Standards Advisory Council

A. There is created within the department the Louisiana Organic Standards Advisory Council (LOSAC). This council shall be advisory in nature.

B. It shall be the responsibility of the LOSAC to advise and assist the commissioner in the compilation of the Louisiana Organic Materials and Practices (LOMP), and to advise the department on the certification of organic farming and the issuing of the Louisiana organic certification logo to organic producers, handlers, distributors and sellers of Louisiana certified organic products.

C. The Louisiana Organic Standards Advisory Council will consist of members appointed by the commissioner. Council members shall be appointed for four-year terms to run concurrent with that of the commissioner. The membership shall consist of:

1. the commissioner of the Louisiana Department of Agriculture and Forestry or his representative, who shall serve as chairman;
2. the director of Louisiana Cooperative Extension Service or his representative;
3. three persons who are Louisiana certified organic producers;
4. one person who is a certified organic processor; and
5. one person who is a retailer of Louisiana certified organic products.

D. Procedures

1. The members of the council at their first meeting shall organize by electing a vice chairman and a secretary, and shall adopt rules of procedure governing their deliberations. The terms of such officers shall be for one year.

2. The council shall meet at the call of its chairman, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules, but at least once a year.

3. A majority of the members of the council constitutes a quorum for all purposes and an act by a majority of the quorum at any meeting constitutes an official act of the council.

4. Members of the Louisiana Organic Standards Advisory Council shall receive no compensation for their services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20: (April 1994).

§31127. Prohibited Acts

A. The labeling, advertising, or otherwise representing of food to be organic by any producer, handler, distributor, or retailer, unless the food complies with all of the provisions of R.S. 40:608.3 or this Chapter.

B. The selling or offering for sale of food as organic which does not comply with all of the provisions of R.S. 40:608.3 or this Chapter.

C. The buying, selling, or offering for sale of any organic food by any handler, distributor or retailer in violation of R.S. 40:608.3 or this Chapter.

D. The use, employment, adoption or utilization of the Louisiana certified organic mark in the selling, advertising, marketing, packaging or other commercial handling of food and fiber products without prior application to and approval by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20: (April 1994).

§31129. Penalties

The department may enter an order imposing one or more of the following penalties against any person who violates any of the provisions of this Chapter or the rules promulgated under this Chapter or who impedes, obstructs, hinders, or otherwise prevents or attempts to prevent the department from performing its duty in connection with the provisions of this Chapter:

1. issuance of a warning letter;
2. imposition of an administrative fine, by the commissioner, of not more than \$500 per violation, as set forth in R.S. 40:608.3, after the issuance of a warning letter and a hearing held in conformance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20: (April 1994).

Bob Odom
Commissioner

RULE

Department of Agriculture and Forestry Office of Agro-Consumer Services

Dairy Stabilization Board Technical Revisions (LAC 7:XXXI.Chapter 161)

In accordance with provisions of the Administrative Procedure Act, R.S. 48:950 et seq., the Department of Agriculture and Forestry, Dairy Stabilization Board is amending LAC 7:XXXI.Chapter 161 as follows:

Title 7

AGRICULTURE AND ANIMALS

Part XXXI. Milk, Milk Products and Substitutions Chapter 161. Dairy Stabilization Board §16101. Definitions

Wherever in these rules and regulations the masculine is used, it includes the feminine and vice versa; wherever the singular is used, it includes the plural and vice versa.

Act—R.S. 3:4101 et seq., the Dairy Stabilization Law.

Administrative Cost—includes those direct additional expenses normally and customarily associated with the placement of a product into an established accounting system such as clerical assistance and computer related expenses and does not include expenses such as marketing, sales or promotional expenses.

Agent—an employee of the Department of Agriculture and Forestry or any person authorized to act on behalf of the commissioner.

Board—the Dairy Stabilization Board created by R.S. 3:4106.

Commerce—any act for which a license from the board is required.

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

Cost means:

a. *Cost to the Retailer*—the per unit invoice cost of the dairy products to the retailer:

- i. less the volume discount, if any;
- ii. plus, all costs of freight;
- iii. plus, a markup to cover a proportionate part of the cost of doing business, direct and indirect, which markup, in the absence of proof of a different cost, shall be no less than six percent of the invoice cost to the retailer after adding freight charges;

b. *Cost to the Distributor*—the per unit invoice cost of the dairy products to the distributor, including:

- i. all freight charges not otherwise included in the invoice which shall, in the absence of proof of a different amount, be presumed to be six percent of the invoice cost for inbound freight and 12 percent of the invoice cost for outbound freight as applicable; and
- ii. a markup to cover a proportionate part of the cost of doing business, direct and indirect, which markup, in the absence of proof of a different cost, shall be presumed to be no less than three percent of the invoice cost;

c. *Cost to the Processor*—all the cost including the costs of raw products, ingredients and/or additives, labor

(including salaries of executives and officers), receiving, cooling, processing, packaging, manufacturing, rent, interest, depreciation, power, supplies, selling, delivery, storing, maintenance of plant and equipment, advertising, transportation, all types of licenses, taxes, fees, insurance, any and all overhead expenses, and all other costs, direct and indirect, of doing business. Cost shall be allocated proportionately to each unit of product produced;

d. to determine cost when one or more items are advertised, offered for sale, or sold with one or more other items at a combined price, or are advertised, offered as a gift, or given with the sale of one or more items, then all of the items shall be considered as advertised, offered for sale, or sold, and the cost and price of each item shall be governed by the provisions of LAC 7:XXXI.16101, Cost a., b., and c., and other related provisions hereof.

Delinquent Account—the unpaid debt resulting from the purchase of dairy products on credit after the passage of 30 days from the end of the month in which the purchase was made.

Department—the Department of Agriculture and Forestry of the State of Louisiana.

Discount—any reduction, direct or indirect, in the price of dairy products.

Fluid Milk—homogenized milk, creamline milk, lowfat milk, fortified lowfat milk, skim milk, buttermilk, flavored milk, chocolate milk, lowfat chocolate milk, ice milk mix, half and half, breakfast cream, whipping cream, egg nog, sour cream, cottage cheese (dry or cream), creole cream cheese, yogurt, U.H.T. milk, reene, and lo-reene.

Freight—all cost of transportation of dairy products such as delivery of products to and from the retailer or distributor.

Frozen Dessert(s)—frozen dairy products including ice cream, fruit ice cream, nut ice cream, frozen yogurt, ice milk, malt ice milk, malt ice cream, French ice cream, milk sherbets, mellorine, olarine, sherine and the mix from which any such product is made.

Illicit Payment—the payment of anything of value by a processor or distributor or any agent of either for the privilege of doing business or with the intent or effect of influencing the recipient in a business relationship.

Invoice—the document evidencing the sale of products which shall contain sales information including the date, quantity, description of product and the actual sale price of each product to the purchaser.

Licensee—any person licensed or required to be licensed under the act or these rules and regulations.

Market Area—that geographic territory in which a licensee departing from a prevailing price under the circumstances described in LAC 7:XXXI.16123.A.2.a.i or LAC XXXI.16123.B.2.b.i, actively competes for customers with the relevant competitor and where the relevant competitor is offering the price being met or that geographic territory in which consumers of the licensee's dairy products actively shop for dairy products of the licensee and the relevant competitor and where the relevant competitor is offering the price being met.

Milk Case(s)—the wood, metal, or plastic container utilized for transportation and/or delivering cartons, bottles, jugs, or other packages of dairy products.

Person—any licensee, individual, partnership, corporation, cooperative association, governmental agency, or any entity.

Price—the net amount received or to be received by the seller in legal United States currency and currency specifically does not include trading stamps.

Quorum—with respect to the board, four members of the board.

Slotting Allowance—the payment of anything of value by a supplier as a mere reimbursement for actual, real and genuine additional direct administrative cost incurred by a purchaser in servicing the physical introduction of a product or products. Slotting allowance does not mean, under any circumstances, any payment which may be construed as an illicit payment as defined herein.

Volume discount—a rate of reduction applicable to the price of dairy products, which rate is established on the basis of total purchases of dairy products from all suppliers of such products.

Volume Discount Year—the 12 months commencing on April 1 and ending on March 31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4102 and 3:4108 (formerly R.S. 40:931.2 and R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:3 (January, 1983), amended LR 20: (April 1994).

§16103. Administration of the Affairs of the Board

A. The chairman shall preside at all meetings, provided that in the absence of the chairman, the vice-chairman shall preside.

B. The board shall meet upon the call of the chairman or the commissioner.

C. The board may conduct at least one meeting during each quarter or may meet more frequently upon call.

D. The board may, from time to time, delegate some of its responsibilities to subcommittees of the board, provided that such delegation of authority may be granted only at a meeting where a quorum is present.

E. Members of the board shall be entitled to reimbursement in accordance with rules and regulations governing state employees for expenses incurred in attending meetings of the board or its subcommittees, provided that no member shall be entitled to reimbursement except for the performances of duties specifically assigned by the commissioner.

F. Meetings of the board shall normally be held in the domicile of the board but may be held at other locations from time to time.

G. Proxies shall not be permitted.

H. No final action shall be taken by the board except at a meeting where a quorum is in attendance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4107 and 3:4108 (formerly R.S. 40:931.7 and R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:4 (January, 1983), amended LR 20: (April 1994).

§16105. Licenses Required and Procedure

A. Each retailer, distributor, processor or any person must be licensed by the board or the commissioner prior to and while conducting any business of buying and/or selling dairy products.

B. The board or the commissioner shall maintain a list of each retailer of dairy products. This list shall be known as the Retailer License List. Inclusion on the list shall constitute licensing of the retailer. Temporary removal from the list shall constitute suspension of the license and permanent or indefinite removal from the list shall constitute revocation of the retailer's license. The Retailer License List shall be a public record.

C. It shall be the obligation of each retailer to inform the board or commissioner, in writing, the full name, address of each location at which it sells dairy products, all applicable phone numbers, whether a corporation, partnership, sole proprietorship or other type of entity and the name, title, address and phone number of the highest ranking officer, partner or manager, before selling any dairy products. Upon receipt of such information the board or the commissioner shall include the retailer on the Retailer License List unless the board or commissioner finds after a hearing in accordance with the Administrative Procedure Act that the retailer notwithstanding the foregoing paragraphs is in effect a person or entity whose license has been previously suspended or revoked. The board or commissioner may include any retailer on the Retailer License List which it believes to be engaged in the business of retailing and where there is no cause not to include said retailer on the Retailer License List.

D. For licensure, each processor and distributor must:

1. complete the application form required by the board or the commissioner;
2. demonstrate compliance with all pertinent requirements of agencies of government.

E. Each license is personal to the holder thereof and may not be transferred to another for any purpose nor for any period of time.

F. Any license suspended or revoked by the board or commissioner may be re-issued after due deliberation by the board or commissioner in their discretion.

G. Each licensee is responsible for assuring that the other party or parties to any transaction of sale or purchase of dairy products is properly licensed by the board or commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4109 and R.S. 3:4108 (formerly R.S. 40:931.10 and R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:5 (January, 1983), amended LR 20: (April 1994).

§16107. Assessments

A. Pursuant to R.S. 3:4101, an assessment of \$.03 per hundredweight is hereby levied upon the first sale of dairy products within the state of Louisiana by the processor, distributor or retailer licensee who sells such product. The assessment shall be due and payable on all sales of dairy products during the previous month.

B. Only one assessment shall be levied on any given lot of dairy products. For example, when a processor makes the first sale of a given lot of dairy products and pays the assessment due thereon, no assessment shall be due from the

distributor or retailer of that lot of dairy products. However, when a distributor makes the first sale within this state of a given lot of dairy products, the distributor or retailer shall be liable for payment of the required assessment on such lot.

C. The assessment on frozen desserts shall be determined by converting the frozen desserts to milk equivalents by the following procedure: Multiply total non-fat milk solids x 5.79 and multiply total pounds fat x 12.5, add the two results. The resulting figure shall be used as a milk equivalent.

D. Assessments must be paid on or before the last day of the month following the month in which the sales occur. (For example, a report filed on December 31 should include all sales made during the month of November.) Assessments must be remitted to the board or commissioner together with the reporting form required by the board or commissioner. Each processor, distributor and retailer required under Subsection A hereof to pay the assessment must file the required report and pay the assessment on the due date.

E. Licensees whose assessments amount to \$25 or less each year may pay the total assessment for the 12 months of the year on an annual basis, provided that such licensees must file the reporting form required by the board or commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4111 and R.S. 3:4108 (formerly R.S. 40:931.13 and R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:5 (January, 1983), amended LR 20: (April 1994).

§16109. Volume Discounts Program and Procedures

A. Any licensed retailer desiring to receive a volume discount from its suppliers must first be approved by the board or commissioner to receive a volume discount. To be approved by the board or commissioner, the retailer must complete a volume discount eligibility application, on forms provided by the board or commissioner. The application must include all fluid milk purchases during the standard three-month base period and/or all frozen dessert purchases during the standard 12-month base period. The application is subject to verification by the board or commissioner.

B. Processors and distributors may grant volume discounts to a licensed retailer upon receipt of notification from the board or commissioner of the retailer's eligibility to receive of a volume discount.

C. The board or commissioner will annually, on or before April 1, publish a list of all retailers eligible to receive volume discounts, including the retailer's name and address, the rate(s) of discount authorized for each such retailer, and the effective date of such volume discount. The board or commissioner shall promptly notify all processors and distributors of any retailer approved for volume discounts subsequent to publication of the annual listing.

D. The authorized rate(s) of volume discount(s) will be established on the basis of a retailer's total purchases of fluid milk and/or frozen desserts from all suppliers during the appropriate base period.

E. The standard base period for calculation of the authorized rate of volume discount for fluid milk will be the months of August, September and October of each year. The standard base period for calculation of the authorized rate of

volume discount for frozen desserts will be November 1 through October 31 immediately preceding the retailer's application.

F. A retailer that has not been in operation during the entire standard base period may, with the approval of the board or commissioner, use for fluid milk, his first full three calendar month's purchases and, for frozen desserts, his first full 12 calendar month's purchases.

G. The authorized rate of volume discount on fluid milk purchases will be established by totaling the value of all fluid milk purchases from all suppliers during the approved base period and dividing said total by three.

H. The authorized rate of volume discount on frozen desserts will be established by totaling the value of all frozen dessert products purchased from all suppliers during the approved base period.

I. The authorized rate of volume discount for each retailer shall become effective on April 1 of the year following the application and shall remain in effect until the following March 31, except as provided in LAC 7:XXXI. 16109.F. Volume discount rates for a new retailer shall become effective as of his first day of business and remain in effect until he has operated for a full volume discount year.

J. The authorized rates of volume discount of fluid milk purchases shall be as follows:

Average Monthly Purchases From all Suppliers Discount Rate	Volume
\$1,000.00 to \$1,500.00	3%
\$1,500.01 to \$2,500.00	4%
\$2,500.01 to \$3,500.00	5%
\$3,500.01 to \$4,500.00	6%
\$4,500.01 and over	7%

K. The authorized rates of volume discount on frozen desserts shall be as follows:

Total Annual Purchases From all Suppliers Discount Rate	Volume
\$4,000.00 to \$6,000.00	3%
\$6,000.01 to \$8,000.00	4%
\$8,000.01 to \$11,000.00	5%
\$11,000.01 to \$15,000.00	6%
\$15,000.01 and over	7%

L. All applications for volume discounts must be submitted within one month after the close of the appropriate base period. One month's volume discount shall be forfeited for each month the application is late.

M. In a retail ownership transfer, the buyer may receive the volume discount rate approved for the previous owner. Alternatively, the buyer may choose to establish his own volume discount rate in accordance with these rules and regulations.

N. Accounts shall become delinquent 30 days from the end of the month in which the purchases were made, unless a good faith dispute exists between the parties concerning the amount of such account, in which case the account becomes delinquent 30 days following resolution of such good faith dispute.

O. Retailers who have delinquent accounts with any processor or distributor are not eligible to receive a volume discount from any supplier on any dairy products purchased during the period when the account was delinquent.

P. Each processor and distributor must report to the board or commissioner, no later than the tenth of each month, the name and address of each account which was delinquent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108 (formerly R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:5 (January, 1983), amended LR 20: (April 1994).

§16110. Milk Case Deposit Program and Procedure

A. Any licensed processor may adopt a milk case deposit program provided that those licensees who adopt a milk case deposit program shall:

1. give written notice providing clear, express and written detail of the program to all persons or entities to whom the program applies;

2. provide the same information in writing to the board or commissioner;

3. provide all said notices no less than 30 days before the implementation of said program;

4. apply any such program uniformly to all customers; and

5. such milk case deposits, if implemented, shall be refundable and shall be \$1 per milk case.

B. Any person or entity required to provide a deposit on milk cases under such a program shall not fail to do so and failing to do so, shall be deemed to be and is hereby declared to be an unfair trade practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Dairy Stabilization Board, LR 12:825 (December 1986), amended LR 20: (April 1994).

§16111. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4110, R.S. 3:4109 and R.S. 3:4108 (formerly R.S. 40:931.11, R.S. 40:931.10 and R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:5 (January, 1983), repealed LR 20: (April 1994).

§16112. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Dairy Stabilization Board, LR 12:498 (August 1986), repealed LR 20: (April 1994).

§16113. Investigative Hearing Procedure

A. Upon the belief that the act or these rules and regulations may have been or will be violated, the board or commissioner may take the deposition of any person, firm or corporation for the purpose of investigating alleged violations or potential violations of the act or these rules and regulations subject to the following conditions:

1. the deponent shall receive no less than five business days' notice of the date, time and place of the deposition. The place of said deposition shall be designated by the board or commissioner and shall be either in East Baton Rouge Parish or in the parish of domicile or principal place of business of deponent. In the event the deponent is not domiciled in Louisiana and has no principle place of business in Louisiana, the deposition may be noticed for and taken in East Baton Rouge Parish;

2. the subject of inquiry of the deposition shall be contained in the notice and the inquiry shall be limited to the subject or subjects noticed, said limitation being the same as those of a civil discovery deposition conducted in accordance with Louisiana law;

3. the notice shall advise deponent of the right to be represented by counsel and to be accompanied by counsel;

4. the notice shall advise of the potential uses of such deposition;

5. the notice shall advise of the right to read and sign the deposition;

6. the notice shall advise of the right to obtain a copy of such deposition upon payment of costs.

B. The board or commissioner may issue subpoenas and subpoenas duces tecum in connection with said deposition. The scope of same being governed by Louisiana law related to the scope of discovery deposition subpoenas.

C. In the event that any person, firm or corporation fails or refuses to comply with any subpoena issued hereunder, the board or commissioner may compel such compliance by civil action commenced in the Nineteenth Judicial District Court for the Parish of East Baton Rouge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108 (formerly R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:8 (January, 1983), amended LR 20: (April 1994).

§16115. Violations

A. No person shall violate any provision of the act or these rules and regulations.

B. No person shall engage in any disruptive trade practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4109, R.S. 3:4116 and R.S. 3:4108 (formerly R.S. 40:931.10, R.S. 40:931.18 and R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:8 (January, 1983), amended LR 20: (April 1994).

§16117. Disruptive Trade Practices

A. Disruptive trade practices are any act or acts by any person in commerce where the effect of such act or acts may tend to substantially lessen competition or tend to create a monopoly in the sale of dairy products; or which tend to injure, reduce, prevent, or destroy competition in the sale of dairy products.

B. The following acts are, but not by way of limitation, disruptive trade practices:

1. it shall be prohibited for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of dairy products of like grade and quality, where either or any of the purchasers involved in such discrimination

are in commerce, where such dairy products are sold for use, consumption, or resale within the State of Louisiana;

2. no person engaged in the processing, production, manufacture, distribution or sale of dairy products shall discriminate between different sections, communities, cities, or localities in the state by selling such dairy products at a lower rate in one section, community, city, or locality, than is charged for the dairy product by such person in another section, community, city or locality, after making due allowance for the difference, if any, in the grade or quality of the dairy product and in the actual cost of transportation of the dairy product from the point of production, if a raw product, or from the point of manufacture, if a manufactured product, where the effect of such discrimination may tend to harm competition. All sales so made shall be prima facie evidence of the unfair discrimination prohibited hereby;

3. it shall be unlawful for any person engaged in commerce, in the course of such commerce, to either directly or indirectly, pay or grant, or to receive or accept, anything of value as a commission, brokerage, any other compensation, any allowance or any discount other than the volume discount established herein and slotting allowance as defined herein, except for the actual cost of services rendered in connection with the sale or purchase of dairy products;

4. it shall be unlawful for any person engaged in commerce to pay anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale or offering for sale of any dairy products manufactured, sold, or offered for sale by such person;

5. it shall be unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchasers of dairy products bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of any services or facilities connected with the processing, handling, sale or offering for sale of such dairy product so purchased upon terms not accorded to all purchasers on proportionally equal terms;

6. it shall be unlawful for any person engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by this Section;

7. it shall be unlawful for any person engaged in commerce, in the course of such commerce, to be a party to, or assist in, any transaction of sale, or contract to sell, which discriminates against competitors of the purchaser and to sell, or contract to sell, dairy products in any part of Louisiana at prices lower than those exacted by said person elsewhere in Louisiana;

8. the granting or offering to grant of any discount, rebate or allowance, except the volume discount established herein and slotting allowance as defined herein;

9. the granting or offering to grant of any volume discount different from or in excess of the volume discount authorized herein is a disruptive trade practice, unfair method of competition and unfair or deceptive act or practice and is hereby prohibited with respect to the sale of dairy products;

10. any advertisement, offer to sell, or sale of any dairy products by any processor, distributor or retailer at less than cost as defined herein plus any state, parish, or municipal sales tax that is then payable under any existing law or ordinance, is a disruptive trade practice, unfair competition and contrary to and violative of public policy as tending to deceive purchasers or prospective purchasers, or tending to substantially lessen competition;

11. giving or receiving or offering to give or receive, directly or indirectly, anything of apparent, present or prospective value with the intent or effect of influencing the recipient in the business relationship;

12. the selling or offering to sell dairy products by a retailer, distributor, or processor who is not licensed by the board or commissioner is prohibited;

13. the sale to or purchase from a person whose license has been suspended or revoked is prohibited;

14. the granting of a volume discount to any retailer without notification from the board or commissioner of the retailer's eligibility for such discount is prohibited;

15. the extending to or receiving of further credit by any licensee where the account is delinquent;

16. the filing of any false information of any kind with or the making of any false statements of any kind to the board or commissioner, or any agent of either is prohibited;

17. the failing or refusing to maintain or permit an examination of financial or other records when the request of the commissioner, board or any agent of either to audit is made for valid purposes is prohibited;

18. the failing or refusing to provide any report required by the board or commissioner is prohibited;

19. the use by a retailer, processor, or distributor of equipment furnished by a frozen dessert processor or distributor for the storage or display of frozen desserts other than those frozen desserts sold to such retailer by such frozen dessert processor or distributor which provides the equipment is prohibited. The storage or display of products other than frozen desserts received from such processor or distributor, in such storage or display cabinet by a retailer shall constitute prima facie evidence of a violation of this regulation;

20. the advertising of lowfat milk (milk with a milk fat content of not less than one-half of one percent nor more than two percent) in any form of mass media without clearly stating the percentage of milk fat contained in said product is prohibited;

21. the failing by a processor or distributor to provide an invoice to a purchaser of dairy products at the time of delivery is prohibited. Mailing of said invoice on the date of delivery shall satisfy the requirement of providing an invoice as required herein;

22. the selling or the offering to sell dairy products under terms or prices which result in said sale being below cost as defined herein is prohibited;

23. combined sales at less than cumulated costs where one or more of the items in combination is a dairy product is prohibited;

24. the furnishing, giving, lending, selling, or renting, by a processor or distributor or the accepting, receiving, buying, or renting by a retailer of any signs or display materials

advertising and containing the name or product of any retailer is prohibited;

25. donating dairy products except as provided in LAC 7:XXXI.16121.A.4;

26. the using, shipping, lending, borrowing, possessing, giving away, throwing away, donating or disposing of in any manner, of milk cases belonging to another licensee is prohibited without written authority from the director of the board;

27. the providing of a fluid milk dispenser to any retailer, except under the following conditions:

a. the processor or distributor has been engaged in selling dispenser milk to the retailer for at least 60 days prior to the date on which the dispenser is furnished;

b. the dispenser is replacing the retailer's dispenser which is undergoing repair and the period during which the dispenser is furnished does not exceed 30 days;

c. the processor or distributor must report to the board or commissioner within 10 days after the date on which the dispenser is furnished to the retailer the make and serial number of the dispenser, the name and address of the retailer and the date on which the dispenser was installed.

28. the failure of the purchaser, licensee, to assume all responsibility for product losses except where a portion of the price is dedicated to the seller for assuming that loss, sometimes referred to as a "full service" sale or except in the case of manufacturing or processing defects;

29. utilization of coupons in connection with the marketing of dairy products without the prior written approval of the director of the Dairy Stabilization Board. When submitted for approval, the coupons shall be reviewed to determine if said coupons are in compliance with the act and these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108 (formerly R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:8 (January, 1983), amended LR 20: (April 1994).

§16119. Mandatory Obligations of Licensees

A. The omission by a licensee of any of the following requirements constitutes a violation of these rules and regulations and failure to comply with same can result in suspension or revocation of license, in addition to any other penalty provided by law or these rules and regulations.

B. Each licensee must maintain all records including financial records pertaining to all transactions subject to the act in accordance with standards generally prevailing in industry for a period of not less than two years. Said records shall be kept in a manner that permits prompt access to all such records and shall be kept in a manner that facilitates the determination by audit of, which costs are allocable to which products and, shall include but not be limited to the following records:

1. expenses incurred and paid;
2. expenses accrued;
3. depreciation schedules;
4. production schedules; and
5. documentation of circumstances relating to price changes for purposes of meeting competition.

C. In order to enforce the provisions of the act and these rules and regulations, the commissioner may from time to time audit the books and records of licensees, and each licensee shall permit access to his financial records, during normal business hours, for such audit.

D. Each licensee shall submit such additional reports concerning the sale of dairy products as may from time to time be required by the board or commissioner.

E. The monthly assessment report of sales of dairy products required under LAC 7:XXXI.16107 shall be submitted timely.

F. The monthly assessment on sales of dairy products required by R.S. 3:4111 and LAC 7:XXXI.16107 of these rules and regulations shall be paid timely.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108 (formerly R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:8 (January, 1983), amended LR 20: (April 1994).

§16121. Trade Practices Declared not Disruptive

The following acts are specifically declared as not constituting disruptive trade practices and are not prohibited:

1. the giving of advertising novelties unless the nature or value of the advertising novelty is such that the giving of such advertising novelty constitutes an illicit payment;

2. normal social activities of any person or the entertainment of any customer unless the expenditure involved in such entertainment is excessive or unreasonable;

3. the giving of samples of dairy products to consumers if the following requirements are observed:

a. in the case of fluid milk products, the quantity must be limited to three fluid ounces;

b. in the case of frozen desserts, the quantity must be limited to one fluid ounce;

c. the retailer on whose premises such sampling activity takes place must have been in operation at that location for at least 60 days prior to the date on which such activity takes place;

d. prior to engaging in sampling activities on the premises of a retailer, the processor or distributor shall notify the board or commissioner of the planned sampling activity. If such notification is by mail, it shall be given at least 10 days prior to the date of the planned sampling activity, and if such notification is by telephone, it shall be given at least three days prior to such activity;

e. notwithstanding the above provisions, processors may give homogenized milk, lowfat milk, skim milk, or chocolate milk in half-pint containers or a frozen dessert sample weighing no more than three fluid ounces to persons participating in plant tours, if such products are consumed on the premises where given;

f. the giving of such sampling by a processor or distributor shall not extend over a period of more than two consecutive days for each retailer and shall not occur more frequently than once per calendar quarter; provided that the giving of such samples during the month of December shall not be used in determining whether there has been compliance with the provisions of this Subsection limiting frequency of sampling demonstrations to one per calendar quarter;

g. the prohibition contained herein shall not apply to trade shows or other activities designated by the board or commissioner in writing.

4. the donation of dairy products not directly or indirectly related to the sale of dairy products to nonprofit and charitable entities.

5. a cooperative association returning to its members, producers, or consumers the whole or any part of the net earnings or surplus resulting from its trading operations, in proportion to their purchases or sales from, to, or through the association, provided same is not in the form of a discount or allowance and distributed not more frequently than quarterly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Dairy Stabilization Board, LR 20: (April 1994).

§16123. Burdens and Presumptions

A. Sales Below Cost

1. Upon proof being made at any adjudicatory hearing that a licensee has advertised, offered to sell, or sold dairy products at less than cost as defined herein plus applicable taxes, the licensee shall be presumed in violation of the regulations proscribing sales below cost.

2. The licensee may rebut that presumption by proving that:

a. such advertisement, offer to sell, or sale was not for the proscribed purpose, did not have a proscribed effect or was otherwise lawful, such as that it was made in good faith to meet an equally low price of a competitor when all of the following circumstances were present:

i. the advertisement, offer to sell, or sale was limited to that customer, group of customers or that market area to which the price was available from competitors;

ii. the advertisement, offer to sell, or sale occurred only while the competitive circumstances justifying such sale below cost existed; and

iii. the advertisement, offer to sell, or sale is reported in advance in writing to the board or commissioner, or, if advance notification is not possible, within 72 hours thereafter.

b. such advertisement, offer to sell, or sale was necessary in response to actual or imminent deterioration of dairy products, seasonal obsolescence of dairy products, distress sales under court process, final liquidation sales or sales in good faith in discontinuance of a business or in discontinuance of a dairy product, and provided that the price at which the dairy product is advertised, offered, or sold is reported in advance to the board or commissioner, or, if advance notification is not possible, within 72 hours thereafter.

3. In the event a representative of the board or of the commissioner has a reasonable basis upon which to believe that a licensee may be selling dairy products below costs and said licensee denies access, fails to produce or produces records which will not permit a determination of the cost of production then, in that event, the cost of the dairy products for the relevant period shall be presumed to be in excess of the selling price. This presumption shall be rebuttable but the burden of rebutting same shall be upon the licensee.

B. Price Discrimination

1. Upon proof being made at any adjudicatory hearing that there has been discrimination in price, services, facilities furnished, or any other proscribed discrimination, the licensee shall be presumed to be in violation of the rules and regulations proscribing discrimination.

2. The licensee may rebut that presumption by proving that:

a. the discrimination in price, services, or facilities was necessary in response to actual or imminent deterioration of dairy products, seasonal obsolescence of dairy products, distress sales under court process, final liquidation sales or sales in good faith in discontinuance of a business or in discontinuance of a dairy product; or

b. the discrimination in price, services, or facilities was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor and all of the following circumstances were present:

i. the discrimination in price, services, or facilities was limited to that customer, group of customers or that market area to which the price was available from competitors;

ii. the discrimination in price, services, or facilities occurred only while the competitive circumstances justifying such discrimination existed; and

iii. the discrimination in price, services or facilities is reported in advance in writing to the board or commissioner, or, if advance notification is not possible, within 72 hours thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Dairy Stabilization Board, LR 20: (April 1994).

§16125. Cease and Desist Order; Suspension/Revocation of License; Hearing Required; Penalties; Amount; Stipulated Resolutions; Service

A. Upon probable cause the Board or commissioner may issue a cease and desist order to any licensee, describing with particularity the acts or omissions which the board or commissioner believes to constitute a violation of the act or these rules or regulations and ordering such licensee to take the necessary and sufficient steps to establish immediate compliance.

B. Upon a finding of any violation of the act or these rules and regulations by a licensee which violation occurred after the receipt of a relevant cease and desist order the board or commissioner may and should assess a penalty which is treble the normal penalty for any such offense.

C. The board or commissioner may suspend or revoke the license of any licensee found to have violated any provisions of the act or these rules and regulations.

D. No license shall be suspended or revoked unless the licensee is given an adjudicatory hearing noticed and conducted in accordance with the Administrative Procedure Act (R.S. 49:950 - 49:970).

E. The board or commissioner may, in lieu of suspension or revocation of any license, impose a penalty in accordance with R.S. 3:4109(G) as a result of any violation of the act or these rules and regulations which is sustained at such

hearing. No penalty may be imposed until such time as an adjudicatory hearing in accordance with the Administrative Procedure Act is held.

F. Each day on which a violation occurs shall be considered a separate offense.

G. The foregoing shall not limit any stipulated resolution of any alleged violation.

H. All notices including notices of adjudicatory hearings and services of the subpoenas shall be served upon the agent for service of process, an officer, the principal owner, a manager or an employee of the entity to be noticed or served and, once served in accordance herewith said notice or service, shall be valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108, R.S. 3:4109 and R.S. 3:4116.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Dairy Stabilization Board, LR 20: (April 1994).

§16127. Confidentiality

Neither the board, the commissioner, nor any agent nor representative of either shall disclose any financial or business information of any licensee which is acquired or collected in the enforcement of the act or these rules and regulations, except as provided by R.S. 3:4110.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108 and R.S. 3:4110.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Dairy Stabilization Board, LR 20: (April 1994).

§16129. Delegation of Authority and Duties

The commissioner may, from time to time, in accordance with the authority granted to him under R.S. 36:901(B), delegate to the board any of the authority and/or duties reserved to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Dairy Stabilization Board, LR 20: (April 1994).

EDITOR'S NOTE:

For the purpose of tracking changes to these regulations, the following list indicates the redesignation of several section numbers. This list is only an approximation and may not indicate particular deletions or amendments.

Section Number Prior to 1993 Amendments	1993 Amended Section Number
§16111	§16119
§16112	§16113
§16113	§16115
§16115	§16125
§16117	§16127
§16119	§16129

Bob Odom
Commissioner

RULE

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

Equine Infectious Anemia (LAC 7:XXI.Chapter 117)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R. S. 3:2095, relative to the power to deal with disease of animals, the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board hereby amends LAC 7:XXI.Chapter 117 regarding the Equine Infectious Anemia Disease Control Program.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Disease of Animals

Chapter 117. Livestock Sanitary Board

Subchapter C. Equine

§11759. General Requirements Governing the

Admission of Equine

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

1. All equine moving into Louisiana for any purpose other than consignment to an approved Louisiana livestock auction market or an approved slaughter establishment for immediate slaughter shall be accompanied by a record of a negative official test for Equine Infectious Anemia (EIA) conducted within the past 12 months. The official test shall be conducted by an approved laboratory. The name of the laboratory, the case number and the date of the official test shall appear on the health certificate as required in LAC 7:XXI.11761.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2053.

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

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

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

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

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

3. All equine moving into the state of Louisiana to fairs, livestock shows, breeder's association sales, rodeos, racetracks

or any other concentration point, shall be accompanied by a record of a negative official test for Equine Infectious Anemia (EIA), conducted within the past 12 months. The official test shall be conducted at an approved laboratory and the name of the laboratory, the case number, and the date of the official test shall appear on the record.

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

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

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

§11763. Governing the Movement of Equine in Louisiana by Livestock Dealers

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

1. All equine sold or offered for sale by permitted Louisiana livestock dealers must be accompanied by a record of a negative official test for Equine Infectious Anemia, conducted at an approved laboratory, within the past 12 months. The record shall include the name of the laboratory, the case number and the date of the official test.

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

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

§11765. Governing Equine Infectious Anemia and Louisiana Livestock Auction Market Requirements

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

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

B. Equine Required to be Tested

1. All equine moving into the state of Louisiana for any purpose other than immediate slaughter, shall be accompanied by a record of a negative official test for EIA, conducted within the past 12 months. The official test shall be conducted by an approved laboratory. The name of the laboratory, the case number, and the date of the official test shall appear on the health certificate, as required in LAC 7:XXI.11761.

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

within the past 12 months. The official test shall be conducted by an approved laboratory and the name of the laboratory, the case number, and the date of the test shall appear on the official record of the test.

3. All equine sold or purchased in Louisiana shall have been officially tested negative for EIA within 12 months of the date of the sale or shall be officially tested negative for EIA at the time of sale or purchase. The official test shall be conducted at an approved laboratory. The official test record shall accompany the horse at the time of the sale or purchase and the name of the laboratory, the case number, and the date of the test shall appear on the official record of the test.

4.a. All equine offered for sale at Louisiana livestock auction markets must be accompanied by an official record of a negative official test for EIA conducted by an approved laboratory within 12 months of the date of the sale, except as provided in this Subsection hereof. Exceptions are:

i. Untested equine arriving at a Louisiana livestock auction market shall have a blood sample drawn for official EIA testing. A fee of no more than \$18 shall be collected from the seller and paid to the testing veterinarian by the auction market. The buyer of the equine shall be charged a \$5 identification fee which will be collected by the auction market before the equine leaves the auction market. This fee will be forwarded to the Louisiana Department of Agriculture and Forestry. After the blood sample is obtained and the fee paid, untested horses may move to the purchaser's premises under a quarantine issued by Louisiana Livestock Sanitary Board personnel until results of the official tests are received. The seller of any equine whose gross proceeds from the sale are less than \$50 will not be required to pay the fee for an official EIA test. If no veterinarian is available for official EIA testing of equine at a Louisiana livestock auction market, the testing shall be done by Louisiana Livestock Sanitary Board personnel.

b. Authorized buyers for approved slaughter establishments may request that any equine they have purchased at a Louisiana livestock auction market be restricted to slaughter. After the request, such equine shall be branded with the letter "S" on the left shoulder prior to leaving the auction market and shall be issued a VS Form 1-27 permit. The branding and permit issuing shall be done by Louisiana Livestock Sanitary Board personnel.

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

1. With the exception of the equine stabled at a racetrack regulated by the Louisiana State Racing Commission, all equine testing positive to the official test for EIA shall be quarantined to the owners premises and shall be destroyed or sold for immediate slaughter within 20 days of the date of the official test for EIA. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian. If sold for slaughter, the equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved Louisiana livestock auction market or to an approved slaughter facility. The owner or trainer of all equine stabled at a racetrack regulated by the Louisiana State Racing Commission testing positive to

an official EIA test shall be notified immediately by the testing veterinarian, or by racetrack officials, or by Louisiana Livestock Sanitary Board personnel and the equine testing positive shall be removed from the racetrack premises immediately. Exceptions are:

a. Upon request by the owner, any female equine testing positive to the official test for EIA that is at least 270 days pregnant or has a nursing foal no more than 120 days of age at her side may be quarantined to the owner's premises and kept at least 200 yards away from any other equine. The female equine shall be identified with a "72A" brand at least three inches in height on the left shoulder. The female equine may remain in quarantine until her foal dies or reaches an age of 120 days at which time the female equine shall be destroyed or sold for immediate slaughter within 20 days. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian. If sold for slaughter, the female equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved Louisiana livestock auction market or to an approved slaughter facility.

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

c. Any equine testing positive to the official EIA test prior to the effective date of this regulation may be quarantined to the owner's premises and kept at least 200 yards away from any other equine. This equine shall be identified with a "72A" brand at least three inches in height on the left shoulder. If the EIA positive equine is sold, it must be sold for slaughter and a VS Form 1-27 permit must be issued by Livestock Sanitary Board personnel to move the EIA positive equine from the owner's premises to slaughter. If the EIA positive equine is destroyed or dies, verification of said destruction or death by written and signed statement must be furnished to the office of the state veterinarian.

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

2. All equine stabled at a racetrack regulated by the Louisiana State Racing Commission, testing positive to the official EIA test and immediately removed from the racetrack shall be quarantined to the premises to which they are moved and shall be destroyed or sold for immediate slaughter within 20 days of the date of the official test for EIA. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian. If sold for slaughter, the equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved Louisiana livestock auction market or to an approved slaughter facility.

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

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

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

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

4. All equine stabled at a racetrack regulated by the Louisiana State Racing Commission which are stabled in the same barn or in a directly adjacent barn of an equine which tests positive to the official EIA test shall be quarantined until the positive equine is removed and all other horses in the aforementioned barns are tested negative to the official EIA test.

5. Equine which are required to be officially tested for EIA as a result of being quarantined due to the circumstances described in Subsection C.3 and 4 of this Section may be tested by an accredited veterinarian chosen by the owner or by a state employed veterinarian if requested by the owner of the quarantined equine. In the event that the official testing for EIA is done by a state employed veterinarian, the official record (VS Form 10-11) will not be made available to the owner.

6. Equine positive to the official test for EIA shall be identified with a "72A" brand on the left shoulder at least three inches in height, by Louisiana Livestock Sanitary Board personnel. Equine positive to the official test for EIA will be retested prior to identification by branding upon request by the owner, by Louisiana Livestock Sanitary Board personnel and the blood sample submitted to the Louisiana Veterinary Medical Diagnostic Laboratory for confirmation.

D. Collection and Submission of Blood Samples

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

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

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

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

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

E. Testing of Blood Samples Collected

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

must also receive approval by the Louisiana Livestock Sanitary Board.

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

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

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

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

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

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

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

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

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

7. All permits must be renewed annually.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 11:243 (March 1985), amended LR 11:615 (June 1985), LR 14:223 (April 1988), LR 14:697 (October 1988) LR 20: (April 1994).

§11766. Equine Infectious Anemia Testing Laboratory Requirements

* * *

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

7. All Equine Infectious Anemia testing laboratories which have been approved by the United States Department of Agriculture, prior to the adoption of this regulation, shall be automatically approved at the time this regulation goes into effect.

* * *

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

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

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

* * *

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

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

Bob Odom
Commissioner

RULE

Department of Agriculture and Forestry Office of Forestry and Department of Revenue and Taxation Tax Commission

Timber Stumpage Values (LAC 7:XXXIX.Chapter 201)

In accordance with provisions of the Administrative Procedure Act, the Department of Agriculture and Forestry, Office of Forestry, and the Department of Revenue and Taxation has amended rules regarding the value of timber stumpage for calendar year 1994.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 201. Timber Stumpage

§20101. Stumpage Values

The Louisiana Forestry Commission, and the Tax Commission, as required by R.S. 3:4343, adopted the following timber stumpage values based on current average stumpage market values to be used for severance tax computations for 1994.

1. Pine trees and timber	\$248.83/MBF	\$31.10/ton
2. Hardwood trees and timber	\$125.66/MBF	\$13.23/ton
3. Pine chip and saw	\$ 53.95/cord	\$19.98/ton
4. Pine pulpwood	\$ 24.20/cord	\$ 8.96/ton
5. Hardwood pulpwood	\$ 10.22/cord	\$ 3.59/ton

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1543.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 4:9 (January 1978), amended LR 5:7 (January 1979), LR 6:728 (December 1980), LR 7:627 (December 1981), LR 8:651 (December 1982), LR 9:848 (December 1983), LR 10:1038 (December 1984), LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission, LR 12:819 (December 1986), LR 13:432 (August 1987), LR 14:9 (January 1988), LR 15:5 (January 1989), LR 16:16 (January 1990), LR 17:476 (May 1991), LR 18:6 (January 1992), LR 19:611 (May 1993), LR 20: (April 1994).

Bob Odom, Commissioner
Agriculture and Forestry

Malcolm B. Price, Chairman
Tax Commission

RULE

Department of Culture, Recreation and Tourism Office of Cultural Development Division of Archaeology

Archaeologist Qualifications; Fees; Archaeological Survey
and Antiquities Commission
(LAC 25:I.Chapter 1)

As per authority of Archaeological Resources Act, R.S. 41:1604, the Department of Culture, Recreation, and Tourism has amended and repealed rules relative to LAC Title 25. The purposes of the changes are: 1) established minimum qualifications for archaeologists working on state properties; 2) established fees for printed and photocopied material and for the curation of artifacts; and 3) defined the purpose, the duties of officers, and schedule of meetings for the Louisiana Archaeological Survey and Antiquities Commission.

Title 25

CULTURAL RESOURCES

Part I. Office of Cultural Development

Chapter 1. Division of Archaeology

Subchapter A. Regulations

§101. Definitions

Burial furniture—movable property or artifacts found in association with interments at Indian burial sites. Examples of burial furniture include but are not limited to clothing, beads, pottery, knives, muskets, weapons, plates, bowls, and other containers, utensils, and ornaments made of ceramic materials, glass, copper, iron, brass, or shell.

Commission—the Louisiana Archaeological Survey and Antiquities Commission created by and acting pursuant to the provisions of R.S. 41:1601 through 41:1613 inclusive and amended by R.S. 41:1601 through 41:1614 inclusive.

Contract or Contract for Survey and Salvage—a written agreement entered into by the secretary under the authority of R.S. 41:1607 for the study, conservation, and salvage of historic and prehistoric resources within a designated state archaeological landmark or on state-owned lands.

Contractor—a party that has entered into a contract for survey and salvage with the secretary under the provisions of the regulations.

Division—the Division of Archaeology created by and acting pursuant to the provisions of R.S. 41:1601-1614 inclusive.

Excluded Public Lands—public lands title to which is vested in or under the control and management of the public entities described in *State-Owned Lands or Lands Belonging to the State of Louisiana* below.

Historical and Prehistoric Resources—the entire range of archaeological sites and remains and includes but is not limited to:

1. prehistoric Native American or American Indian campsites, dwelling, habitation sites, burial grounds, mounds and all sites of every character;
2. historical sites of all ethnic groups and in both rural and urban areas of the state including house sites, plantations, camps, and industrial sites, as well as the buildings and the objects from these sites;

3. all sunken or abandoned ships and wrecks of the sea or rivers, or any part of the content thereof;

4. all archaeological material such as artifacts embedded in the earth or underwater; and

5. all maps, records, documents, books, artifacts, and implements of culture which relate to such archaeological remains.

Indian Burial Site—any location used by historical or prehistoric Indians for the interment of deceased Indians as determined by archaeological research. Burial sites include cemeteries, graveyards, burial grounds, and other configurations.

Investigation—the study of a state archaeological landmark through testing, excavation, removal of artifacts and material, or any other process which alters the landmark or its associated physical remains and characteristics.

Private Lands—lands which are not public lands nor owned by the United States of America, the state of Louisiana, or any department, agency, or instrumentality thereof.

Professional Archaeologist—a person who meets the minimum qualifications listed in §102 below.

Reference Series—publications which are basic source material needed in the study, management, or presentation of archaeological information. Publications in the reference series include but are not limited to "Louisiana's Comprehensive Archaeological Plan" and the "Annotated Bibliography of Cultural Resource Survey Reports."

Regulations—the rules and regulations provided for in hereof, and as this instrument may be amended hereafter.

Secretary—the secretary of the Department of Culture, Recreation and Tourism.

State Archaeological Landmark or Landmark—a geographic area situated on state-owned lands, excluded public lands, private lands, or a combination thereof, which is accepted and approved for inclusion by the commission in the *Registry of State Archaeological Landmarks*.

State-Owned Lands or Lands Belonging to the State of Louisiana—all public lands within the limits of the state, including tidelands, submerged lands, and the bed of the sea within the jurisdiction of the state of Louisiana, other than lands title to which is vested in:

1. the United States of American or any of its agencies, departments, or instrumentalities;
2. local political subdivisions of the state of Louisiana including, but not limited to, municipalities, parishes, and special taxing districts; and
3. the three management boards for higher education created pursuant to Article VIII, Sections 6 and 7 of the 1974 Constitution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1601-1614.

HISTORICAL NOTE: Promulgated by the Louisiana Archaeological Survey and Antiquities Commission, LR 1:375 (September 1975), amended by the Department of Culture, Recreation and Tourism, Division of Archaeology, LR 20: (April 1994).

§102. Minimum Qualifications for Professional Archaeologists

The following information outlines the basic educational and training requirements that a person must have to direct archaeological investigations on state property. In addition to basic educational requirements, the person must demonstrate expertise in historic archaeology if the project is mainly historical in nature or in prehistoric archaeology if the resources are primarily prehistoric. If the resources are underwater, the person must demonstrate expertise in underwater archaeology. These minimal qualifications parallel in large part those included in the "Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines" (Federal Register, Vol. 48, No. 190 September 29, 1983) and in the *Guide to the Society of Professional Archaeologists*, "Requirements for Membership and Certification" (1993). A person who wishes to conduct archaeological investigations on state property must document that s/he has the education, training, and appropriate expertise listed below.

1. Basic Educational Requirements. To meet the basic educational requirements, a person must have designed and executed an archaeological study as evidenced by a thesis or dissertation, and must have been awarded an advanced degree, such as an M.A., M.S., Ph.D. or D.Sc., from an accredited institution in archaeology, historical archaeology, anthropology with a specialization in archaeology, or history with a specialization in archaeology. If the thesis or dissertation is not based primarily on field research in archaeology, the person must have designed and executed an archaeological study or report based on field research equivalent in scope and quality to an M.A. or M.S. thesis or Ph.D. or D.Sc. dissertation.

2. Basic Training Requirements for Each Area of Expertise

a. Historical Archaeology. Historical archaeology is defined as the application of archaeological techniques to sites relating either directly or indirectly to a literate tradition. Historical archaeology is most often devoted to the study of sites that date to the expansion of literate populations since the 15th century. To qualify as a historical archaeologist, a person must:

- i. document a minimum of one year of field and laboratory experience with sites and artifacts of the historic period, including 24 weeks of fieldwork, of which no more than 12 can be survey, and eight weeks of laboratory work under the supervision of a professional archaeologist, and an additional 20 weeks in a supervisory or equally responsible capacity;
- ii. document a historical archaeological report on field research, prepared wholly or in the majority by the person requesting recognition as a professional historical archaeologist;
- iii. demonstrate experience or training in primary archival research under the supervision of a competent specialist as documented by a report, a course transcript, or a letter of reference;
- iv. show the design and execution of a historical archaeological study as evidenced by an M.A. or M.S. thesis,

Ph.D. or D.Sc. dissertation, or a report equivalent in scope and quality; and

v. be knowledgeable about the recovery and interpretation of both archaeological and archival data, and be familiar with the material remains including artifactual components and with their conservation and preservation.

b. Prehistoric Archaeology. Prehistoric archaeology is defined as the application of archaeological techniques to sites relating to preliterate or non-literate Native American traditions. Prehistoric archaeology is most often devoted to the study of Native American sites of the time before Europeans arrived, but it may also relate to Native American archaeology of the contact period. To qualify as a prehistoric archaeologist, a person must:

i. document a minimum of one year of field and laboratory experience with sites and artifacts of the prehistoric periods, including 24 weeks of fieldwork, of which no more than 12 can be survey, and eight weeks of laboratory work under the supervision of a professional archaeologist, and an additional 20 weeks in a supervisory or equally responsible capacity;

ii. document a prehistoric archaeological report on field research, prepared wholly or in the majority by the person requesting recognition as a professional prehistoric archaeologist;

iii. show the design and execution of a prehistoric archaeological study as evidenced by an M.A. or M.S. thesis, Ph.D. or D.Sc. dissertation, or a report equivalent in scope and quality; and

iv. be knowledgeable about the recovery and interpretation of archaeological data and be familiar with the material remains including artifactual components and with their conservation and preservation.

c. Underwater Archaeology. The term underwater archaeology is used to mean archaeological investigations in situations where scuba or surface supplied air equipment is required. Generally, this will apply to sites that are totally submerged in the Gulf of Mexico or in lakes, rivers, or bayous. Underwater archaeology can be divided into prehistoric sites, historical sites, and nautical sites (ships and their related harbor structures). To qualify as an underwater archaeologist, a person must:

i. document a minimum of one year of field and laboratory experience with underwater sites and related artifacts, including two weeks of field experience and training in underwater survey techniques and demonstrate familiarity with the general theory and application of varied remote-sensing technology;

ii. document both 24 weeks of supervised underwater fieldwork and 20 weeks of supervisory underwater archaeological fieldwork;

iii. show experience or training in the recovery and interpretation of both archaeological and archival data and, for nautical archaeology, familiarity with the history and technology of navigation and shipbuilding;

iv. document the design and execution of an underwater archaeological study as evidenced by an M.A. or M.S. thesis, or Ph.D. or D.Sc. dissertation, or a report equivalent in scope and quality; and

v. be knowledgeable in dealing with water-saturated artifacts and preservation and conservation methods.

vi. for persons specializing in underwater prehistoric sites, experience and training comparable to that specified in the section entitled Prehistoric Archaeology should be documented. For persons specializing in underwater historical sites, experience and training comparable to that specified in the section entitled Historical Archaeology should be documented. Persons specializing in nautical archaeology must be knowledgeable about both archaeological and archival data pertaining to ships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1601-1614.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Division of Archaeology, LR 20: (April 1994).

§122. Fees

A. Printed Material. A fee shall be charged for each publication in the reference series and for posters developed by the division. Fees shall be computed based on the estimated cost of developing, printing, mailing, and handling of each publication or poster.

B. Photocopying. A fee of \$.10 per copy shall be charged for photocopying information including site forms and reports maintained by the division.

C. Curation of Archaeological Collections. A one time fee of \$200 shall be charged for processing and long-term curation of a standard box of artifacts deposited with the division. A standard box measures 12 inches by 10 inches by 15 inches and the contents can weigh no more than 30 pounds (13.6 kg). Oversize artifacts shall be assessed at the rate of \$200 per cubic foot. The fee must be paid within 30 days of billing.

D. Fee Waivers. Fees may be waived as described in the division's "Archaeological Code of Louisiana."

E. Fee Adjustments. Fees may be periodically readjusted to reflect changes in product costs and services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1601-1614.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Division of Archaeology, LR 20: (April 1994).

Subchapter B. Louisiana Archaeological Survey and Antiquities Commission

§123. Purpose

The purpose of the Louisiana Archaeological Survey and Antiquities Commission is to promote the goals and objectives of the Department of Culture, Recreation and Tourism and to act in an advisory capacity to that department and its secretary in their administration of the Archaeological Resources Act (R.S. 41:1602).

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1601-1614.

HISTORICAL NOTE: Promulgated by the Louisiana Archaeological Survey and Antiquities Commission, LR 1:10 (September 1975), amended by the Department of Culture, Recreation and Tourism, Division of Archaeology, LR 20: (April 1994).

§124. Bylaws

The bylaws govern the conduct of business by the Louisiana Archaeological Survey and Antiquities Commission.

1. A chairperson shall be selected annually at the fall meeting of the commission and shall preside over meetings of the commission.

2. The commission shall meet at least four times a year and on other occasions, if necessary, at the discretion of the chairperson. Notice of all meetings shall be mailed to each member prior to the meeting. All meetings shall be open to the public and shall be held in accordance with all appropriate state laws. *Robert's Rules of Order* shall be the final authority on matters of parliamentary procedure. Minutes of the meetings shall be reduced to writing and retained by the Division of Archaeology.

3. Action of the commission shall be by the affirmative vote of a majority of the members of the commission attending a meeting, provided that a quorum of six or more such members is present. Proxy votes authorized by the written consent of an absent commission member are permissible.

4. There shall be an executive committee composed of the chairperson, vice-chairperson, and state archaeologist. The executive committee is authorized to exercise the powers of the commission when the calling of an emergency meeting of the commission is impossible or not warranted. All actions adopted by the executive committee shall be submitted to the commission members for their consideration and ratification at the next regular meeting of the commission.

5. Commission members shall be paid a per diem and reasonable and necessary expenses incurred according to the authorization established in R.S. 41:1602, if funding permits.

6. Members shall comply with all state laws relating to ethics and conflicts of interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1601-1614.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Division of Archaeology, LR 20: (April 1994).

§125. Quorum

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1601-1614.

HISTORICAL NOTE: Promulgated by the Louisiana Archaeological Survey and Antiquities Commission, LR 1:375 (September 1975), repealed by the Department of Culture, Recreation and Tourism, Division of Archaeology, LR 20: (April 1994).

§127. Public Meetings, Notices, Emergency Meetings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1601-1614.

HISTORICAL NOTE: Promulgated by the Louisiana Archaeological Survey and Antiquities Commission, LR 1:375 (September 1975), repealed by the Department of Culture, Recreation and Tourism, Division of Archaeology, LR 20: (April 1994).

§129. Officers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1601-1614.

HISTORICAL NOTE: Promulgated by the Louisiana Archaeological Survey and Antiquities Commission, LR 1:375 (September 1975), repealed by the Department of Culture, Recreation and Tourism, Division of Archaeology, LR 20: (April 1994).

§131. Cash Management

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1601-1614.

HISTORICAL NOTE: Promulgated by the Louisiana Archaeological Survey and Antiquities Commission, LR 1:375 (September 1975), repealed by the Department of Culture, Recreation and Tourism, Division of Archaeology, LR 20: (April 1994).

§133. Budget

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1601-1614.

HISTORICAL NOTE: Promulgated by the Louisiana Archaeological Survey and Antiquities Commission, LR 1:375 (September 1975), repealed by the Department of Culture, Recreation and Tourism, Division of Archaeology, LR 20: (April 1994).

§135. State Archaeologist

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1601-1614.

HISTORICAL NOTE: Promulgated by the Louisiana Archaeological Survey and Antiquities Commission, LR 1:375 (September 1975), repealed by the Department of Culture, Recreation and Tourism, Division of Archaeology, LR 20: (April 1994).

§137. Executive Committee

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1601-1614.

HISTORICAL NOTE: Promulgated by the Louisiana Archaeological Survey and Antiquities Commission, LR 1:375 (September 1975), repealed by the Department of Culture, Recreation and Tourism, Division of Archaeology, LR 20: (April 1994).

§139. Annual Report

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1601-1614.

HISTORICAL NOTE: Promulgated by the Louisiana Archaeological Survey and Antiquities Commission, LR 1:375 (September 1975), repealed by the Department of Culture, Recreation and Tourism, Division of Archaeology, LR 20: (April 1994).

Gerri Hobdy
Assistant Secretary

RULE

Department of Economic Development Board of Examiners of Certified Shorthand Reporters

Continuing Education Credits (LAC 46:XXI.603)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act and R.S. 37:2554, notice is hereby given that the Board of Examiners of Certified Shorthand Reporters has amended Title 46, Part XXI of the Louisiana Administrative Code. This amendment will make the deadline for continuing education the same for all court reporters.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXI. Certified Shorthand Reporters

Chapter 6. Continuing Education

§603. Continuing Education Credits

A. Beginning January 1, 1991, and thereafter, each holder of a certificate issued by the Board of Certified Shorthand Reporters shall be required to obtain at least 12 continuing education credits during a period of two consecutive calendar years.

B. Any holder of a certificate issued by the board is exempt from the requirement of continuing education for the calendar year in which the certification is initially issued. If the holder is certified in an odd numbered year, the certificate holder shall be required to obtain at least six continuing education credits during the calendar year following the year in which the certification was issued. If the holder is certified in an even numbered year, the certificate holder shall be required to obtain at least 12 continuing education credits during the two calendar years following the year in which the certification was issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 17:32 (January 1991), amended LR 20: (April 1994).

Peter Gilberti
Secretary

RULE

Department of Economic Development Office of Financial Institutions

Bond for Deed Escrow Agents (LAC 10:XV.Chapter 9)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:414(B), the commissioner hereby adopts the following rule to provide for the licensing, regulation and supervision of persons performing bond for deed escrow agent services. It provides specifically for definition of terms; license requirements; application procedures; submission of surety bonds; record keeping and retention; visitations and examinations; submission of reports; reporting of significant changes in status; procedures for suspending or revoking of licenses and the enforcement powers of the commissioner.

This rule shall become effective on April 20, 1994.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part XV. Other Regulated Entities

Chapter 9. Bond For Deed Escrow Agents

§901. Definitions

Bond for Deed—a contract to sell real property, in which the purchase price is to be paid by the buyer to the seller in installments and in which the seller, after payment of a stipulated sum, agrees to deliver title to the buyer. The term shall include a "contract for deed" or any other transaction operating as a conditional sale of real property, however labeled.

Buyer—a prospective transferee of title to real property which is the subject to the bond for deed transaction.

Commissioner—the commissioner of financial institutions.

Escrow Agent—a person designated by the parties to a bond for deed transaction who distributes payments made by the buyer, on behalf of a seller, to the holder of a mortgage or privilege (if any) in the real property subject to the bond for deed, in accordance with a written bond for deed escrow agent agreement.

Person—any individual, firm, corporation, limited liability company, partnership, association, trust, or legal or commercial entity, or other group of individuals, however organized.

Principal Shareholder—a person owning in excess of 10 percent of the total outstanding shares of a corporation or a limited liability company at the time of filing of an application.

Real Property—immovable property used or occupied, or intended to be used or occupied, for a one-to-four single family dwelling or immovable property used primarily for a business, commercial, or agricultural purpose.

Seller—a prospective transferor of title to real property which is the subject of the bond for deed transaction.

AUTHORITY NOTE: Promulgated in accordance with Act 932 of 1993.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR:20 (April 1994).

§903. License Requirement

A. No person shall engage in business as a bond for deed escrow agent on or after November 1, 1993, unless such person has first obtained a license under this Chapter. A person engaged in business as a bond for deed escrow agent on January 1, 1993, may continue to be so engaged and shall have until December 31, 1993 to obtain a license in conformity with this rule. Any license issued in accordance with this regulation shall be nontransferable.

B. When any licensee transfers more than 25 percent of the ownership of its bond for deed escrow business, it shall notify the Office of Financial Institutions within 10 days of such transfer of ownership. When a licensee transfers more than 50 percent of the ownership of its bond for deed escrow agent business, the acquiring person shall be required to apply for a new license in accordance with the provisions of §905 before they may recommence business.

AUTHORITY NOTE: Promulgated in accordance with Act 932 of 1993.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR:20 (April 1994).

§905. Application For License; Forms; Contents; Fee

A. Applications shall be in such form and contain such information as the commissioner may from time to time prescribe. Application forms may be obtained from the office of the commissioner. The application shall contain a public section and a confidential section as determined by the commissioner.

1. The original of the application accompanied by a non-refundable filing fee shall be submitted by U.S. mail in

completed form to the commissioner. Any other method of delivery will cause the application to be returned which will result in processing delays.

2. Upon receipt of the application for filing, the commissioner or any person designated by the commissioner, will conduct an investigation. Information not included in the application, which is necessary to determine qualification for licensing, will be requested from the applicant. Failure to provide the information requested on a timely basis may necessitate the return of the application to the applicant or may necessitate denial of the application by the commissioner. Processing of an application will not be completed until the satisfactory conclusion of an investigation.

B. Those persons who have been in business continuously for the period beginning August 31, 1992 to September 1, 1993, shall be eligible for a one time exemption from the requirement of having and maintaining a net worth of \$25,000 and from filing a business plan with their application. Each person not continuously in business during the aforementioned period shall be required to submit with their application for a new license a business plan in such form and containing such information as the commissioner may from time to time prescribe. Each such person shall have and maintain a net worth of \$25,000. Further, each applicant shall meet the following requirements:

1. The financial condition, business experience and background of the applicant shall be such as to reasonably warrant the commissioner to believe that the applicant's business will be conducted honestly, carefully, and efficiently. The commissioner will investigate and consider the qualifications of all sole proprietors, partners, directors, officers and principal shareholders or members of an applicant in determining whether the applicant qualifies.

2. The application shall contain:

- a. the name and address of the applicant;
- b. if the applicant is a firm or partnership, the name and address of each member of the firm or partnership;
- c. if the applicant is a corporation or limited liability company the name and address of each director, officer, member, principal shareholder, and registered agent;
- d. proof of compliance with §907;
- e. such other information concerning the financial responsibility, background, experience, and activities of the applicant, its sole proprietors, partners, directors, officers, principal shareholders, members, or agents, as the commissioner may require.

3. The application shall be accompanied by the payment of a non-refundable license fee of \$150. Effective January 1, 1995, on or before March 15 of each year, each licensee shall file an application for renewal and shall pay to the Office of Financial Institutions, a non-refundable renewal license fee of \$100. If the renewal fee is received after March 15, but before April 15, an additional late penalty equal to one-half of the renewal fee shall be paid as a prerequisite for renewal of an existing license. Failure to file application for renewal with the accompanying fee after April 15 shall result in termination of the existing license and will require a new application to be filed to recommence business as an escrow agent.

4. The application for renewal shall be in such form and require such information as prescribed from time to time by the commissioner. The licensee may be required to submit with the renewal application an annual report disclosing all business activities with regard to servicing escrow agent agreements conducted during the previous year and shall also contain each licensee's financial condition.

AUTHORITY NOTE: Promulgated in accordance with Act 932 of 1993.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR:20 (April 1994).

§907. Surety Bond

A. Licensees shall be required to post and maintain a surety bond as provided for below.

1. A surety bond issued by a bonding company or insurance company authorized to do business in Louisiana in the amount of \$10,000 covering the first year of operation as a licensed bond for deed escrow agent. The amount of the surety bond for each successive year shall be determined by the commissioner based upon the following non-exclusive factors:

a. the highest level of business activity performed by the licensee during any one month in the preceding calendar year;

b. the risk to the general consuming public, if any, commensurate with the continuance of the existing surety bond amount established during the preceding period.

2. The bond shall be in a form acceptable to the commissioner and shall run to the Office of Financial Institutions, for the benefit and use of the Office of Financial Institutions and creditors of the licensee or its agents for any liability incurred as a result of the failure of licensee to perform under a bond for deed escrow agent agreement. Persons who have claims against the licensee or its agents may bring suit directly on the bond. The attorney general may bring suit on the bond on behalf of claimants, either in one action or successive actions.

B. In lieu of such corporate surety bond or any portion required by this section, the licensee shall deposit in escrow with any insured Louisiana depository institution, either state or federally chartered, as such licensee may designate and the commissioner may approve, the substitution of cash for the surety bond in an amount not less than that required by the corporate surety bond, or any portion thereof. Deposits of cash shall be made in an interest bearing account which must be assigned to the commissioner. The licensee shall be entitled to receive all interest and dividends on the deposit placed in escrow.

AUTHORITY NOTE: Promulgated in accordance with Act 932 of 1993.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR:20 (April 1994).

§909. Record Keeping and Retention; Examination

A. Every bond for deed escrow agent required to be licensed under this chapter shall maintain in its office such books, records, and accounts as are reasonably necessary to allow the commissioner to determine whether such bond for deed escrow agent is complying with the provisions of this

Rule and with the provisions of all escrow servicing agreements entered into by him. Such books, records and accounts shall be maintained separate and apart from any other business in which the bond for deed escrow agent is involved and shall be kept at the licensed location unless otherwise permitted in writing by the commissioner. Further, each licensed bond for deed escrow agent shall maintain a record of all bond for deed transactions and escrow agent agreements effected by them, for a period of three years following the expiration or termination of such escrow agent agreement. Each bond for deed escrow agent licensed by this office shall also maintain a file containing the original and/or copies of all complaints filed by sellers, buyers or other third parties affected by bond for deed transactions or escrow agent agreements entered into by a licensee.

B. The commissioner, or his designee, may examine the books, records or accounts of persons engaging in business as bond for deed escrow agents. If the records are removed from the state, the bond for deed escrow agent, at the commissioner's option, shall make such records available to the commissioner at a location within this state convenient to the commissioner, or pay the reasonable and necessary expenses for the commissioner or his representatives to examine them at the place where they are maintained.

AUTHORITY NOTE: Promulgated in accordance with Act 932 of 1993.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR:20 (April 1994).

§911. Visitation and Examination

A. Within the first six months after the issuance of a license to a bond for deed escrow agent, the commissioner, or his designee, shall make at least one visitation to the office of the licensee to determine compliance with laws and regulations which are applicable. Thereafter, the commissioner or his designee, may visit and examine each licensee in accordance with a schedule consonant with the use to the fullest extent possible of the resources of the office in accordance with good examination practice to determine compliance with this rule; to investigate complaints or for other good cause shown.

B. The commissioner shall assess an examination and/or visitation fee of \$50 per hour per examiner. If this fee is not paid within 30 days after its assessment, the person examined shall be subject to an administrative penalty of not more than \$50 for each day the fee is late. The penalty, together with the amount due, plus attorney fees and court cost, may be recovered by the commissioner in a civil action brought in any court of competent jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with Act 932 of 1993.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR:20 (April 1994).

§913. Multiple Offices Within The State

A. If a license is required for an escrow agent that has multiple office locations, all such offices can be included under a single license by including in the application for such license, the address and location of each office operated by the same person applying for such license.

B. The licensee shall give prior notification the Office of Financial Institutions of any change of address or closure of any location that it owns or operates within the state or the addition of any new offices. Notification of the opening of any new office must be given to the commissioner prior to actually commencing business at that location.

§915. Significant Developments

Each licensee must report any significant developments immediately to the commissioner, including but not limited to:

1. the filing of any bankruptcy petitions by the licensee;
2. the indictment of any directors, officers, principal shareholders or agents of licensee;
3. the conviction of a felony by any sole proprietor, partner, director, officer, principal shareholder, member or agent of licensee.

AUTHORITY NOTE: Promulgated in accordance with Act 932 of 1993.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR:20 (April 1994).

§917. Suspension or Revocation of License

A. After notice and an opportunity to be heard, the commissioner may suspend or revoke the license of a bond for deed escrow agent in accordance with LSA R.S. 121.1; 6:122 and R.S. 49:961, whenever it has been established that the licensee has:

1. violated any provisions of the law or regulations applicable hereto, or the commission of any act or omission which would constitute grounds for the refusal of a new license;
2. knowingly provided or caused to be made to the commissioner any false or fraudulent misrepresentation of material fact or suppressed or withheld from the commissioner any information which, if submitted by him would have rendered the licensee ineligible to be licensed under this chapter;
3. refused to permit examination by the commissioner of licensee's books, records or affairs, or has refused or failed to, within a reasonable time, to furnish information or make a report that may be required by the commissioner under the provisions of any applicable law or regulation;
4. failed to timely account for or deliver to any person any personal property obtained by the escrow agent as required by a written bond for deed escrow agent agreement such as money, funds, deposits, checks, drafts, or other property of any value, which has come into his hands and which is not his property, or which he is not in law entitled to retain;
5. violated the reporting requirements set out in §915;
6. failed to pay all fees and/or assessments as may be imposed by imposed by the Office of Financial Institutions.

B. In the event the commissioner suspends the license of an escrow agent, the licensee may continue to service the existing escrow agent agreement entered into prior to the date of suspension but may not enter into new escrow agent agreements subsequent to the date of suspension.

C. In the event the commissioner revokes the license of an escrow agent, the escrow agent may not enter into any new escrow agent agreements subsequent to the date of revocation;

and, further, must comply with one of the following conditions:

1. licensee must sell all existing escrow agreements entered into prior to the date of revocation of the license to a duly licensed escrow agent; or
2. if licensee is unable to sell the escrow agent agreement to another duly licensed escrow agent, then, each escrow agent agreement entered into by licensee must be terminated.

AUTHORITY NOTE: Promulgated in accordance with Act 932 of 1993.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR:20 (April 1994).

§921. Enforcement Powers of the Commissioner

In addition to the enforcement powers specifically conferred upon the commissioner by other laws, the commissioner shall have such regulatory, investigative, and enforcement authority conferred upon him, through the Office of Financial Institutions, pursuant to all other enforcement provisions of Title 6 and Title 9 of the Revised Statutes of 1950 which may be applicable to persons licensed hereunder.

AUTHORITY NOTE: Promulgated in accordance with Act 932 of 1993.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR:20 (April 1994).

Larry L. Murray
Commissioner

RULE

Department of Economic Development Used Motor Vehicles and Parts Commission

Identification Cards (LAC 46:V.2801)

In accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Department of Economic Development, Used Motor Vehicle and Parts Commission, hereby adopts the following rule.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission Chapter 28. Used Motor Vehicle Identification Card

§2801. Identification Cards

A. All licensees of the Used Motor Vehicle and Parts Commission will be issued identification cards.

B. Identification cards will consist of individual's name, driver's license number, Social Security number, dealership name, dealer number, salesman number, photograph and the individual's signature. Each identification card will bear the signature of the executive director of the Used Motor Vehicle and Parts Commission.

C. Each used motor vehicle dealer, automotive dismantler and parts recycler, salesman and buyer must carry on their

person and produce on demand the dealer/salesman identification card while conducting the business for which this license has been issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772 E.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 20: (April 1994).

John W. Alario
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 1938—Church-Based Tutorial Program (LAC 28:I.906)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted Bulletin 1938, Regulations for the Louisiana Church-Based Tutorial Program. Bulletin 1938 will be referenced in the Administrative Code, Title 28 as noted below. These regulations were developed for all programs under the Louisiana Church-Based umbrella, after school tutoring, Summer Enrichment and Saturday Academy.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans §906. Early Childhood Programs

* * *

C. Bulletin 1938

1. Bulletin 1938, Regulations for the Louisiana Church-Based Tutorial Programs is adopted.

2. The tutoring programs provide an alternative educational approach for students who lack proficiency in math, reading, and writing; who evidence a high rate of absenteeism; who exhibit personality and adjustment problems, and who are at risk of dropping out of school. This project will provide individual instruction guided by a diagnostic approach in addressing each student's deficiencies. Major components of the project include, counseling, parental involvement, value and conflict resolution skill development, computer assisted instruction, scholarships, healthcare, and substance abuse training. This program is designed for grades K-8 with formalized instruction in basic skills.

AUTHORITY NOTE: 45 CFR Part 98

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 20: (April 1994).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Education Specialist Salary for 60-Hour Planned/Master's Program

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education, repealed board actions stated below relative to the specialist pay for certain personnel in planned or master's degree programs. The board also directed that only the degrees awarded by regionally accredited institutions be added to the teacher certificates. This rule change repeals the 1983 and 1992 BESE policies which were exceptions to the standard administrative operating procedure, that is for the department to add to certificates only the degrees awarded by regionally accredited institutions.

Repealed Board Rule #3.01.70aa (*Louisiana Register*, May 20, 1983, page 321) which stated:

"Funding salary increments for ancillary personnel equivalent to increments for a specialist degree based on 60 graduate hours of a planned program."

Repealed Board Action (not advertised) of June 25, 1992, page 18, motion 9-C-9 which stated:

"The board approved the department's recommendation for a board ruling on the status of a 60-hour Master of Fine Arts degree, and other 60-hour planned degree programs, for pay purposes as stated in the department's executive recommendation dated May 26, 1992."

(The department's recommendation as stated on executive recommendation read:)

"The holder of a Louisiana teaching certificate or ancillary certificate who has completed a planned 60-semester-hour Master's degree program at a regionally accredited institution will be paid at the Education Specialist Degree level on the salary scale as long as the degree is in compliance with statutory regulations, and this pay rate category shall be recorded on the Louisiana teaching certificate of ancillary certificate. This policy would be consistent with the board's policy; however, ancillary personnel who are presently being paid at the education specialist level who have completed a 60-semester-hour Master's degree program must have this designation added to their ancillary certificate in order to continue receiving pay at the education specialist level."

AUTHORITY NOTE: R.S. 17:7

Carole Wallin
Executive Director

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Honors Scholarship

The Student Financial Assistance Commission, Office of Student Financial Assistance, has amended the Louisiana Honors Scholarship Program.

VII. Louisiana Honors Scholarship Program

A. Program Description, History and Purpose

The Louisiana Honors Scholarship Program, first awarded in the Fall of 1992, provides tuition exemption to Louisiana residents to acknowledge, honor and reward the academic achievement of Louisiana's top high school graduates, to insure that these students have the financial resources to pursue a higher education in one of Louisiana's colleges and universities and to provide an incentive to these students to seek their higher education in this state.

B. Legislative Authority

Chapter 20-B-3 of Title 17 of the Revised Statutes of 1950, comprised of R.S. 17:3042:31 through 3042:35, enacted by Act 1085 and amended by Act 13 of the 1992 Regular Legislative Session and by Act 255 of the 1993 Regular Legislative Session.

C. Student Participation/Responsibilities

1. Initial Eligibility. To establish initial eligibility, the student must meet all of the following criteria:

- a. graduate in the top five percent of the academic year's graduating class from a Louisiana public or state (BESE) approved nonpublic high school, as identified and certified by the city and parish school board for public high schools and by the principal or headmaster of each nonpublic approved high school; or
- b. be enrolled in a state-approved home study program and score in the upper five percent in the state on the National Merit Examination; and
- c. be a Louisiana resident, as defined in Section IX.A of this manual; and
- d. enroll as a first time full-time undergraduate student in a public or regionally accredited LAICU member independent college or university or full-time at a public postsecondary technical institution in the state, within two years of high school graduation*; and
- e. not be receiving other gratuitous financial assistance or support from the college or university attended or from any alumni organization or foundation organized by the alumni or other supportive individual of the college or university attended whose charter specifically provides that the purpose of the foundation is to aid said college or university in a philanthropic manner, if the total cost of the student's tuition is provided by the scholarship; and
- f. not be receiving other aid (meaning aid which is not "gratuitous financial assistance or support" as defined in Paragraph H of this Chapter) which, together with award of the Honors Scholarship, would exceed the student's total cost of attendance as defined by the institution in accordance with federal regulations. This Paragraph shall not preclude an

institution from establishing a maximum limitation on aid based upon some other criteria which would result in a limitation that is less than the student's total cost of attendance; and

g. not be receiving a tuition waiver or award from the state or an institution of higher education including, but not limited to, the Tuition Assistance Plan (TAP), the National Guard Tuition Waiver and the Vocational Rehabilitation Tuition Waiver.

2. Award Notification/Acceptance

a. Respond in writing, as requested, by the deadlines specified.

b. Receive the award certificate and the tuition exemption form at the high school ceremony or reception.

c. Present the tuition exemption form to the college at the time of registration.

3. Renewal Eligibility. Continuing eligibility is contingent upon the recipient meeting the following requirements:

a. continue to attend a Louisiana public or independent college or university as a full-time undergraduate student for not less than two semesters or three quarters in each academic year or continue to attend a public postsecondary technical institute four quarters per year unless granted an exception for cause by OSFA;

b. maintain by the end of each academic year a cumulative college or public postsecondary technical institute grade point average of at least a 3.00 on a 4.00 scale. Failure to maintain the required academic grade point average will result in permanent cancellation of the recipient's eligibility;

c. continue to register, maintain and successfully complete not less than 12 hours per semester, eight hours per quarter or six hours per summer session for each term during which a waiver was granted or complete an average of 30 clock hours per week while enrolled at a public postsecondary technical institute;

d. have previously received tuition waivers for less than 10 semesters (or 15 quarters), including summer sessions or have received tuition waivers for less than two years at a public postsecondary technical institute or a combination of the above not to exceed five years of funding, and less than seven years have elapsed since the month following the date of high school graduation;

e. eligible students, at their option, may have tuition waived for attendance during a summer session; however, if tuition is waived for a summer session it shall be counted as a full semester or quarter towards the tuition waiver limitation of 10 semesters or 15 quarters. Students may elect to enroll part- or full-time during a summer session and not accept the tuition waiver for that term, in which case the summer session would not be counted as a semester or quarter against the tuition waiver limitation;

f. be in compliance with the terms of other federal and state aid programs of which the scholar may be in receipt and which are administered by the Louisiana Student Financial Assistance Commission;

g. not be receiving "gratuitous financial assistance or support" as defined in Paragraph H of this Chapter, if the total

cost of the student's tuition is provided by the Honors Scholarship;

h. not be receiving other aid (meaning aid that is not "gratuitous financial assistance or support" as defined in Paragraph H of this Chapter) which, together with award of the Honors Scholarship, would exceed the student's total cost of attendance as defined by the institution in accordance with federal regulations. This Paragraph shall not preclude an institution from establishing a maximum limitation on aid based upon some other criteria which would result in a limitation that is less than the student's total cost of attendance;

i. not be receiving a tuition waiver or award from the state or an institution of higher education including, but not limited to, the Tuition Assistance Plan (TAP), the Louisiana National Guard Tuition Waiver, and the Vocational Rehabilitation Tuition Waiver;

j. if having received two years of funding at a public post secondary technical institute or having received an associate degree, are enrolled in a baccalaureate degree program.

D. High Schools, School Boards, Special School Governing Boards and Louisiana Department of Education Participation/Responsibilities

1. City and Parish School Boards, Special School Governing Boards, Headmasters of BESE Approved Nonpublic High Schools and Louisiana Department of Education Representatives:

a. Each of these authorities shall apply the following guidelines in complying with R.S. 17:3042.33A:

i. consider only the academic grades recorded on the student's official high school transcript in determining class ranking;

ii. the academic courses which are to be considered in determining academic class ranking shall be defined as part of the written criteria to be adopted by the board or headmaster;

iii. define the procedure by which students who would otherwise have equal academic class ranking may be ranked (tie-breaker procedure). This may include an evaluation of the students' academic grades on a set of pre-determined core academic courses such as English, math and science or an evaluation of the level of difficulty of the courses taken by the students, such as honors courses and higher level math or science courses;

iv. by an affirmative act taken during a public meeting, approve written criteria for determining the academic class ranking of students and the procedure by which the top five percent shall be identified. Such written criteria shall incorporate each of the requirements defined in this Paragraph.

b. In computing the top five percent of each high school's graduating class, apply the following formula:

i. the total number of students who are Louisiana residents receiving a high school diploma from the institution during the academic year preceding the award year, multiplied by the figure .05, and, if not a whole number, rounded up to the next whole number. Foreign exchange students and other non-residents shall not be counted as members of the graduating class for the purpose of this computation;

ii. EXAMPLE: for a high school that awarded state high school diplomas to two summer graduates, seven mid-year graduates and 79 spring graduates during the academic year considered, the following computation would apply:

$$[2 + 7 + 79 = 88 \times .05 = 4.4 \text{ round up to } 5.0]$$

iii. accordingly, five students may be selected for the Honors Scholarship at the high school depicted in the example.

c. Ensure that the approved selection criteria is publicly posted in each high school under the board's or headmaster's jurisdiction and provide a copy of the criteria to OSFA.

d. Ensure that amendments to the criteria, as approved by the board/headmaster from time to time, shall only be effective for the years following the year in which amended.

e. Each year, by the deadline specified and on the forms provided by OSFA, city and parish school boards for public high schools, principals or headmasters for approved special schools and nonpublic BESE approved high schools, and Louisiana Department of Education representatives for home study students, shall certify and submit to OSFA the names of students graduating in the top five percent of each high school's academic year graduating class or the names of those students completing an approved home study program who scored in the upper five percent in the state on the National Merit Exam.

f. If the certifying authority (school board, principal, headmaster or State Department of Education representative) elects to notify scholars of their selection, then the following disclaimer Paragraph shall be included in any communication to the scholar:

"Although you have been named a 'Louisiana Honors Scholar', you must satisfy all of the following conditions to redeem a scholarship under this program:

you must be a Louisiana resident as defined by the Louisiana Student Financial Assistance Commission; and

you must be accepted by an eligible Louisiana college or university or public postsecondary technical institute and be registered as a full-time student; and

if the total cost of your tuition is paid by the Honors Scholarship, you must not be receiving any other gratuitous financial assistance or support as certified by the institution's financial aid office;

you must be notified of your award by the Louisiana Office of Student Financial Assistance."

2. Public and Nonpublic High Schools and Louisiana Department of Education Representatives:

a. receive the notification of selected students and the award certificates produced by OSFA;

b. recognize recipients at an award ceremony or school reception as provided by R.S. 17:177;

c. invite members of the legislature representing the school's district to attend the ceremony or reception, endorse the certificates and make the presentation awarding such.

E. College/University/Public Postsecondary Technical Institute Participation/Responsibilities

Colleges and universities eligible to participate in the Louisiana Honors Scholarship Program are Louisiana public and independent (regionally accredited member institutions of LAICU) colleges and universities. All public postsecondary technical institutes are eligible to participate. Participating institutions shall:

1. receive OSFA notification of student's eligibility determination;

2. respond to OSFA communications as requested, including but not limited to, the following:

a. certify full-time enrollment status each semester or quarter;

b. supply certification of continuing eligibility, including the following, to be supplied at the completion of each academic year (ending after each spring semester/quarter):

i. total number of hours earned during the specific academic year (including summer sessions);

ii. cumulative hours earned (including prior academic years and summer sessions);

iii. cumulative GPA, including all grade credits earned to date;

iv. actual date of graduation.

c. notify OSFA immediately if applicant fails to enroll or withdraws from school or drops to less than full-time attendance;

d. notify OSFA of any irregularities discovered by the institution which may affect student eligibility status;

e. maintain adequate records to verify compliance with LASFAC rules.

3. Follow LASFAC billing procedures, as follows:

a. Institutions may bill LASFAC only for students certified eligible by OSFA.

b. Institutions will bill LASFAC based on their certification of new students' first time, full-time enrollment and renewal students' full-time enrollment as of the fourteenth class day (ninth class day for Louisiana Tech and first class day for public postsecondary technical institutes). Institutions are not to bill for students who are enrolled less than full-time on the fourteenth class day (ninth class day for Louisiana Tech and first class day for public postsecondary technical institutes), nor for renewal students who did not maintain full-time attendance for the immediately preceding term of enrollment. Students failing to meet the full-time enrollment criteria are responsible for reimbursing the institutions for any monies owed. Refunds for less than full-time enrollment after the fourteenth class day are to be retained by the institution.

c. Institutions will not bill LASFAC for any awardee who has elected to accept another form of tuition waiver.

d. If the total cost of the student's tuition is provided by the Honors Scholarship, the student shall not be receiving nor shall an institution award any other gratuitous financial assistance or support from the college or university attended or from any alumni organization or from a foundation organized by the alumni or other supportive individuals of the college or university attended whose charter specifically provides that the purpose of the foundation is to aid said college or university in a philanthropic manner.

e. Annually, institutions must provide OSFA a current fee schedule for Louisiana Honors Scholarship Program billing purposes. The schedule must indicate the total cost of tuition, which shall not include any fees charged by the college or university that are in addition to the basic course enrollment charges. Independent institutions must bill LASFAC for the amount equal to the highest tuition charged at a Louisiana public college or university or the actual tuition of the independent institution, whichever is less. An itemized

description of the composition of the mandatory fees listed on the fee schedule must also be supplied. Public postsecondary technical institutes are exempt from furnishing a schedule of fees but must bill LASFAC on the first class day of each quarter for three times the monthly amount established by the Board of Elementary and Secondary Education for full-time attendance.

f. To prevent the student's total financial assistance awards (meaning the total of all awards which are not "gratuitous financial assistance or support" as defined in Subsection H.5 of this Chapter) from exceeding the institution's cost of attendance or some other limitation established by the institution which may be less than the cost of attendance, the institution may reduce the amount of tuition to be paid by the Honors Award and subsequently billed to OSFA.

g. Upon the school's certification, OSFA will reimburse the institution for each scholarship recipient up to the maximum amount listed on the approved fee schedule.

F. Louisiana State Legislators Participation/Responsibilities

1. Receive OSFA's notification that constituents have been selected for award of the Honors Scholarship.

2. Receive invitations from high schools in their respective districts and attend ceremonies for the purpose of endorsing the Louisiana Honors Scholarship award certificate and presenting the certificate to the recipient.

G. OSFA Participation/Responsibilities

1. Budget Forecasting:

a. Determine the amount of funding required for continuation of the program by estimating the total new and continuing tuition exemptions expected to be awarded.

b. Submit recommended budget.

c. Receive notification of appropriation upon enactment.

2. Certification Processing:

a. Forward blank certification forms and instructions to Louisiana public and approved nonpublic high schools and the Louisiana Department of Education.

b. Receive, review and approve the completed high school certification listings of selectees.

3. Renewal Eligibility/Ineligibility Determination:

a. Annually, at the close of each academic year, determine the recipient's current status and continuing eligibility.

b. Notify recipients of their status and any actions needed.

4. Award Determination:

a. Forward award notification to new and renewal recipients.

b. Generate award listings and forward to high schools, college and university financial aid offices and to legislators.

c. Maintain correspondence with colleges and universities to confirm initial and continuing eligibility of students for the Louisiana Honors Scholarship.

5. Reimburse the tuition waived by colleges and universities:

a. Review and approve for reimbursement the school's current schedule of fees.

b. Mail Honors Scholarship billing packets to schools.

c. Verify and reconcile the school's Honors Scholarship Billing Invoice.

d. Resolve and correct discrepancies, if applicable.

e. Mail payment acknowledgement and check to school.

H. Definitions Applicable to this Chapter

1. *Academic Year*—For purposes of the Louisiana Honors Scholarship Program, the annual academic year for both college and high school begins with the summer session, includes the fall and winter terms and ends at the conclusion of the spring term, in that order. For example, for a high school graduate to be considered for award of the scholarship to attend college in the 1992 fall term, he/she must have graduated from high school during the summer term 1991 (usually June or July), mid-term 1991 (usually December), or the spring term 1992 (usually May or June). This definition is not to be confused with the Louisiana Department of Education's definition of school year, which is found in Bulletin 741.

2. *Basic Course Enrollment Charges*—those institutional tuition and mandatory fees charged all full-time students for purposes of enrollment.

3. *BESE Approved Nonpublic High School*—as defined in the Louisiana School Directory (Bulletin 1462), an approved nonpublic school meets the standards specified in The Louisiana Handbook for School Administrators (Bulletin 741). For the purposes of this Chapter, approved nonpublic schools may include private or diocesan high schools classified annually by the Department of Education as approved, provisionally approved or probationally approved.

4. *Graduate*—for the purposes of this Chapter, a high school graduate is defined as a student certified by award of a high school diploma to have satisfactorily completed the required units at a Louisiana Public or BESE approved nonpublic high school.

5. *Gratuitous Financial Assistance or Support*

a. this definition shall be applicable to all students certified as Honors Scholars on or after May 11, 1993 (the date the emergency rule became effective).

b. as cited in R.S. 17:3042.34A(4), "Gratuitous financial assistance or support" means the granting of money or the provision of services to a student without requiring from the student repayment or recompense in the form of work or otherwise, by the college or university the student attends from resources available to the college or university for distribution at the institution's discretion or from resources available to an alumni organization or foundation whose purpose is to aid said college or university in a philanthropic manner. "Gratuitous financial assistance or support" does not include:

i. state or federally administered financial assistance programs including, but not limited to, the following: Federal Family Education Loan Program (FFELP), Federal Direct Loan (Demonstration Program), Federal Perkins Loan, Federal Pell Grant, Federal Work Study (FWS), Federal Supplemental Education Opportunity Grant (FSEOG), State Student Incentive Grant (SSIG), Federal Paul Douglas Teacher Scholarship, T. H. Harris Scholarship, Rockefeller

Scholarship, Education Majors Scholarship, Byrd Scholarship; and

ii. any state or federal program enacted to supplant or supplement those listed in Subsection H.5.b.i above, unless otherwise provided for by these regulations; and

iii. scholarships, grants or loans that are awarded by a business, religious, honorary or civic organization whose purpose is not the philanthropic support of an institution; and

iv. aid provided by a LAICU member private institution in the amount of the difference between the Honors Scholarship Award and the cost of tuition and mandatory enrollment fees at that institution.

6. *LAICU Member Institution*—a private college or university which is a member of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU). As of June 1992, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, Our Lady of Holy Cross College, Tulane University, and Xavier University.

*A one time exception is granted for scholars named in 1993-94 who were not notified of their eligibility until after Fall, 1993 enrollment. The 1993-94 scholars enrolled at institutions ineligible to participate in the program (whether in or out-of-state) and who subsequently enroll at an eligible institution no later than the Fall Term, 1994, will be eligible to receive the tuition waiver provided that they are in compliance with all other eligibility criteria.

Jack L. Guinn
Executive Director

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

LEO Adverse Credit Guarantee

The Student Financial Assistance Commission has amended the Louisiana Employment Opportunity (LEO) Loan Program Policy and Procedure Manual to provide a procedure for the employer to guarantee loan repayment when a finding of adverse credit occurs. Section 2.5 E of the LEO Program Manual will be amended to read as follows:

* * *

E. Have authority to deny loan guarantees on the determination of an adverse credit report as defined herein or, as a condition for the loan guarantee, to:

1. require a creditworthy cosigner on the promissory note; or

2. require a separate written agreement with the employer under which the employer shall reimburse LASFAC in the amount of any default claim that may be paid by LASFAC for a borrower having adverse credit at the time the loan guarantee was extended.

NOTE: Adverse credit is defined as a credit report that contains any of the following:

a. information reflecting that the borrower, within the five years preceding the date of the credit report, was the

subject of a default determination, bankruptcy filing, foreclosure, repossession, tax lien, wage garnishment, write-off or any federal or state government action to collect a debt; or

b. an established pattern of delinquency in the payment of debt as evidenced by:

- (1). two accounts more than 60 days past due; or
- (2). any account more than 90 days past due.

* * *

Jack L. Guinn
Executive Director

RULE

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

Chemical Accident Prevention and Fees (LAC 33:III.Chapters 2 and 59) (AQ31)

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 has amended the Air Quality Division Regulations, LAC 33:III.Chapters 2 and 59, (AQ31).

The rule defines for a major stationary source ("A" sources and "synthetic minor" sources in the Compliance Data System (CDS) maintained by the Air Quality Division of DEQ) the "threshold quantity" of a chemical that must be present at a facility for that facility to be regulated. The rule then defines what these regulated facilities must do to minimize the risks associated with that facility. Edits for program specific fees are also included.

The rule is roughly based upon a proposed federal rule. Sections of the proposed federal rule which may significantly change from the final rule were "Reserved" until the federal rule is finalized. At that time the "Reserved" sections will be clarified and finalized.

These regulations are to become effective upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§223. Fee Schedule Listing

* * *

[See Prior Text in Fee Schedule Listing table]

ADDITIONAL PERMIT FEES AND ADVF FEES		
Fee Number	Fee Description	Amount
	* * * [See Prior Text]	
2600 *NOTE 16*	Accident Prevention Program Annual Registration Fee for A-1 Sources	200.00
2620 *NOTE 16*	Accident Prevention Program Annual Registration Fee for A-2 Sources	150.00

Explanatory Notes for Fee Schedule

* * *

[See Prior Text in Note 1 through Note 15]

Note 16 As defined by the Compliance Data System (CDS) maintained by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1419 (November 1993), LR 20: (April 1994).

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A — General Provisions

§5901. Scope

This Chapter sets forth requirements for chemical accident prevention steps that must be taken by the owner or operator of major stationary sources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (April 1994).

§5903. Definitions

The terms in this Chapter are used as defined in LAC 33:III.111 except those terms specifically defined in an applicable subchapter or defined herein as follows:

Accidental Release—an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a major stationary source.

Analysis of Off-site Consequences—a qualitative or quantitative analysis of a range of accidental releases, including worst-case releases, to determine off-site effects including potential exposure of affected populations.

Article—a manufactured item that is formed to a specific shape or design during manufacture, that has end use functions dependent in whole or in part upon the shape or design during end use, and that does not release or otherwise result in exposure to a regulated substance under normal conditions of processing and use.

Major Stationary Source—a stationary source classified as an A-1 or A-2 source in the Compliance Data System (CDS) maintained by the department.

Mitigation System—specific equipment, substances or personnel designed or deployed to mitigate an accidental release; examples of mitigation systems include water curtain sprays, foam suppression systems, and emergency response teams.

Off-site—areas beyond the property boundary of the major stationary source or areas within the property boundary to which the public has routine and unrestricted access.

Owner or Operator—any person who owns, leases, operates, or controls a major stationary source.

Process—any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances or combinations of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

RMP—the risk management plan required under LAC 33:III.5939.

Regulated Substance—any substance listed in the Chapter 59 tables.

SIC—Standard Industrial Classification.

Significant Accidental Release—any accidental release of a regulated substance that has caused or has the potential to cause off-site consequences such as death, injury, or adverse effects to human health or the environment or to cause the public to shelter-in-place or be evacuated to avoid such consequences.

Threshold Quantity—the quantity specified for the regulated substances in the Chapter 59 tables and determined to be present at a major stationary source as specified in LAC 33:III.5905.

Vessel—any reactor, tank, drum, barrel, cylinder, vat, kettle, boiler, pipe, hose, or other container.

Worst-case Release—the loss of all of the regulated substance from the process in an accidental release that leads to the worst off-site consequences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (April 1994).

§5905. Threshold Determination

A. More than a threshold quantity of a regulated substance as listed in Table 59.1 or 10,000 pounds of any regulated substance listed in 59.2 is present at a major stationary source if the total quantity of the regulated substance contained in a process exceeds the threshold quantity.

B. For the purposes of determining whether more than a threshold quantity of a regulated substance is present at the major stationary source, the following exemptions apply:

1. Concentrations of a Regulated Substance in a Mixture.

If a regulated substance is present in a mixture and the concentration of the substance is below one percent by weight of the mixture, the amount of the substance in the mixture need not be considered when determining whether more than a threshold quantity is present at the major stationary source. Except for oleum, toluene 2,4-diisocyanate, toluene 2,6-diisocyanate, and toluene diisocyanate (unspecified isomer), if

the concentration of the regulated substance in the mixture is one percent or greater by weight, but the owner or operator can demonstrate that the partial pressure of the regulated substance in the mixture (solution) under handling or storage conditions in any portion of the process is less than 10 millimeters of mercury (mm Hg), the amount of the substance in the mixture in that portion of the process need not be considered when determining whether more than a threshold quantity is present at the stationary source. The owner or operator shall document this partial pressure measurement or estimate.

2. Concentrations of a regulated flammable substance in a mixture. If a regulated substance is present in a mixture and the concentration of the substance is below one percent by weight of the mixture, the mixture need not be considered when determining whether more than a threshold quantity of this regulated substance is present at the stationary source. If the concentration of the regulated substance in the mixture is one percent or greater by weight, then, for purposes of determining whether more than a threshold quantity is present at the stationary source, the entire weight of the mixture shall be treated as the regulated substance unless the owner or operator can demonstrate that the mixture itself does not meet the criteria for flammability of flash point below 73°F (22.8°C) and boiling point below 100°F (37.8°C). The owner or operator shall document these flash point and boiling point measurements or estimates.

3. Concentrations of a regulated explosive substance in a mixture. Mixtures of Division 1.1 explosives listed in 49 CFR 172.101 (Hazardous Materials Table) and other explosives need not be included when determining whether a threshold quantity is present in a process, when the mixture is intended to be used on-site in a non-accidental release in a manner consistent with applicable BATF regulations. Other mixtures of Division 1.1 explosives listed in 49 CFR 172.101 and other explosives shall be included in determining whether more than a threshold quantity is present in a process if such mixtures would be treated as Division 1.1 explosives under 49 CFR Parts 172 and 173.

4. Articles. Regulated substances contained in articles need not be considered when determining whether more than a threshold quantity is present at the major stationary source.

5. Uses. Regulated substances used for any of the following purposes need not be included when determining whether more than a threshold quantity is present at the major stationary source:

- a. use as a structural component of the major stationary source;
- b. use of products for routine janitorial maintenance;
- c. use by employees of foods, drugs, cosmetics, or other personal items containing the regulated substance; and
- d. use of regulated substances present in process water or non-contact cooling water as drawn from the environment or municipal sources, or use of regulated substances present in air used either as compressed air or as part of combustion.

6. Activities in Laboratories. If a regulated substance is manufactured, processed, or used in a laboratory at a major stationary source under the supervision of a technically qualified individual as defined in 40 CFR 720.3(ee), the

quantity of the substance need not be considered in determining whether more than a threshold quantity is present.

This exemption does not apply to:

- a. specialty chemical production;
- b. manufacture, processing, or use of substances in pilot plant scale operations; and
- c. activities conducted outside the laboratory.

TABLE 59.1

THE LIST OF REGULATED TOXIC SUBSTANCES AND THEIR THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION (ALPHABETICAL ORDER)

CAS No.	Chemical Name	Threshold planning quantity (pounds)
107-02-8	Acrolein [2-Propenal]	5,000
107-13-1	Acrylonitrile [2-Propenenitrile]	20,000
814-68-6	Acrylyl Chloride [2-Propenoyl chloride]	5,000
107-18-6	Allyl Alcohol [2-Propen-1-ol]	1,000
107-11-9	Allylamine [2-Propen-1-amine]	10,000
7664-41-7	Ammonia (anhydrous)*	10,000
7664-41-7	Ammonia (aqueous solution, conc 20% or greater)*	20,000
7784-34-1	Arsenous Trichloride	15,000
7784-42-1	Arsine	1,000
10294-34-5	Boron Trichloride [Borane, trichloro-]	5,000
7637-07-2	Boron Trifluoride [Borane, trifluoro-]	5,000
353-42-4	Boron Trifluoride Compound with Methyl Ether (1:1) [Boron, trifluoro[oxybis[metane]]-, T-4-	15,000
7726-95-6	Bromine	10,000
75-15-0	Carbon Disulfide	20,000
7782-50-5	Chlorine	2,500
10049-04-4	Chlorine Dioxide [Chlorine oxide (ClO ₂)]	1,000
67-66-3	Chloroform [Methane, trichloro-]	20,000
542-88-1	Chloromethyl Ether [Methane, oxybis[chloro-]]	1,000
107-30-2	Chloromethyl Methyl Ether [Methane, chloromethoxy-]	5,000
4170-30-3	Crotonaldehyde [2-Butenal]	20,000
123-73-9	Crotonaldehyde, (E)- [2-Butenal, (E)-]	20,000
506-77-4	Cyanogen Chloride	10,000
108-91-8	Cyclohexylamine [Cyclohexanamine]	15,000
19287-45-7	Diborane	2,500
75-78-5	Dimethyldichlorosilane [Silane, dichlorodimethyl-]	5,000
57-14-7	1,1-Dimethylhydrazine [Hydrazine, 1,1-dimethyl-]	15,000
106-89-8	Epichlorohydrin [Oxirane, (chloromethyl)-]	20,000

TABLE 59.1

THE LIST OF REGULATED TOXIC SUBSTANCES AND
THEIR THRESHOLD QUANTITIES FOR ACCIDENTAL
RELEASE PREVENTION
(ALPHABETICAL ORDER)

CAS No.	Chemical Name	Threshold planning quantity (pounds)
107-15-3	Ethylenediamine [1,2-Ethanediamine]	20,000
151-56-4	Ethyleneimine [Aziridine]	10,000
75-21-8	Ethylene Oxide [Oxirane]	10,000
7782-41-4	Fluorine	1,000
50-00-0	Formaldehyde (solution)	15,000
110-00-9	Furan	5,000
302-01-2	Hydrazine	15,000
7647-01-0	Hydrochloric (solution, conc 30% or greater)	15,000
74-90-8	Hydrocyanic Acid	2,500
7647-01-0	Hydrogen Chloride (anhydrous) [Hydrochloric acid]	5,000
7664-39-3	Hydrogen Fluoride/Hydrofluoric acid ($\geq 50\%$) [Hydrofluoric acid]	1,000
7783-07-5	Hydrogen Selenide	500
7783-06-4	Hydrogen Sulfide	10,000
13463-40-6	Iron, Pentacarbonyl- [Iron carbonyl (Fe(CO) ₅), (TB-5-11)-]	2,500
78-82-0	Isobutyronitrile [Propanenitrile, 2-methyl-]	20,000
108-23-6	Isopropyl Chloroformate [Carbonochloridic acid, 1-methylethyl ester]	15,000
126-98-7	Methacrylonitrile [2-Propenenitrile, 2-methyl-]	10,000
74-87-3	Methyl Chloride [Methane chloro-]	10,000
79-22-1	Methyl Chloroformate [Carbonochloridic acid, methylester]	5,000
60-34-4	Methyl Hydrazine [Hydrazine, methyl-]	15,000
624-83-9	Methyl Isocyanate Methane, isocyanato-]	10,000
74-93-1	Methyl Mercaptan [Methanethiol]	10,000
556-64-9	Methyl Thiocyanate [Thiocyanic acid, methyl ester]	20,000
75-79-6	Methyltrichlorosilane [Silane, trichloromethyl-]	5,000
13463-39-3	Nickel Carbonyl	1,000

TABLE 59.1

THE LIST OF REGULATED TOXIC SUBSTANCES AND
THEIR THRESHOLD QUANTITIES FOR ACCIDENTAL
RELEASE PREVENTION
(ALPHABETICAL ORDER)

CAS No.	Chemical Name	Threshold planning quantity (pounds)
7697-37-2	Nitric Acid ($\geq 80\%$)	15,000
10102-43-9	Nitric Oxide [Nitrogen oxide (NO)]	10,000
8014-95-7	Oleum (Fuming Sulfuric acid) (Sulfuric acid, mixture with sulfur trioxide) ¹	10,000
79-21-0	Peracetic Acid [Ethaneperoxoic acid]	10,000
594-42-3	Perchloromethylmercaptan [Methanesulfenyl chloride, trichloro-]	10,000
75-44-5	Phosgene [Carbonic dichloride]	500
7803-51-2	Phosphine	5,000
10025-87-3	Phosphorus Oxychloride [Phosphoryl chloride]	5,000
7719-12-2	Phosphorus Trichloride [Phosphorous trichloride]	15,000
110-89-4	Piperidine	15,000
107-12-0	Propionitrile [Propanenitrile]	10,000
109-61-5	Propyl Chloroformate [Carbonochloridic acid, propylester]	15,000
75-55-8	Propyleneimine [Aziridine, 2-methyl-]	10,000
75-56-9	Propylene Oxide [Oxirane, methyl-]	10,000
7446-09-5	Sulfur Dioxide (anhydrous)	5,000
7783-60-0	Sulfur Tetrafluoride [Sulfur fluoride (SF ₄), (T-4)-]	2,500
7446-11-9	Sulfur Trioxide	10,000
75-74-1	Tetramethyllead [Plumbane, tetramethyl-]	10,000
509-14-8	Tetranitromethane [Methane, tetranitro-]	10,000
7550-45-0	Titanium Tetrachloride [Titanium chloride (TiCl ₄)(T-4)-]	2,500
584-84-9	Toluene 2,4-Diisocyanate [Benzene, 2,4-diisocyanato-1-methyl-] ¹	10,000
91-08-7	Toluene 2,6-Diisocyanate [Benzene, 1,3-diisocyanato-2-methyl-] ¹	10,000
26471-62-5	Toluene Diisocyanate (unspecified isomer) [Benzene, 1,3-diisocyanatomethyl-] ¹	10,000
75-77-4	Trimethylchlorosilane [Silane, chlorotrimethyl-]	10,000

TABLE 59.1

THE LIST OF REGULATED TOXIC SUBSTANCES AND
THEIR THRESHOLD QUANTITIES FOR ACCIDENTAL
RELEASE PREVENTION
(ALPHABETICAL ORDER)

CAS No.	Chemical Name	Threshold planning quantity (pounds)
108-05-4	Vinyl Acetate Monomer [Acetic acid ethenyl ester]	15,000

* Ammonia used as an agricultural nutrient, when held by farmers, need not be included when determining whether a threshold quantity is present.

¹ The mixture exemption in LAC 33:III.5905.B.1 does not apply to the substance.

TABLE 59.2

FLAMMABLES¹

CAS No.	Chemical Name
75-07-0	Acetaldehyde
74-86-2	Acetylene [Ethyne]
598-73-2	Bromotri-fluoroethylene [Ethene, bromotrifluoro-]
106-99-0	1,3-Butadiene
106-97-8	Butane
25167-67-3	Butene
106-98-9	1-Butene
107-01-7	2-Butene
590-18-1	2-Butene-cis
624-64-6	2-Butene-trans [2-Butene, (E)]
463-58-1	Carbon oxysulfide [Carbon oxide sulfide (COS)]
7791-21-1	Chlorine monoxide [Chlorine oxide]
557-98-2	2-Chloropropylene [1-Propene, 2-chloro-]
590-21-6	1-Chloropropylene [1-Propene, 1-chloro-]
460-19-5	Cyanogen [Ethanedinitrile]
75-19-4	Cyclopropane
4109-96-0	Dichlorosilane [Silane, dichloro-]
75-37-6	Difluoroethane [Ethane, 1,1-difluoro-]
124-40-3	Dimethylamine [Methanamine, N-methyl-]
463-82-1	2,2-Dimethylpropane [Propane, 2,2-dimethyl-]
74-84-0	Ethane
107-00-6	Ethyl acetylene [1-Butyne]
75-00-3	Ethyl chloride [Ethane, chloro-]

TABLE 59.2

FLAMMABLES¹

CAS No.	Chemical Name
60-29-7	Ethyl ether [Ethane, 1,1'-oxybis-]
75-08-1	Ethyl mercaptan [Ethanethiol]
109-95-5	Ethyl Nitrite [Nitrous acid, ethyl ester]
75-04-7	Ethylamine [Ethanamine]
74-85-1	Ethylene [Ethene]
1333-74-0	Hydrogen
75-28-5	Isobutane [Propane, 2-methyl]
78-78-4	Isopentane [Butane, 2-methyl-]
78-79-5	Isoprene [1,3-Butadiene, 2-methyl-]
75-29-6	Isopropyl chloride [Propane, 2-chloro-]
75-31-0	Isopropylamine [2-Propanamine]
74-82-8	Methane
115-10-6	Methyl ether [Methane, oxybis-]
107-31-3	Methyl formate [Formic acid, methyl ester]
563-45-1	3-Methyl-1-butene
563-46-2	2-Methyl-1-butene
74-89-5	Methylamine [Methanamine]
115-11-7	2-Methylpropene [1-Propene, 2-methyl-]
504-60-9	1,3-Pentadiene
109-66-0	Pentane
109-67-1	1-Pentene
646-04-8	2-Pentene, (E)-
627-20-3	2-Pentene, (Z)-
463-49-0	Propadiene [1,2-Propadiene]
74-98-6	Propane
115-07-1	Propylene [1-Propene]
74-99-7	Propyne [1-Propyne]
7803-62-5	Silane
116-14-3	Tetrafluoroethylene [Ethene, tetrafluoro-]
75-76-3	Tetramethylsilane [Silane, tetramethyl-]
10025-78-2	Trichlorosilane [Silane, trichloro-]
79-38-9	Trifluorochloroethylene [Ethene, chlorotrifluoro-]
75-50-3	Trimethylamine [Methanamine, N,N-dimethyl-]
689-97-4	Vinyl acetylene [1-Buten-3-yne]
75-01-4	Vinyl chloride [Ethene, chloro-]
109-92-2	Vinyl ethyl ether [Ethene, ethoxy-]

TABLE 59.2	
FLAMMABLES ¹	
CAS No.	Chemical Name
75-02-5	Vinyl fluoride [Ethene, fluoro-]
107-25-5	Vinyl methyl ether [Ethene, methoxy-]
75-35-4	Vinylidene chloride [Ethene, 1,1-dichloro-]
75-38-7	Vinylidene fluoride [Ethene, 1,1-difluoro-]

¹ All flammables have a Threshold Quantity of 10,000 pounds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (April 1994).

§5909. Applicability

A. The requirements in this Chapter apply to all major stationary sources that have a regulated substance present in a process in more than a threshold quantity as determined under LAC 33:III.5905.

B. Major stationary sources covered by this Chapter shall comply with LAC 33:III.5911 by January 31, 1995, or within one year after the date on which a regulated substance first becomes present in a process in more than a threshold quantity.

C. Major stationary sources that have a regulated substance present in a process in more than a threshold quantity as determined under LAC 33:III.5905 shall comply with LAC 33:III.5913 through 5943 on the date consistent with rules developed under section 112(r) of the federal Clean Air Act Amendments of 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (April 1994).

§5911. Registration

A. By January 31, 1995, or within one year of the date on which a major stationary source becomes subject to this Chapter after January 31, 1995, the owner or operator of each major stationary source covered by this Chapter shall register with the administrative authority.

B. The registration shall include the following:

1. the name of the major stationary source, and its street address, mailing address, and telephone number;
2. the names and CAS numbers of all regulated substances that are present at the major stationary source in more than the threshold quantities and the maximum amount present in a process at any one time (in ranges);
3. for each regulated substance, the four-digit SIC code(s) that apply to the use of the substance at the major stationary source;
4. the Dun and Bradstreet number of the major stationary source;

5. the name, address and telephone number of a knowledgeable contact person with overall responsibility as referenced in LAC 33:III.5917.B; and

6. the following certification signed by the owner or operator: "The undersigned certifies that, to the best of my knowledge, information, and belief formed after reasonable inquiry, the information submitted is true, accurate, and complete."

7. registrations after the date consistent with rules developed under section 112(r) of the federal Clean Air Act Amendments of 1990 shall include the additional phrase, "I certify that I prepared or caused to be prepared a risk management plan that complies with 40 CFR 68.50" [and, when applicable: "and the provisions of 40 CFR 68.60"] "and that I submitted or caused to be submitted copies of the risk management plan to each of the entities listed in 40 CFR 68.50(a)." [Signature].

C. If at any time after the submission of the registration, information in the registration is no longer accurate, the owner or operator shall submit an amended notice within 60 days to the administrative authority* and the Department of Environmental Quality, Air Quality Division. After a final determination of necessary revisions under LAC 33:III.5943.F, the owner or operator shall register the revised risk management plan by the date required in LAC 33:III.5943.G.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (April 1994).

Subchapter B — Risk Management Program Requirements

§5913. Hazard Assessment (Reserved)

§5915. Prevention Program-Purpose

The owner or operator of a major stationary source having one or more regulated substances above the threshold quantity shall develop and implement an integrated management system to evaluate the hazards present at the major stationary source and to find the best ways to control these hazards. The prevention program includes 10 required elements that must be tailored to suit the degree of hazards present at the major stationary source and the degree of complexity of the major stationary source's operations and that should work together under management control to ensure safe operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (April 1994).

§5917. Prevention Program - Management System

A. The owner or operator of the major stationary source shall develop a management system to oversee the implementation of the risk management program elements. The purpose of the management system is to ensure that the elements of the risk management program are integrated and implemented on an ongoing basis and that the responsibility for the overall program and for each element is clear.

B. As part of the management system, the owner or operator shall identify a single person or position that has the

overall responsibility for the development, implementation, and integration of the risk management program requirements.

C. When responsibility for implementing individual requirements of the risk management program is assigned to persons other than the person designated under Subsection B of this Section, the names or positions of these people shall be documented and the lines of authority defined through an organization chart or similar document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (April 1994).

§5919. Prevention Program - Process Hazard Analysis (Reserved)

§5921. Prevention Program - Process Safety Information

A. The owner or operator shall complete a compilation of written process safety information before conducting any process hazard analysis required in LAC 33:III.5919. The compilation of written process safety information is to enable the owner or operator and the employees involved in operating the process to identify and understand the hazards posed by those processes involving regulated substances. This process safety information shall include information pertaining to the hazards of the regulated substances used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process.

B. Information pertaining to hazards of the regulated substance in the process shall consist of at least the following:

1. toxicity information;
2. permissible exposure limits;
3. physical data;
4. reactivity data;
5. corrosivity data;
6. thermal and chemical stability data; and
7. hazardous effects of inadvertent mixing of different

materials that could foreseeably occur.

Note: Material Safety Data Sheets (MSDSs) meeting the requirements of 29 CFR 1910.1200(g) may be used to comply with this requirement to the extent they contain the information required by this Paragraph.

C. Information concerning the technology of the process shall include at least the following:

1. a block flow diagram or simplified process flow diagram;
2. process chemistry;
3. maximum intended inventory;
4. safe upper and lower limits for such items as temperatures, pressures, flows, or compositions; and
5. an evaluation of the consequences of deviations, including those affecting public health and the environment.

D. Where the original technological information required by Subsection C of this Section no longer exists, such information may be developed in conjunction with the process hazard analysis in sufficient detail to support the analysis.

E. Information pertaining to the equipment in the process shall include:

1. materials of construction;
2. piping and instrument diagrams (P&IDs);
3. electrical classification;

4. relief system design and design basis;
5. ventilation system design;
6. design codes and standards employed;
7. material and energy balances for processes built after the effective date of rule; and
8. safety systems (e.g., interlocks, detection, or suppression systems).

F. The owner or operator shall document that equipment complies with recognized and generally accepted good engineering practices.

G. For existing equipment designed and constructed in accordance with codes, standards, or practices that are no longer in general use, the owner or operator shall determine and document that the equipment is designed, maintained, inspected, tested, and operating in a safe manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (April 1994).

§5923. Prevention Program - Standard Operating Procedures

A. The purpose of written standard operating procedures is to document the safe and proper way to operate and maintain processes and equipment and to handle and store regulated substances at a major stationary source. Procedures may be based on the process hazard analysis (hazard evaluation) information, successful past operating experience, manufacturers' recommendations, and applicable and appropriate codes and standards. The owner or operator shall consider the complexity of the process or major stationary source to develop standard procedures.

B. The owner or operator shall develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information and shall address at least the following elements:

1. steps for each operating phase:
 - a. initial startup;
 - b. normal operations;
 - c. temporary operations;
 - d. emergency shutdown, including the conditions under which emergency shutdown is required and the assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in a safe and timely manner;
 - e. emergency operations;
 - f. normal shutdown; and
 - g. start-up following a turnaround, or after an emergency shutdown.
2. operating limits:
 - a. consequences of deviation; and
 - b. steps required to correct or avoid deviation.
3. safety and health considerations:
 - a. properties of, and hazards presented by, the substances used in the process;
 - b. precautions necessary to prevent exposure, including engineering controls, administrative controls, and personal protective equipment;
 - c. control measures to be taken if physical contact or airborne exposure occurs;

d. quality control for raw materials and control of regulated substance inventory levels; and

e. any special or unique hazards.

4. safety systems and their functions.

C. Operating procedures shall be readily accessible to employees who work in or maintain a process.

D. The operating procedures shall be reviewed as often as necessary to ensure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment and changes to major stationary sources. The owner or operator shall certify annually that these operating procedures are current and accurate.

E. The owner or operator shall develop and implement safe work practices to provide for the control of hazards during operations involving lockout/tagout, confined space entry, and opening process equipment or piping, and control over entrance into a major stationary source by maintenance, contractor, laboratory, or other support personnel. These safe work practices shall apply to employees and contractor employees working at a facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (April 1994).

§5925. Prevention Program - Training

A. The purpose of the training program is to ensure that each employee involved with regulated substances has learned and understands the procedures developed under LAC 33:III.5923. The owner or operator shall consider the complexity of the procedures and the complexity of the process or major stationary sources when developing training programs.

B. Initial Training

1. Each employee presently operating a process and each employee before operating a newly assigned process shall be trained in an overview of the process and in the operating procedures as specified in LAC 33:III.5923. The training shall include emphasis on the specific safety and health standards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks.

2. In lieu of initial training for those employees already involved in operating a process on the effective date of this rule, an owner or operator may certify in writing that the employee has the required knowledge, skills, and abilities to safely carry out the duties and responsibilities as specified in the operating procedures.

C. Refresher Training. Refresher training shall be provided at least every three years and more often if necessary to each employee involved in operating a covered process to ensure that the employee understands and adheres to the current operating procedures in the process. The owner or operator, in consultation with the employees involved in operating the process, shall determine the appropriate frequency of refresher training.

D. Training Documentation. The owner or operator shall ascertain that each employee involved in operating a process has received and understood the training required by this Section. The owner or operator shall prepare a record which

contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training.

E. The owner or operator shall evaluate the effectiveness of the training program. A schedule for reviewing and revising the program shall be maintained at the major stationary source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (April 1994).

§5927. Prevention Program - Maintenance (Mechanical Integrity)

A. The purpose of the maintenance program is to determine and target the specific equipment that is identified through the process hazard analysis (hazard evaluation) or through operating experience as needing regular maintenance because failure of the equipment would lead to a significant accidental release. The owner or operator shall consider the complexity of the process or major stationary source in developing the maintenance program.

B. The owner or operator shall develop a list of equipment and controls the failure of which could result in a significant accidental release. As applicable, the equipment list shall include:

1. pressure vessels and storage tanks;
2. piping systems (including piping components such as valves);
3. relief and vent systems and devices;
4. emergency shutdown systems;
5. controls (including monitoring devices and sensors, alarms, and interlocks); and
6. pumps.

C. Written Procedures. The owner or operator shall establish and implement written procedures to maintain the on-going integrity of process equipment.

D. Training for Process Maintenance Activities. The owner or operator shall train each employee involved in maintaining the on-going integrity of process equipment in an overview of that process and its hazards and in the procedures applicable to the employee's job tasks to ensure that the employee can perform the job tasks in a safe manner and shall document the training as required in LAC 33:III.5925.D.

E. Maintenance, Inspections, and Testing. For every item of equipment required to be listed under Subsection B of this Section, the owner or operator shall develop a maintenance program to inspect, test, and maintain the equipment on an appropriate schedule to ensure that the equipment and controls continue to function according to specifications.

1. Maintenance, inspections, and tests shall be performed on process equipment.

2. Maintenance, inspection, and testing procedures shall follow recognized and generally accepted good engineering practices.

3. The frequency of maintenance, inspections, and tests of process equipment shall be consistent with applicable manufacturers' recommendations and good engineering practices and more frequently if determined to be necessary by prior operating experience.

4. The owner or operator shall document each maintenance procedure, inspection, and test that has been performed on process equipment. The documentation shall identify the date of the maintenance, inspection, or test; the name of the person who performed the maintenance, inspection, or test; the serial number or other identifier of the equipment on which the maintenance, inspection, or test was performed; a description of the maintenance, inspection, or test that was performed; and the results of the inspection or test.

F. Equipment Deficiencies. The owner or operator shall correct deficiencies in the operation of equipment that are outside acceptable limits (defined in the process safety information in LAC 33:III.5921.C.4 and E) before further use or in a safe and timely manner when necessary means are taken to ensure safe operations.

G. Quality Assurance

1. In the construction of new plants and equipment, the owner or operator shall ensure that equipment as it is fabricated is suitable for the process application for which it will be used.

2. Appropriate checks and inspections shall be performed to ensure that equipment is installed properly and consistent with design specifications and manufacturer's instructions.

3. The owner or operator shall ensure that maintenance materials, spare parts, and equipment are suitable for the process application for which they will be used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (April 1994).

§5929. Prevention Program - Pre-startup Review

A. The purpose of the pre-startup review is to ensure that new or modified equipment is ready to properly and safely contain any new or previously handled regulated substance before that substance is introduced into the system. The owner or operator shall consider the complexity of the process or major stationary source in developing the pre-startup review.

B. The owner or operator shall perform a pre-startup safety review for new major stationary sources and for modified major stationary sources when the modification is significant enough to require a change in the process safety information.

C. The pre-startup safety review shall confirm that prior to the introduction of regulated substances to a process:

1. construction and equipment is in accordance with design specifications;

2. safety, operating, maintenance, and emergency procedures are in place and are adequate; and

3. for new major stationary sources, a process hazard analysis has been performed and recommendations have been resolved or implemented before startup; and modified major stationary sources meet the requirements contained in management of change, LAC 33:III.5931; and

4. training of each employee involved in operating or maintaining a process has been completed and that employees are trained in any new emergency response procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (April 1994).

§5931. Prevention Program - Management of Change (Reserved)

§5933. Prevention Program - Safety Audits

A. The safety audit consists of a periodic examination of the management systems and programs at the major stationary source. The examination shall include a review of the documentation and implementation of the requirements of this Section. The owner or operator shall consider the complexity of the process and of the process safety management program to develop the safety audit procedures, plans, and timing.

B. The owners or operators shall certify that they have evaluated compliance with the provisions of this Section at least every three years, to verify that the procedures and practices developed under this Section are adequate and are being followed.

C. The safety audit shall be conducted by at least one person knowledgeable in the process.

D. A report of the findings of the audit shall be developed.

E. The owner or operator shall promptly determine and document an appropriate response to each of the findings of the audit and document that deficiencies have been corrected.

F. The owner or operator shall retain the two most recent safety audit reports, as well as the documented actions in Subsection E of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (April 1994).

§5935. Prevention Program - Accident Investigation

A. The purpose of the accident investigation is to learn the underlying causes of accidents in order to take steps to prevent them or similar accidental releases from recurring.

B. The owner or operator shall establish and implement written procedures to investigate each significant accidental release.

C. The owner or operator shall investigate each significant accidental release.

D. An accident investigation shall be initiated as promptly as possible, but not later than 48 hours, following the significant accidental release.

E. An accident investigation team shall be established and consist of at least one person knowledgeable in the process involved, including a contract employee if the incident involved work of the contractor, and other persons with appropriate knowledge and experience to thoroughly investigate and analyze the significant accidental release.

F. A report shall be prepared at the conclusion of the investigation which includes, at a minimum:

1. date of significant accidental release;

2. date investigation began;

3. a description of the significant accidental release;

4. the factors that contributed to the significant accidental release, including its initiating event and root cause or causes that may have increased the likelihood of the initiating event; and

5. any recommendations resulting from the investigation.

G. The owner or operator shall establish a system to promptly address and resolve the accident report findings and recommendations. Resolutions and corrective actions shall be documented.

H. The report shall be reviewed with all affected personnel whose job tasks are relevant to the significant accidental release findings, including contract employees where applicable.

I. Significant accidental release investigation reports shall be retained for five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (April 1994).

§5937. Emergency Response Program

A. The purpose of the emergency response program is to prepare for response to and mitigation of accidental releases to limit the severity of such releases and their impact on the public health and environment.

B. The owner or operator of a major stationary source shall establish and implement an emergency response plan for responding to and mitigating accidental releases of regulated substances. The plan shall detail the steps all employees shall take in response to accidental releases and shall include:

1. evacuation routes or protective actions for employees not directly involved in responding to the release;
2. procedures for employees responding to the release, including protective equipment use;
3. descriptions of all response and mitigation technologies available at the major stationary source; and
4. procedures for informing the public and emergency response agencies about releases.

C. The owner or operator shall develop written procedures for the use of emergency response equipment and for its inspection, testing, and maintenance. The maintenance program for emergency response equipment shall be documented as required in LAC 33:III.5927.E.4.

D. For each regulated substance, the owner or operator shall document the proper first-aid and emergency medical treatment necessary to treat accidental human exposure.

E. The owner or operator shall train all employees in relevant emergency response procedures and document the training as required under LAC 33:III.5925.D.

F. The owner or operator shall conduct drills or exercises to test the plan and evaluate its effectiveness. Each drill or exercise shall be documented in writing and shall include findings of the drill or exercise that indicate aspects of the plan and procedures which need to be revised. Plans shall be revised based on the findings of the drills or exercises. The owner or operator shall document the response to each finding from a drill or exercise. For each finding requiring a change that is implemented, the schedule for implementing the change shall be documented.

G. Each emergency response plan shall be coordinated with local emergency response plans developed by the local emergency planning committees and local emergency response agencies. Upon request of the local emergency planning committee, the owner or operator shall promptly provide information to the local emergency planning committee

necessary for developing and implementing the community emergency response plan.

H. The owner and operator shall maintain a copy of the emergency response plan, including descriptions of all mitigation systems in place, at the major stationary source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (April 1994).

§5939. Risk Management Plan (Reserved)

§5941. Recordkeeping Requirements (Reserved)

§5943. Audits (Reserved)

James B. Thompson, III
Assistant Secretary

RULE

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

Minor Sources of Air Toxins (LAC 33:III.Chapter 53) (AQ87)

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 has amended the Air Quality Division Regulations, LAC 33:III.Chapter 53 (AQ87).

This rule requires specified minor toxic sources to report their air toxic emissions and quantities consumed annually. The affected sources are chromic acid anodizing processes using chromium and chromium compounds; commercial dry cleaners, transfer machines and dry-to-dry machines using perchloroethylene; commercial sterilization facilities using ethylene oxide; decorative chromium electroplating using chromium and chromium compounds; halogenated solvent cleaners using 1,1,1 trichloroethane, perchloroethylene, methylene chloride, and trichloroethylene; and hard chrome electroplating using chromium and chromium compounds. The facilities will be assessed an annual fee based on emissions of air toxic chemicals. The rule is required by R.S. 30:2060(N)(5).

These regulations are to become effective upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 53. Minor Sources of Toxic Air Pollutants Subchapter A. Applicability, Definitions, and General Provisions

§5301. Applicability

The provisions of this Subchapter apply to minor sources as defined in LAC 33:III.5103 which belong to the following categories of facilities and which use the chemicals listed for that category:

1. chromic acid anodizing processes using chromium and chromium compounds;
2. commercial dry cleaning, transfer machines using perchloroethylene;
3. commercial dry cleaning, dry-to-dry machines using perchloroethylene;
4. commercial sterilization facilities using ethylene oxide, including but not limited to medical equipment suppliers, pharmaceutical manufacturers, health-related industry facilities, spice manufacturers/processors, contract sterilizers, libraries, museums and archives, laboratories, and state agricultural offices;
5. decorative chromium electroplating using chromium and chromium compounds;
6. halogenated solvent cleaners using 1, 1, 1 trichloroethane, perchloroethylene, methylene chloride, and trichloroethylene; or
7. hard chrome electroplating using chromium and chromium compounds.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (April 1994).

§5303. Exemptions

Facilities that belong to a listed category but are classified as major sources or are located at major sources as defined in LAC 33:III.Chapter 51 are exempt from this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (April 1994).

§5305. Definitions (Reserved)

§5307. Reporting Requirements

A. An initial emissions inventory report is due on or before October 1, 1994, from the facilities within the specified categories that use the listed chemical(s) pursuant to LAC 33:III.5301. The report shall be submitted on a form or in an electronic format specified by the department to the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, Air Toxic Section, and include the following information:

1. the company's name, physical address, mailing address, city and parish location, zip code, and site phone number;
2. the company's main or corporate office if other than the site location, street address, mailing address, city and parish, zip code, and office phone number;
3. the name of the contact who will be responsible for liaison with the department;
4. the category of the facility and the toxic air pollutant(s) emitted as listed in LAC 33:III.Chapter 51, Tables 51.1 or 51.3 and chemical(s) listed in LAC 33:III.5301 that are used at the facility;
5. the emissions of toxic air pollutants for the previous calendar year from operations, accidents, and any other event(s) where emissions are generated;
6. the quantity of the listed chemical(s) consumed at the facility for the previous calendar year; and

7. a statement clarifying the extent and accuracy of the submitted report.

B. Subsequent reports will be due on or before July 1 of each year. The report shall be submitted to the Department of Environmental Quality, Air Quality Division, Office of Air Quality and Radiation Protection, Air Toxic Section, and include the information requested in Subsection A of this Section for the preceding calendar year.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (April 1994).

James B. Thompson, III
Assistant Secretary

RULE

Department of Environmental Quality Office of Water Resources

Numerical Criteria Tables (LAC 33:IX.1123)(WP15)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2074(B)(1), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Office of Water Resources, LAC 33:IX.1123, Numerical Criteria Tables, (WP15).

The limited aquatic life and wildlife and secondary contact recreation uses have been determined to be the appropriate use designations for that portion of the Monte Sano Bayou which exists from LA Highway 61 (Scenic Highway) to the Mississippi River, in East Baton Rouge Parish, Louisiana. A Use Attainability Analysis was conducted on this portion of the bayou, which assessed past and current chemical, physical and biological conditions. Federal law requires the states to meet the goals of the Clean Water Act. The federal water quality standards regulation §131.10 requires the states to "specify appropriate water uses to be achieved and protected".

These regulations are to become effective upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality Regulations

Chapter 11. Louisiana Surface Water Quality Standards

§1123. Numerical Criteria Tables

A. - C.2. ...

3. Designated Water Uses. The following are the category definitions of designated water uses that are used in the Numerical Criteria Tables under the subheading "Designated Water Uses."

- A- Primary Contact Recreation
- B- Secondary Contact Recreation
- C- Propagation of Fish and Wildlife
- L- Limited Aquatic Life and Wildlife Use
- D- Drinking Water Supply

E- Oyster Propagation

F- Agriculture

G- Outstanding Natural Resources Waters

Numbers in brackets (e.g.[1]) refer to endnotes listed at the end of this Section.

NUMERICAL CRITERIA TABLES

[See Prior Text]
TABLE (07)

MISSISSIPPI RIVER BASIN

NUMERICAL CRITERIA

Table with columns: CODE NUMBER, STREAM DESCRIPTION, CL, SO4, DO, pH range, BAC, TEMP TDS. Rows include Monte Sano Bayou and Mississippi River Basin Coastal Bays and Gulf Waters.

TABLE (07)

MISSISSIPPI RIVER BASIN

Table with columns: CODE NUMBER, DESIGNATED WATER USES, STREAM DESCRIPTION, A, B, C, L, D, E, F, G. Rows include Monte Sano Bayou and Mississippi River Basin Coastal Bays and Gulf Waters.

[See Prior Text]

ENDNOTES:

[See Prior Text]

[17] Designated Man-made Watercourse: CL, SO4, and TDS levels will not cause acute toxicity to the limited wildlife and aquatic life community in the designated Monte Sano Bayou subsegment.
[18] The temperature differential limit of 2.8°C is not applicable to this water body segment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1)

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20: (April 1994).

James B. Thompson, III
Assistant Secretary

RULE

Office of the Governor

Patient's Compensation Fund Oversight Board

Payment of Surcharges (LAC 37:III.711-713)

The Patient's Compensation Fund Oversight Board, under authority of the Louisiana Medical Malpractice Act, R.S. 40:1299.41 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby amends LAC 37:III.Chapter 7, as follows, which provides for and governs the payment of surcharges to the fund and the fund's right to seek penalties, interest and attorney's fees.

Title 37

INSURANCE

Part III. Patient's Compensation Fund Oversight Board

Chapter 7. Surcharges

§711. Payment of Surcharges: Insurers

A. Applicable surcharges for enrollment with the fund shall be collected on behalf of the fund by commercial professional

health care liability insurance companies and approved self-insurance trust funds from insured health care providers electing to enroll with the fund. Such surcharges shall be collected by such insurers and funds at the same time and on the same basis as such insurers' collection of premiums from such insureds. Surcharges collected by commercial insurance underwriters and funds on behalf of the fund shall be due and payable and remitted to the fund by commercial insurance underwriters and funds within 45 days from the date on which such surcharges are collected from any insured. Remittance of surcharges to the fund shall be made in such form and accompanied by records in such form or on such forms as may be prescribed by the executive director so as to provide for proper accounting of remitted surcharges and the identity and class of health care providers on whose behalf such surcharges are remitted. Commercial professional health care liability insurance companies, commercial insurance underwriters and approved self-insurance trust funds remitting surcharges to the fund shall certify to the fund, at the time of remitting such surcharge to the fund, the date that the surcharges were collected by them from the health care providers. The payment of surcharges by an approved self-insurance trust fund that does not collect premiums from insureds will be governed by §713 hereof.

B. Failure of the commercial professional health care liability insurers, commercial insurance underwriters, and approved self-insurance trust funds to remit payment within 45 days of collecting such annual surcharge shall subject the commercial professional liability insurers, commercial insurance underwriters, and approved self-insurance trust funds to a penalty of 12 percent of the annual surcharge and all reasonable attorney's fees. Upon the failure of the commercial professional health care liability insurers, commercial insurance underwriters and approved self-insurance trust funds to remit as provided in this Section, the board may institute legal proceedings to collect the surcharge, together with penalties, legal interest, and attorney's fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:176 (February 1992), amended LR 20: (April 1994).

§713. Payment of Surcharges: Self-insureds

A. Not less than 60 days prior to the termination of enrollment of a health care provider, the executive director shall cause each self-insured health care provider enrolled with the fund and each self-insured health care provider having been approved for enrollment with the fund, to receive a statement of surcharges due the fund by the health care provider for enrollment with the fund during the succeeding enrollment year.

B. Surcharges due the fund by self-insured health care providers for enrollment with the fund for an enrollment year shall be due and payable to the fund prior to the effective date of the coverage, or renewal of coverage, to which the surcharge applies. Remittance of surcharges to the fund shall be made in such form and accompanied by records in such form or on such forms as may be prescribed by the executive director so as to provide for proper accounting of remitted

surcharges and the identity and class of health care provider remitting surcharges.

C. - E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:176 (February 1992), amended LR 20: (April 1994).

Suanne Grosskopf
Executive Director

RULE

Department of Health and Hospitals Board of Chiropractic Examiners

Accident Solicitation Letters (LAC 46:XXVII.310)

Pursuant to R.S. 49:950 et seq., the Department of Health and Hospitals, Board of Chiropractic Examiners has adopted an additional rule relative to the mailing of accident solicitation letters by chiropractors.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXVII. Chiropractors

Chapter 3. Practice and Procedure

§310. Accident Solicitation Letters

A. On the outside of each envelope in 10-point bold type at the bottom left hand corner of the envelope, there will be printed in red, capital letters, *THIS IS AN ADVERTISEMENT*.

B. On the body of the letter, in the same type size as the letter, shall be contained the following paragraph in red lettering:

NOTICE: THIS IS AN ADVERTISEMENT. Your name and address and information relative to the accident in which you were involved were acquired from police documents. You are under no obligation to respond to this letter. Recipients of this advertisement should understand the importance of employing a health care provider and inquiry into the doctor's qualifications and experience is recommended.

C. No solicitation letters shall be sent to minors.

D. All solicitation letters shall be submitted to the board before publication to assure compliance with this rule and all other applicable board regulations. The board has six weeks to respond to this request.

E. A sample copy of each different solicitation letter shall be retained by the sender for a period of one year.

F. No solicitation letter to an accident victim should be sent before at least seven days have elapsed since the date of the accident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816(C).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 20: (April 1994).

Dr. John Booth
President

RULE

Department of Health and Hospitals Office of the Secretary

Establishment of Rural Health Care Authority

The Department of Health and Hospitals, Office of the Secretary, has adopted the following rule as authorized by Act 832 of 1993, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B).

Act 832 of 1993 established the Rural Health Care Authority (authority) within the Department of Health and Hospitals to develop rural primary health clinics, health commissions and educational programs. Among the significant health issues which the authority is charged with addressing are: development of primary health clinics to meet special health care needs of rural Louisiana; research on the relationship of dietary habits and pollution on the incidence of sickle cell disease and cancer; training of primary care physicians; reduction of teenage pregnancies, and reduction of sexually transmitted diseases. It is imperative that the Department of Health and Hospitals establish a board of the authority in order to address these issues which present an imminent peril to the public health.

Rule

The board of the Rural Health Care Authority (authority) is hereby established. The board shall be composed of 13 members, seven of whom shall be appointed by the governor upon the recommendation of legislators representing rural state planning districts and six at large members who shall be appointed by the governor based on recommendations from the Department of Health and Hospitals. The membership shall include health care consumers, employers and health care professionals and providers. All members of the board shall serve at the pleasure of the governor. Members of the board shall serve without compensation but may be compensated for travel expenses related to board meetings or conducting of business for the authority in accordance with state travel regulations. The authority shall perform those functions as authorized by Act 832 of 1993.

Rose V. Forrest
Secretary

RULE

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

Transfers of Assets

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

Rule

The Bureau of Health Services Financing applies the following provisions in determining Medicaid eligibility of institutionalized individuals or applicants for home and community-based services when transfers of resources occur for less than fair market value except for interspousal transfers as mandated by the Omnibus Budget Reconciliation Act of 1993. These changes apply to trusts established and assets disposed of on or after the date of enactment of Public Law 103-66 which is August 11, 1993.

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

2. The bureau determines whether an institutionalized individual (or spouse of such individual) has disposed of assets for less than fair market value during the 36-month period for assets transfers and the 60-month period for certain trusts immediately before he or she made application for Medicaid.

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 income, as an available resource or as a transfer of assets.

b. Any 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 provisions 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.

Rose V. Forrest
Secretary

RULE

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

Referral and Investigation Procedures (LAC 48:I.17101-17125)

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 Health and Hospitals (DHH) is hereby adopting the following rule to implement the Protective Services Agency for individuals 18-59 years of age who are temporarily or permanently mentally and/or physically dysfunctional, living independently in the community, either independently in their own home or with the help of others, or in any other place that is not licensed by a governmental regulatory agency.

Title 48

PUBLIC HEALTH - GENERAL

Part I. General Administration

Subpart 13. Protective Services Agency

Chapter 171. Bureau of Protective Services

§17101. Statement of Policy

A. The Department of Health and Hospitals is committed to preserving and protecting the rights of individuals to be free from abuse, neglect, exploitation, or extortion.

B. In pursuit of this commitment and in accordance with the provisions of R.S. 14:403.2, the Department of Health and Hospitals names the Bureau of Protective Services as the Protective Services Agency in order to provide protection to individuals who are unable to independently provide for themselves and who are harmed or threatened with harm through the action or inaction of themselves or others not providing care through a licensed governmental regulatory agency.

C. The primary function of the Bureau of Protective Services is to investigate cases consistent with the criteria contained in R.S. 14.403.2 and to use that information to identify and link individuals which the Bureau of Protective Services determines are in need of services to appropriate service providers. Bureau of Protective Services staff will provide services to each individual in need of protection until that person's situation has stabilized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20: (April 1994).

§17103. Goals and Objectives

The primary goal of the Bureau of Protective Services is to prevent, remedy, halt, or hinder abuse, neglect, exploitation, and extortion of individuals in need of services as defined in this regulation and consistent with the provisions of R.S. 14:403.2. In order to achieve this goal, the Bureau of Protective Services shall pursue the following objectives:

1. to establish a system of mandatory reporting, intake, classification, timely investigation and response to allegations of abuse, neglect, exploitation, and extortion;

2. to provide protective services to the individual while assuring the maximum possible degree of self-determination and dignity;

3. in concert with other community service and health service providers, facilitate the process toward developing individual and family capacities to promote safe and caring environments for individuals in need of protection;

4. to secure referral or admission to appropriate alternative living arrangements if all efforts to maintain the individual in his/her own home fail;

5. to assist individuals in need of protection to maintain the highest quality of life with the least possible restriction on the exercise of personal and civil rights.

6. to educate the general public, as well as private and public service agencies, regarding the Protective Services Agency and the requirements of R.S. 14:403.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20: (April 1994).

§17105. Definitions

For the purposes of this Chapter, the following definitions shall apply.

Abuse—the infliction of physical and mental injury on an adult by other parties, including but not limited to such means as sexual abuse, exploitation, or extortion of funds or other things of value, to such an extent that his/her health, self-determination, or emotional well-being is endangered. In determining whether an injury is sufficient to endanger the health, self-determination, or emotional well-being of the adult, the following criteria shall apply:

a. with respect to physical injury, the injury must be sufficient to ordinarily require professional medical intervention beyond first-aid, or, the behavior in question must be sufficient to create a potential injury of that severity;

b. with respect to mental injury, the injury must be sufficient to ordinarily require mental health services of a clinical nature, or, the behavior in question must be sufficient to create a potential injury of that severity;

c. with respect to seclusion, acts of seclusion used in a manner where the individual is alone in a room/area from which he/she cannot leave, constitutes behavior which has the potential to result in mental injury or unwarranted restriction of the adult's self-determination;

d. with respect to use of restraints, inappropriate and unauthorized use of any chemical and/or mechanical restraints, or any type of restraint which prevents the free movement of either the arms or legs and which immobilizes the individual, shall represent potential physical or mental injury and possible violation of an individual's self-determination. Chemical and/or mechanical restraints ordered by a physician shall not constitute abuse.

Adult—any individual 18 years of age or older or an emancipated minor who, because of mental or physical dysfunction, is unable to manage his own resources, carry out the activities of daily living, or protect himself from neglect or hazardous or abusive situations without assistance from others, and who has no available, willing, and responsibly able person to assist him. For purposes of this rule, the Bureau for Protective Services will accept cases for individuals who are 18-59 years of age; the Office of Elderly Affairs shall have jurisdiction for individuals 60 years of age or older.

Bureau of Protective Services (BPS) or the Bureau—that agency determined by the Department of Health and Hospitals as the Protective Services Agency, pursuant to the provisions of R.S. 14:403.2, to provide protection to adults defined above.

Caregiver—any person or persons, either temporarily or permanently responsible for the care of a physically or mentally disabled individual. Caregiver includes but is not limited to adult children, parents, relatives, neighbors, day-care personnel, adult foster home sponsors, substitute family care, personnel of public and private institutions and facilities, adult congregate living facilities, and nursing homes which have voluntarily assumed the care of an individual, have assumed voluntary residence with an individual, or have assumed voluntary use or tutelage of an individual's assets, funds, or property, and specifically shall include city, parish, or state law enforcement agencies.

Emancipated Minor—a person under the age of 18 who administers his or her own affairs or who is relieved of the incapacities which normally attach to minority. Minors can be emancipated either by notarial act, marriage, or judicial pronouncement.

Exploitation—the illegal or improper use or management of a disabled adult's funds, assets, or property, or the use of a disabled adult's power of attorney or guardianship for one's own profit or advantage.

Extortion—the acquisition of a thing of value from an unwilling or reluctant adult by physical force, intimidation, abuse, neglect, or official authority.

Individual or Individual in Need of Protection—any person 18 years of age or older or an emancipated minor, who because of mental or physical dysfunction, is unable to manage his/her own affairs, carry out the activities of daily living, or protect himself from hazardous or abusive situations without assistance from others; and who has no available, responsibly able person to assist him. For purposes of this rule, BPS will accept cases for individuals who are 18-59 years of age. The Office of Elderly Affairs shall have jurisdiction for individuals 60 years of age or older.

Neglect—the failure by a caregiver responsible for an adult's care or by other parties, to provide the proper or

necessary support or medical, surgical, or any other care necessary for his well-being. No adult who is being provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall for that reason alone be considered to be neglected or abused.

Protective Services—those activities developed to assist individuals in need of protection. Protective services include but are not limited to: receiving and screening information on allegations of abuse, neglect, exploitation or extortion; conducting investigations into those allegations to determine if the situation and condition of the alleged victim warrants corrective or other action, making recommendations, as appropriate, for preventative or corrective actions; and for case management, as needed.

Regional Coordinating Council—a regionally constituted committee composed of representatives of both public and private agencies which provide services to individuals in need of protection. These regional coordinating councils are designed to maximize resources available to individuals in need of protection particular to that region by effecting a regionally individualized plan for the allocation or reallocation of available resources, expansion of programs, or redirection of current resource allocation.

Self-neglect—the failure, either by the individual's action or inaction, to provide the proper or necessary support or medical/surgical or other care necessary for his/her own well-being. No individual who is provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall, for that reason alone, be considered to be self-neglected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20: (April 1994).

§17107. Prohibition Against Abuse, Neglect, Exploitation, Extortion

Abuse, neglect, exploitation, or extortion of individuals in need of protection is prohibited by law R.S. 14:403.2, and if confirmed, may result in criminal charges being filed against the alleged perpetrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20: (April 1994).

§17109. Eligibility for Services

A. The protection of this rule extends to all individuals 18-59 years of age who are temporarily or permanently mentally physically dysfunctional, living independently in the community, either independently in their own home or with the help of others, or in any other place that is not licensed by a governmental regulatory agency, who are alleged to be abused, neglected, exploited, or extorted, if these individuals:

1. cannot manage their own resources; or
2. cannot independently complete daily living tasks; or
3. cannot protect themselves from abuse, neglect, exploitation, extortion, or other hazardous situations; and
4. for whom there is no other available, willing or responsibly able person to assist him.

B. There is no financial eligibility requirement for services provided by the Bureau of Protective Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20: (April 1994).

§17111. Reporting

A. Responsibility to Report

1. Any person having cause to believe that an individual's physical or mental health or welfare has been or may be further adversely affected by abuse, neglect, exploitation, or extortion shall report that knowledge or belief. These reports can be made to:

- a. the Bureau of Protective Services; and/or,
- b. any local or state law enforcement agency.

2. Reports of abuse, neglect, exploitation and extortion shall be processed through the DHH Bureau of Protective Services' central office intake system. Reports should be made/forwarded to: Bureau of Protective Services, 4615 Government Street, Building B, Box 3518, Bin Number 11, Baton Rouge, LA 70821. The local telephone number, (504) 922-2250. The statewide toll free telephone number is 1-800-898-4910.

B. Intake. Alleged incident reports received by the bureau shall be screened to determine eligibility, and shall be assigned a priority status for investigation as described in §17121 of this Chapter. When reports are not accepted by the bureau, the reporter will be advised why his/her report was rejected for investigation. Such reports will be referred to other social, medical, and law enforcement agencies, as deemed appropriate.

1. Allegations of known or suspected abuse, neglect, exploitation, or extortion should include:

- a. the name and address of the alleged victim; and,
- b. the name and address of the person providing care to the alleged victim, if possible; and
- c. the name of the person(s) suspected of abuse, neglect, extortion or exploitation, where different from Subparagraph b above, if possible; and
- d. other pertinent information.

2. Allegations of abuse, neglect, exploitation or extortion made by the alleged victim shall not be considered to be any less credible than allegations made by others and shall be reported according to procedures established in this Chapter.

C. Investigation. Reports accepted by the Bureau of Protective Services for investigation shall be prioritized according to §17121 of this rule. The subsequent investigation and assessment shall include the nature, extent, and cause of the abuse, neglect, exploitation, extortion, the identity of the person or persons allegedly responsible for abuse, neglect, exploitation, or extortion, if known; where possible, an interview with the individual and also where possible, a visit to the individual's home. Consultation with others having knowledge of the facts of the case shall also be included in the investigation. A report of the investigation shall be generated, which also contains an assessment of the individual's present condition/status.

D. Service Plan. The protective service worker will be responsible for developing a service plan based upon the case determination. If at the end of the investigation it is determined that the individual has been abused, neglected, exploited, and/or extorted by other parties, and that the problem cannot be remedied by extrajudicial means, the Bureau of Protective Services shall refer the matter to the local district attorney's office. Evidence must be presented, together with an account of the protective services given or available to the individual, and a recommendation as to what services, if ordered, would eliminate the abuse/neglect.

E. Penalty for Failure to Report. Any person who knowingly and willfully fails to report as provided by Subsection A of this Section, shall be fined not more than \$500 or imprisoned not more than six months, or both. [R.S. 14:403.2(J)(1)]

F. Penalty for False Reporting. Any person who knowingly makes a false report of abuse, neglect, exploitation, or extortion shall be fined not more than \$1,000 imprisoned with or without hard labor for not more than one year, or both. [R.S. 14:403.2(J)(2)]

G. Right to Refuse Services. Protective Services may not be provided in cases of self-neglect to any individual who does not consent to such services or who, having consented, withdraws such consent. Nothing herein shall prohibit the Bureau of Protective Services, the district attorney, the coroner, or the judge from petitioning for interdiction pursuant to Civil Code, Articles 389-426.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20: (April 1994).

§17113. Confidentiality

A. Information contained in the case records of the Bureau of Protective Services shall not be released without a written authorization from the involved individual or legally authorized representative, except that the information may be released to law enforcement agencies and social service agencies who are providing services to the adult or pursuing enforcement of criminal statutes, or pursuing interdiction of the individual.

B. Information about individuals in need of protection and/or information provided by others about those individuals or their caregivers or others shall only be released if:

1. the individual in need of protection or the legally authorized representative has consented to the release of the information; and/or,

2. the release of information is legally mandated, such as a required referral to local law enforcement agencies in the case of criminal acts involving an individual in need of protection, or to regulatory agencies, or when pursuing interdiction of the individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20: (April 1994).

§17115. Immunity

A. Under the provision of R.S. 14:403.2(K) no cause of action shall exist against:

1. any person who, in good faith, makes a report, cooperates in an investigation by an agency, or participates in judicial proceedings;

2. any DHH Protective Services staff who, in good faith, conducts an investigation or makes an investigative judgment or disposition;

3. the persons listed in Paragraphs 1 and 2 of this Subsection shall have immunity from civil or criminal liability that otherwise might be imposed or incurred.

B. This immunity shall not extend to:

1. any alleged principal, conspirator, or accessory to an offense involving the abuse or neglect of the individual;

2. any person who makes a report known to be false or with reckless disregard for the truth of the report;

3. any person charged with direct or constructive contempt of court, any act of perjury as defined in Subpart C of Part VII of the Louisiana Criminal Code or any offense affecting judicial functions and public records as defined in Subpart D of Part VII of the Louisiana Criminal Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20: (April 1994).

§17117. The Department of Health and Hospitals' Protective Services System

A. The department will deliver protective services through direction and oversight by a centrally located Bureau of Protective Services to the department's nine regional offices.

B. The department will be responsible for delivery of services to adults through the established regional office in the region in which the adult resides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20: (April 1994).

§17119. Responsibilities of Regional Coordinating Councils

A. The Bureau of Protective Services shall create regional coordinating councils in each region of the state to coordinate community services in support of individuals in need of protection.

B. These councils will have as their objective to achieve maximum community coordination by efforts to:

1. identify resources, both in common to the agencies represented and available from outside resources; and,

2. increase availability of needed services by maximizing existing resources and decreasing duplication of effort;

3. assure maximum community coordination of effort in providing necessary services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20: (April 1994).

§17121. Priorities for Case Response

In order to assure the timely delivery of protective services and to eliminate the potential danger of prolonging an abusive situation, a priority system for case response has been established. At the time a report of abuse is received in the Bureau of Protective Services, the report will be prioritized and assigned for investigation based on the criteria set forth below.

1. Priority One

a. Priority One reports are those which allege the individual in need of protection is abused, neglected, exploited, or extorted, and has suffered serious harm or serious physical injury which, if untreated, may result in permanent physical damage or death.

b. Examples of Priority One reports include but are not limited to head injuries, spinal injuries, severe cuts, broken limbs, severe burns, and/or internal injuries and sexual abuse where there is danger of repeated abuse, situations where medical treatment, medications or nutrition necessary to sustain the individual are not obtained or administered, as well as over-medication and unreasonable confinement.

c. Staff must respond to Priority One cases within 24 hours of receipt by the Bureau of Protective Services. For purposes of this Section, "case response" means that the investigator must attempt a face-to-face visit with the individual in need of protection within this 24-hour period.

2. Priority Two

a. Priority Two reports allege the individual in need of protection is abused, neglected, exploited, or extorted, and as a result, is at risk of imminent serious physical injury or harm.

b. Priority Two reports may include but not be limited to those situations in which there is failure to provide or obtain mental health and medical treatment which, if untreated, may cause serious harm to the individual. This includes, self-abusive behavior, and failure to treat physical ailments. It could also include inadequate attention to physical needs such as insufficient food, medicine, inadequate heat or excessive heat, unauthorized use, and/or exploitation of the victim's income or property.

c. Staff must respond to Priority Two cases within five working days of receipt by the Bureau of Protective Services. For purposes of this Section, "case response" means that the investigator must attempt a face-to-face visit with the individual in need of protection within a five-working-day period, so long as the investigation of Priority One cases is not delayed.

3. Priority Three

a. Priority Three reports include all other allegations in which the individual in need of protection is alleged to be abused, neglected, exploited, and extorted which do not involve risk of imminent serious physical injury or harm and poses no immediate threat of serious injury or harm.

b. Staff must respond to Priority Three cases within 10 working days of receipt by the Bureau of Protective Services. For purpose of this Section, "case response" means that the investigator must attempt a face-to-face interview with the individual in need of protection within this 10-day working

period, so long as the investigation of Priority One and Two cases are not delayed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20: (April 1994).

§17123. Training

To encourage prompt reporting of suspected abuse, neglect, exploitation, or extortion, Bureau of Protective Services staff shall provide for and/or participate in activities to inform the general public and, in particular, targeted professionals and service providers about the Protective Services Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20: (April 1994).

§17125. Dissemination

A. A copy of this rule shall be made available to anyone, including individuals in need of protection, upon request.

B. Copies of this rule shall be disseminated to public areas of state and local agencies which target populations of persons who are mentally, physically, or emotionally challenged (including but not limited to community services offices of the Office for Citizens with Developmental Disabilities, Office of Mental Health, Office of Public Health and Office of Alcohol and Drug Abuse, state and local law enforcement agencies, advocacy agencies, nursing homes, hospitals, private care agencies, and other related service agencies).

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20: (April 1994).

Rose V. Forrest
Secretary

RULE

Department of Justice
Office of the Attorney General

Open Housing Act (LAC 16:I.101)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 51:2610(A), as amended, which delegates the authority of administering the Open Housing Act to the Department of Justice, Office of the Attorney General, and R.S. 36:702(3) which authorizes the attorney general to alter, amend, and promulgate rules and regulations necessary for the administration of the functions of the department, Department of Justice, Office of the Attorney General has adopted the following rule which will enable the Open Housing Act (R.S. 51:2601 et seq.) to be considered substantially equivalent to the Fair Housing Act.

The rule authorizes the attorney general to determine which program to assist elderly persons qualifies for an exemption for familial status exemption under the Louisiana Housing Act.

The rule also provides that the attorney general must publish all conciliation agreements, dispose of any complaint within one year, and only file civil actions against those individuals who have been served with a copy of the complaint in accordance with law and advised of their rights.

Title 16

**COMMUNITY AFFAIRS
Part I. Open Housing Act**

**Chapter 1. Administration
§101. Rules of Procedure**

A. In order for a program to qualify for an exemption under the Louisiana Open Housing Act, more particularly R.S. 51:2605(C) thereof, the attorney general or his designee must determine that a program is specifically designed and operated to assist elderly persons, which determination must be consistent with the secretary of the Department of Housing and Urban Development under Section 807(b)(2) of the Fair Housing Act.

B. Any conciliation agreement arising out of conciliation efforts by the attorney general or his designee shall be made public unless the complainant and respondent otherwise agree and the attorney general or his designee determine that disclosure is not required to further the purposes of the Louisiana Open Housing Act.

C. Final administrative disposition of a complaint by the attorney general or his designee shall take place within one year of the date of receipt of a complaint, unless it is impractical to do so at which time the attorney general or his designee shall notify the complainant and respondent in writing for the reasons of the delay.

D. Any civil action filed by the attorney general or his designee requesting relief pursuant to R.S. 51:2614(A) shall be brought only against those respondents or persons charged pursuant to R.S. 51:2611 who have been served with a copy of the complaint in accordance with law and advised of their rights and obligations under the law and only after an opportunity to conciliate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2610(A), as amended, and R.S. 36:702(3).

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, Public Protection Division, LR 20: (April 1994).

David C. Kimmel
Deputy Director

RULE

**Department of Natural Resources
Office of Conservation**

Hazardous Liquid Safety (LAC 33:V.Chapter 301)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby amends the following hazardous liquids regulations.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 3. Natural Resources

Chapter 301. Transportation of Hazardous Liquids by Pipeline

Subchapter A. General

§30103. Applicability

A. - B.4 ...

5. transportation of a hazardous liquid or carbon dioxide in offshore pipelines which are located upstream from the outlet flange of each facility on the outer continental shelf area where hydrocarbons or carbon dioxide are produced or where produced hydrocarbons or carbon dioxide are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream except as provided in §30272 for gathering of hazardous liquids with inlets of the Gulf of Mexico;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 20: (April 1994).

§30107. Matter Incorporated by Reference

* * *

B. All incorporated materials are available for inspection in the Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC, and at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. These materials have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. In addition, materials incorporated by reference are available as follows:

1. American Petroleum Institute (API), 1220 L Street, NW., Washington, DC 20005;

2. The American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, NY 10017;

3. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park Street, NE., Vienna, VA 22180;

4. American National Standards Institute (ANSI), 11 West 42nd Street, New York, NY 10036;

5. American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103-1187.

C. The full title for the publications incorporated by reference in this Part are as follows. Numbers in parenthesis indicate applicable editions:

1. American Petroleum Institute (API):

a. API Specification 5L "Specification for Line Pipe" (40th edition, 1992);

b. API Specification 6D "Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)" (20th edition, 1991);

c. API Standard 1104 "Welding of Pipelines and Related Facilities" (17th edition, 1988).

2. American Society of Mechanical Engineers (ASME):

a. ASME/ANSI B16.9 "Factory-Made Wrought Steel

Buttwelding Fittings" (1986);

b. ASME/ANSI B31.4 "Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols" (1989 with ASME B31.4a-1991 Addenda);

c. ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 "Pressure Vessels" (1992 with Interpretations, Volume 30, dated July 1992);

d. ASME Boiler and Pressure Vessel Code, Section IX "Welding and Brazing Qualifications" (1992 with Interpretations, Volume 30, dated July 1992).

3. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):

MSS SP-75 "Specification for High Test Wrought Butt Welding Fittings" (1988).

4. American Society for Testing and Materials (ASTM):

a. ASTM Designation: A 53 "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless"; (A 53-90b);

b. ASTM Designation: A 106 "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (A 106-91);

c. ASTM Designation: A 333/A 333M "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service" (A 333/A 333M-91a);

d. ASTM Designation: A 381 "Standard Specification for Metal-Arc-Welded Steel Pipe for Use with High-Pressure Transmission Systems" (A 381-89);

e. ASTM Designation: A 671 "Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures" (A 671-89a);

f. ASTM Designation: A 672 "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures" (A 672-89b);

g. ASTM Designation: A 691 "Standard Specification for Carbon and Alloy Steel Pipe Electric-Fusion-Welded for High-Pressure Service at High Temperatures" (A 691-89a).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20: (April 1994).

§30113. Transportation of Hazardous Liquid or Carbon Dioxide in Pipelines Constructed with Other than Steel Pipe

No person may transport any hazardous liquid or carbon dioxide through a pipe that is constructed after October 1, 1970, for hazardous liquids or after July 12, 1991, for carbon dioxide of material other than steel unless the person has notified the commissioner in writing at least 90 days before the transportation is to begin. The notice must state whether carbon dioxide or a hazardous liquid is to be transported and the chemical name, common name, properties and characteristics of the hazardous liquid to be transported and the material used in construction of the pipeline. If the commissioner determines that the transportation of the hazardous liquid or carbon dioxide in the manner proposed would be unduly hazardous, he will, within 90 days after receipt of the notice, order the person that gave the notice, in

writing, not to transport the hazardous liquid or carbon dioxide in the proposed manner until further notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:862 (August 1992), LR 20: (April 1994).

§30127. Telephonic Notice of Certain Accidents

* * *

B. Reports made under §30127.A are made by telephone to 800-424-8802 (in Washington, D. C. 267-2675) as well as Louisiana (504) 342-5505 (day or night) and must include the following information:

1. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:863 (August 1992), LR 20: (April 1994).

§30129. Addressee for Written Reports

Each operator of intrastate facilities subject to the jurisdiction of the Office of Conservation pursuant to certification under Section 205(a) of the Hazardous Liquid Pipeline Safety Act of 1979, as amended, must submit, when required, Louisiana's Accident Report, Safety-Related Conditions Reports, and Annual Report forms to the Commissioner of Conservation, Box 94275, Baton Rouge, LA 70804-9275. Accident Reports and Safety-Related Condition Reports must be made concurrently to the Information Resources Managers, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 8417, 400 Seventh Street SW., Washington, DC 20590.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:863 (August 1992), LR 20: (April 1994).

§30131. Accident Reports

A. Each operator that experiences an accident that is required to be reported under §30125 shall as soon as practicable but not later than 30 days after discovery of the accident prepare and file an accident report on DOT Form 7000-1, and Louisiana's Accident Report Form.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), LR 20: (April 1994).

§30135. Filing Safety-Related Condition Report

A. Each report of a safety-related condition under §30133.A must be filed (received by the commissioner) in writing within five working days (not including Saturday, Sunday, or state holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be

described in a single report if they are closely related. To file a report by telefacsimile (FAX), dial (202) 366-7128 and for Louisiana (504) 342-3094.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:863 (August 1992), LR 20: (April 1994).

§30161. Internal Design Pressure

A. Internal design pressure for the pipe in a pipeline is determined in accordance with the following formula:

$$P = (2 St/D) \times E \times F$$

P = Internal design pressure in pounds per square inch gauge.

S = Yield strength in pounds per square inch determined in accordance with §30161.B.

t = Nominal wall thickness of the pipe in inches. If this is unknown, it is determined in accordance with §30161.C.

D = Outside diameter of the pipe in inches.

E = Seam joint factor determined in accordance with §30161.E.

F = A design factor of 0.72, except that a design factor of 0.60 is used for pipe, including risers, on a platform located off-shore or on a platform in inland navigable waters, and 0.54 is used for pipe that has been subjected to cold expansion to meet the specified minimum yield strength and is subsequently heated, other than by welding or stress relieving as a part of welding, to temperature higher than 900°F (482°C) for any period of time or over 600°F (316°C) for more than one hour.

B. - D. ...

E. The seam joint factor used in §30161.A is determined in accordance with the following table:

Specification	Pipe Class	Seam Joint Factor
ASTM A53	Seamless	1.00
	Electric resistance welded	1.00
	Furnace lap welded	0.80
	Furnace butt welded	0.60
ASTM A 106	Seamless	1.00
	Welded	1.00
ASTM A 333/A 333M	Seamless	1.00
	Welded	1.00
ASTM A381	Double submerged arc welded	1.00
ASTM A671	Electric fusion welded	1.00
ASTM A672	Electric fusion welded	1.00
ASTM A691	Electric fusion welded	1.00
API 5L	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00
	Furnace lap welded	0.80
	Furnace butt welded	0.60

The seam joint factor for pipe which is not covered by this Subsection must be approved by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20: (April 1994).

§30165. External Loads

A. Anticipated external loads (e.g., earthquakes, vibration, thermal expansion, and contraction) must be provided for in designing a pipeline system. In providing for expansion and flexibility, Section 419 of ASME/ANSI B31.4 must be followed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20: (April 1994).

§30175. Fittings

A. Butt-welding type fittings must meet the marking, end preparation, and the bursting strength requirements of ASME/ANSI B16.9 or MSS Standard Practice SP-75.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20: (April 1994).

§30201. Scope

A. - B. ...

C. Inspection--General. Inspection must be provided to ensure the installation of pipe or pipeline systems in accordance with the requirements of this Subchapter. Each operator shall notify the Pipeline Safety Section of the Office of Conservation, Louisiana Department of Natural Resources, of proposed pipeline construction at least seven days prior to commencement of said construction. No person may be used to perform inspections unless that person has been trained and is qualified in the phase of construction he is to inspect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20: (April 1994).

§30227. Above Ground Components

A.1. - 2. ...

3. scraper traps or block valves;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20: (April 1994).

H.W. Thompson
Commissioner of Conservation

RULE

Department of Natural Resources Office of Conservation

Natural Gas Safety Standards (LAC 43:XIII.Chapters 1-29)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby amends the following pipeline safety regulations.

Title 43

NATURAL RESOURCES

Part XIII. Office of Conservation

Pipeline Safety

Subpart 1. General Provisions

Chapter 1. General

§101. Applicability

* * *

B. This regulations does not apply to:

1. offshore pipelines which are located upstream from the outlet flange of each facility in the coastal zone area where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream except as provided in §2712 for gathering of gas within inlets of the Gulf of Mexico; and

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:852 (August 1992), LR 20: (April 1994).

§125. Definitions

* * *

Exposed Pipeline—a pipeline where the top of the pipe is above the seabed in water less than 15 feet deep, as measured from the mean low water.

* * *

Test Failure—a break or rupture that occurs during strength-proof testing of transmission or gathering lines that is of such magnitude as to require repair before continuation of the test.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:852 (August 1992), LR 20: (April 1994).

Chapter 3. Reporting of Incidents, Safety-Related Conditions, and Annual Reports

§303. Definitions

A - A.1.a.i. ...

ii. estimated property damage, including cost of gas lost, of the operator or others, or both, of \$50,000 or more.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:254 (March 1985), amended LR 18:854 (August 1992), LR 20: (April 1994).

§305. Telephonic Notice of Certain Incidents

A. At the earliest practicable moment, within two hours following discovery, each operator shall give notice in accordance with §305.B of Part XIII of each incident as defined in §303. However, no notice to area code (800) 424-8802 is required if the estimated property damage, including cost of gas lost, of the operator or others, or both, is less than \$50,000.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:254 (March 1985), amended LR 20: (April 1994).

§307. Addressee for Written Reports

One copy of each written report, required by Part XIII, for intrastate facilities subject to the jurisdiction of the Office of Conservation pursuant to certification under Section 5(a) of the Natural Gas Pipeline Safety Act must be submitted to the Commissioner of Conservation, Box 94275, Baton Rouge, LA 70804-9275. One copy of each written report required by Part XIII, must be submitted to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 8417, 400 Seventh Street SW., Washington, DC 20590. However, no report to the Information Resources Manager is required if the estimated property damage, including cost of gas lost of the operator or others, or both, is less than \$50,000. Safety-related condition reports required by LAC 43:XIII.321 for intrastate pipeline transportation must be submitted concurrently to that state agency, and if that agency acts as an agent of the secretary with respect to interstate transmission facilities, safety-related condition reports for these facilities must be submitted concurrently to that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:254 (March 1985), amended LR 20: (April 1994).

§317. Report Forms

Copies of the prescribed report forms are available without charge upon request from the address given in CFR §191.7. Additional copies in this prescribed format may be reproduced and used if in the same size and kind of paper. In addition, the information required by these forms may be submitted by any other means that is acceptable to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:254 (March 1985), amended LR 20: (April 1994).

§319. OMB Control Number Assigned to Information Collection

This Section displays the control number assigned by the Office of Management and Budget (OMB) to the gas pipeline information collection requirements of the Office of Pipeline Safety pursuant to the Paperwork Reduction Act of 1980, Public Law 96-511. It is the intent of this Section to comply with the requirements of Section 3507(f) of the Paperwork

Reduction Act which requires that agencies display a current control number assigned by the director of OMB for each agency information collection requirement.

OMB Control Number 2137-0522
(Approved Through March 31, 1986)

Section of 49 CFR Part 191 where identified	Form No.
191.5	Telephonic
191.9	RSPA 7100.1
191.11	RSPA 7100.1-1
191.15	RSPA 7100.2
191.17	RSPA 7100.2-1

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:254 (March 1985), amended LR 20: (April 1994).

§323. Filing Safety-Related Condition Reports

A. Each report of a safety-related condition under §321.A must be filed concurrently and (received by the commissioner and secretary) in writing within five working days (not including Saturday, Sunday, state or federal holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. To file a report by telefacsimile (FAX), dial (504) 342-3094 and (202) 366-7128.

B.1 - 5. ...

6. location of condition, with reference to the state (and town, city, or parish) or offshore site, as appropriate, nearest street address, offshore platform, survey station number, milepost, landmark, or name of pipeline;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:254 (March 1985), amended LR 18:854 (August 1992), LR 20: (April 1994).

§325. Filing Offshore Pipeline Condition Reports

* * *

B. The report shall be mailed to the Commissioner of Conservation, Office of Conservation, Box 94275, Baton Rouge, LA 70804-9275 and concurrently to the Information Officer, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 18:854 (August 1992), amended LR 20: (April 1994).

Chapter 5. Class Locations

§501. Class Locations

A. Offshore is Class 1 location. The class location onshore is determined by applying the criteria set forth in this Section: The class location unit is an area that extends 220 yards on either side of the centerline of any continuous 1-mile length of pipeline. Except as provided in Subsections D.2 and F of this Section, the class location is determined by the buildings in the class location unit. For the purposes of this Section, each separate dwelling unit in a multiple dwelling unit building is counted as a separate building intended for human occupancy.

* * *

F. The boundaries of the class locations determined in accordance with Subsections A - E of this Section may be adjusted as follows:

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

§503. Gathering Lines and Petroleum Gas Systems

A. Gathering Lines. Each gathering line must comply with the requirements of this Part applicable to transmission lines.

B. Petroleum Gas Systems

1. No operator may transport petroleum gas in a system that serves 10 or more customers, or in a system, any portion of which is located in a public place (such as a highway), unless that system meets the requirements of Part XIII and ANSI/NFPA Nos. 58 and 59. In the event of a conflict, the requirements of this Part prevail.

2. Each petroleum gas system covered by Subsection A of this Section must comply with the following:

a. aboveground structures must have open vents near the floor level;

b. belowground structures must have forced ventilation that will prevent any accumulation of gas;

c. relief valve discharge vents must be located so as to prevent any accumulation of gas at or below ground level;

d. special precautions must be taken to provide adequate ventilation where excavations are made to repair an underground system;

3. for the purpose of this Section, petroleum gas means propane, butane, or mixtures of these gases, other than a gas air mixture that is used to supplement supplies in a natural gas distribution system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

Chapter 7. Qualification of Pipe

§713. Marking of Materials

A. ...

1. as prescribed in the specification or standard to which it was manufactured, except that thermoplastic fittings must be marked in accordance with the 1987 edition of ASTM D 2513; or

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:854 (August 1992), LR 20: (April 1994).

§715. Transportation of Pipe

A. ...

1. the transportation is performed in accordance with API RP 5L1.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

Chapter 9. Pipe Design

§911. Longitudinal Joint Factor (E) for Steel Pipe

The longitudinal factor to be used in the design formula in §905 is determined in accordance with the following table:

Specification	Pipe Class	Longitudinal Joint Factor (E)
ASTM A 53	Seamless	1.00
	Electric resistance welded	1.00
	Furnace butt welded	.60
ASTM A 106	Seamless	1.00
ASTM A 333/A 333M	Seamless	1.00
	Electric resistance welded	1.00
ASTM A 381	Double submerged arc welded	1.00
ASTM A 671	Electric fusion welded	1.00
ASTM A 672	Electric fusion welded	1.00
ASTM A 691	Electric fusion welded	1.00
API 5L	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00
	Furnace butt welded	.60
Other	Pipe over four inches	.80
Other	Pipe four inches or less	.60

If the type of longitudinal joint cannot be determined, the joint factor to be used must not exceed that designated for "Other."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:855 (August 1992), LR 20: (April 1994).

§913. Temperature Derating Factor (T) for Steel Pipe

The temperature derating factor to be used in the design formula in §905 is determined as follows:

Gas Temp. in degrees Fahrenheit	Temp. derating factor (T)
250 or less	1.000
300	0.967
350	0.933
400	0.900
450	0.867

For intermediate gas temperatures, the derating factor is determined by interpolation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

Chapter 11. Scope

§1109. Flanges and Flange Accessories

A. Each flange or flange accessory (other than cast iron) must meet the minimum requirements of ASME/ANSI B16.5, MSS SP-44, or the equivalent.

B. ...

C. Each flange on a flanged joint in cast iron pipe must conform in dimensions, drilling, face and gasket design to ASME/ANSI B16.1 and be cast integrally with the pipe, valve, or fitting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984); LR 18:856 (August 1992), LR 20: (April 1994).

§1115. Components Fabricated by Welding

A. Except for branch connections and assemblies of standard pipe and fittings joined by circumferential welds, the design pressure of each component fabricated by welding, whose strength cannot be determined, must be established in accordance with paragraph UG-101 of Section VIII, Division 1 of the ASME Boiler and Pressure Vessel Code.

B. Each prefabricated unit that uses plate and longitudinal seams must be designed, constructed, and tested in accordance with Section I, Division 1, or Section VIII, Division 2 of the ASME Boiler and Pressure Vessel Code, except for the following:

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

§1125. Compressor Stations: Design and Construction

* * *

E. Electrical Facilities. Electrical equipment and wiring installed in compressor stations must conform to the National Electrical Code, ANSI/NFPA 70, so far as that code is applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

§1133. Compressor Stations: Additional Safety Equipment

* * *

D. Each compressor station gas engine that operates with pressure gas injection must be equipped so that stoppage of the engine automatically shuts off the fuel and vents the engine distribution manifold.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

§1139. Additional Provisions for Bottle-Type Holders

A - B. ...

1. a bottle-type holder made from alloy steel must meet the chemical and tensile requirements for the various grades of steel in ASTM A 372/A 372M.

* * *

5. the holder, connection pipe, and components must be leak tested after installation as required by Chapter 23.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:856 (August 1992), LR 20: (April 1994).

§1165. Instrument, Control, and Sampling Pipe and Components

A - B.7. ...

8. each joint between sections of pipe, and between pipe and valves or fittings, must be made in a manner suitable for the anticipated pressure and temperature condition. Slip type expansion joints may not be used. Expansion must be allowed for by providing flexibility within the system itself.

9. each control line must be protected from anticipated causes of damage and must be designed and installed to prevent damage to any one control line from making both the regulator and the over-pressure protective device inoperative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

Chapter 15. Pipe Joining Requirements

§1505. Cast Iron Pipe

* * *

D. Cast iron may not be joined by brazing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:856 (August 1992), LR 20: (April 1994).

§1508. Copper Pipe

Copper pipe may not be threaded except that copper pipe used for joining screw fittings or valves may be threaded if the wall thickness is equivalent to the comparable size of Schedule 40 or heavier wall pipe listed in Table C1 of ASME/ANSI B16.5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:856 (August 1992), LR 20: (April 1994).

§1509. Plastic Pipe

A. - B.1. ...

2. the solvent cement must conform to ASTM Designation D 2513.

B.3. - D. ...

1. the adhesive must conform to ASTM Designation D 2517.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

§1511. Plastic Pipe; Qualifying Joining Procedures

A.- A.1. ...

a. in the case of thermoplastic pipe, Paragraph 6.6 (Sustained Pressure Test) or Paragraph 6.7 (Minimum Hydrostatic Burst Pressure (Quick Burst)) of ASTM D 2513; or

b. in the case of thermosetting plastic pipe, paragraph 8.5 (Short-Term Rupture Strength (Minimum Hoop Stress)) or Paragraph 8.9 (Sustained Static Pressure Tests) of ASTM D 2517.

A.2. - B. ...

1. use an apparatus for the test as specified in ASTM D 638 (except for conditioning);

* * *

5. pipe specimens 102 mm (4 in.) and larger in diameter shall be pulled until the pipe is subjected to a tensile stress equal to or greater than the maximum thermal stress that would be produced by a temperature change of 55°C (100°F) or until the pipe is pulled from the fitting. If the pipe pulls from the fitting, the lowest value of the five test results or the manufacturer's rating, whichever is lower must be used in the design calculations for stress;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

Chapter 17. Transmission Line Construction

§1703. Compliance with Specifications or Standards

Each transmission line or main must be constructed in accordance with comprehensive written specifications or standards that are consistent with this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

§1705. Inspection: General

A. Transmission Lines. Each transmission line must be inspected to ensure that it is constructed in accordance with this Part. Each operator shall notify the Pipeline Safety Section of the Office of Conservation, Louisiana Department of Natural Resources, of any new proposed pipeline construction or replacement on transmission lines at least 48 hours prior to commencement of said construction.

B. Distribution Mains. Each distribution main must be inspected to ensure that it is constructed in accordance with this Part. Each operator shall notify the Pipeline Safety Section of the Office of Conservation, Louisiana Department of Natural Resources of any new proposed pipeline construction or replacement on distribution mains at least 48 hours prior to commencement of said construction located as either:

1. 2,500 feet or more in Class 1 and 2 locations; or
2. any length in Class 3 and 4 locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

§1717. Protection from Hazards

A. Each transmission line or main must be protected from washouts, floods, unstable soil, landslides, or other hazards that may cause the pipeline to move or to sustain abnormal loads. In addition, offshore pipeline must be protected from damage by mud slides, water currents, hurricanes, ship anchors, and fishing operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

§1719. Installation of Pipe in a Ditch

B. When a ditch for a transmission line or main is backfilled, it must be backfilled in a manner that:

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

§1725. Underground Clearance

C. In addition to meeting the requirements of Subsections A or B of this Section, each plastic transmission line or main must be installed with sufficient clearance, or must be insulated, from any source of heat so as to prevent the heat from impairing the serviceability of the pipe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

§1727. Cover

C. Where an underground structure prevents the installation of a transmission line or main with the minimum cover, the transmission line or main may be installed with less cover if it is provided with additional protection to withstand anticipated external loads.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

Chapter 21. Corrosion Requirements

§2127. Internal Corrosion Control: General

A. - B. ...

1. the adjacent pipe must be investigated to determine the extent of internal corrosion;

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

Chapter 25. Uprating

§2505. Uprating to a Pressure that will Produce a Hoop Stress of 30 Percent or More of SMYS in Steel Pipelines

A. Unless the requirements of this Section have been met, no person may subject any segment of a steel pipeline to an operating pressure that will produce a hoop stress of 30 percent or more of SMYS and that is above the established maximum allowable operating pressure.

B. Before increasing operating pressure above the previously established maximum allowable operating pressure the operator shall:

1. review the design, operating, and maintenance history and previous testing of the segment of pipeline and determine whether the proposed increase is safe and consistent with the requirements of this Part; and

2. make any repairs, replacements, or alterations in the segment of pipeline that are necessary for safe operation at the increased pressure.

C. After complying with Subsection B of this Section, an operator may increase the maximum allowable operating pressure of a segment of pipeline constructed before September 12, 1970, to the highest pressure that is permitted under §2721, using as test pressure the highest pressure to which the segment of pipeline was previously subjected (either in a strength test or in actual operation).

D. After complying with Subsection B of this Section, an operator that does not qualify under Subsection C of this Section may increase the previously established maximum allowable operating pressure if at least one of the following requirements is met:

1. the segment of pipeline is successfully tested in accordance with the requirements of this Part for a new line of the same material in the same location.

2. an increased maximum allowable operating pressure may be established for a segment of pipeline in a Class 1 location if the line has not previously been tested, and if:

a. it is impractical to test it in accordance with the requirements of this Part;

b. the new maximum operating pressure does not exceed 80 percent of that allowed for a new line of the same design in the same location; and

c. the operator determines that the new maximum allowable operating pressure is consistent with the condition of the segment of pipeline and the design requirements of this Part.

E. Where a segment of pipeline is uprated in accordance with Subsection C or D.2 of this Section, the increase in pressure must be made in increments that are equal to:

1. ten percent of the pressure before the uprating; or
2. twenty-five percent of the total pressure increase,
3. whichever produces the fewer number of increments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:857 (August 1992), LR 20: (April 1994).

Chapter 27. General Operating Requirements

§2725. Odorization of Gas

* * *

H. Quarterly Reports

1. ...

2. Each person subject to these rules (excluding "master meter systems") shall record and retain on file for review by the Office of Conservation the following information:

* * *

3. In the event a person subject to these regulations shall fail to record and retain on file an odorization report or an odorization report which on its face shows non-compliance, the person may be put on remedial status after written notice of such status and be required to report odorization monthly within 30 days after the close of each month or for such other interval and for such period of time as shall be necessary to remedy the deficiencies in his odorization report or reports.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

Chapter 29. Maintenance Requirements

§2905. Transmission Lines: Patrolling

* * *

B. The frequency of patrols is determined by the size of the line, the operating pressures, the class location, terrain,

weather, and other relevant factors, but intervals between patrols may not be longer than prescribed in the following:

Maximum Interval Between Patrols		
Class Location of Line	At Highway and Railroad Crossings	At All Other Locations
1,2	7-1/2 months; but at least two times each calendar year.	15 months; but at least one time each calendar year.
3	4-1/2 months; but at least four times each calendar year.	7-1/2 months; but at least two times each calendar year.
4	4-1/2 months; but at least four times each calendar year.	4-1/2 months; but at least four times each calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20: (April 1994).

H. W. Thompson
Commissioner

RULE

Department of Natural Resources Office of Conservation Injection and Mining Division

Statewide Order 29-O-1
(LAC 43:XV.Chapters 1-73)

Under the authority of the Louisiana Surface Mining and Reclamation Act, particularly R.S. 30:901 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Surface Mining Regulations, Statewide Order 29-O-1.

These regulations are to become effective April 20, 1994.

Copies of these regulations may be obtained or viewed at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802, phone (504)342-5015. Please refer to 9404#023 when inquiring about these regulations.

H.W. Thompson
Commissioner

RULE

Department of Public Safety and Corrections Office of State Police Charitable Gaming Division

Charitable Bingo, Keno, Raffle
(LAC 42:I.1785 and 1789)

The Department of Public Safety and Corrections, Office of State Police hereby promulgates an amendment to LAC 42:I.1785.A and a new rule, LAC 42:I.1789 in accordance with R.S. 36:408, R.S. 40:1485.4 and R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part I. Charitable Bingo, Keno, Raffle

Chapter 17. Charitable Bingo, Keno and Raffle

Subchapter F. Investigations

§1785. Right to Fair Hearing - Judicial Review

When the department revokes, suspends, restricts or denies an application for license renewal, the applicant may request a hearing. The request for a hearing shall be made in writing to the department within 15 days of the revocation, suspension, restriction, or denial by the department. Upon the department's receipt of written request, a hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1485.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Charitable Gaming Division, LR 12:157 (March 1986), amended LR 13:99 (February 1987), LR 20: (April 1994).

§1789. Progressive Bingo

A. Any licensed charitable organization or organizations playing at the same location may deposit a predetermined amount of money before each licensed call bingo session into a special account in order to offer a jackpot prize.

B. Participating organizations may conduct a progressive blackout bingo game which shall be conducted in conjunction with the organizations' regular blackout bingo games.

C. A progressive bingo jackpot consists of all contributions made by participating organizations excluding the \$200 start-up fee during the series of progressive bingo jackpot games.

D. A progressive bingo jackpot is won along with the regular jackpot prize when a player achieves a blackout in 49 balls or less. If no blackout is achieved in 49 balls or less, the organization's regular blackout game shall continue. The division may upon written request and adequate justification issue a written approval allowing organizations to increase the number of balls called to achieve a blackout.

E. Separate additional sheets shall be sold at \$2 per sheet for the play of the progressive blackout and regular blackout game. The cut and configuration of sheets shall be established by the organization and shall be approved by the division in writing prior to use.

F. Each participating organization shall provide a start-up fee of \$200 at the commencement of a progressive bingo game series for deposit into a "Charitable Gaming Progressive Jackpot Account." The \$200 start-up fee deposit shall remain

in the account until the progressive bingo games are discontinued by the organizations and shall be refundable upon termination of the games or to any single organization withdrawing from the games.

G. A separate checking account shall be opened by the participating organizations for the progressive bingo jackpot.

1. The account shall be in the name of "Charitable Gaming Progressive Jackpot Account" which shall be imprinted on all checks. Checks from this account shall require two signatures.

2. The commercial or noncommercial lessor shall designate a representative who shall make deposits of all monies contributed to the progressive bingo jackpot by 10 a.m. on the next banking day and who shall be responsible for maintaining the "Charitable Gaming Progressive Jackpot Account" in accordance with generally accepted accounting principals approved by the division.

3. Designated representatives of the commercial or noncommercial lessor and each participating organization shall be authorized signatories on the account and shall be in attendance at the location at the conclusion of each respective organization's progressive blackout game for the purpose of issuing a check bearing the signatures of the hall representative and the organization representative from the special account to the winner.

4. All banking fees and costs shall be borne by the commercial or noncommercial lessor.

H. Each participating organization shall submit a check to the designated commercial or noncommercial lessor representative in the amount of \$100 prior to the commencement of the organization's scheduled call bingo session made payable to the "Charitable Gaming Progressive Jackpot Account." The \$100 contribution shall be non-refundable except in the event of hall closure. Each \$100 contribution shall constitute part of the total amount of prizes awarded during that call bingo session.

I. The dollar amount of the progressive bingo jackpot shall be continuously and conspicuously displayed only during call bingo sessions conducted by participating organizations at the location and within view of all patrons purchasing progressive and regular blackout sheets.

J. All checks written to the "Charitable Gaming Progressive Jackpot Account" shall be reported in a manner acceptable to the division and the governing authority of the municipality or parish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1485.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Charitable Gaming Division, LR 20: (April 1994).

Paul W. Fontenot
Superintendent

RULE

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

Child Support Non-IV-D Program (LAC 67:III.Chapter 28)

The Department of Social Services, Office of Family Support, has amended LAC 67:III, Subpart 4, Support Enforcement Services.

Pursuant to the Family Support Act of 1988 (P.L. 100-485), 45 CFR 303.100, and R.S. 9:303, a mechanism is created for the Department of Social Services to receive and distribute child support payments for immediate income assignment orders on non-IV-D cases, that is, cases not already enforced by the Department of Social Services.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 28. Non-IV-D Program

Subchapter A. Non IV-D Case Administration

§2801. General Provisions

A. In all new child support orders issued after January 1, 1994, not being enforced by the Department of Social Services, payments for immediate income assignment orders shall be made payable through the Department of Social Services, Office of Family Support, Support Enforcement Services, or through the court designated to collect monies on behalf of the department. Services provided are limited to accepting payments through immediate income assignment, distributing those payments, maintaining payment history records, and retaining records in the same manner as IV-D cases. Enforcement services are not provided. Case records are determined confidential as per R.S. 46:56.

B. Payments must be made payable to Department of Social Services, as directed at a specific post office box which differentiates the payment from other types of Department of Social Services payments. When a payment is received from the absent parent or that parent's employer, then a new check for the same amount will be issued to the custodial parent. Payments will be distributed in accordance with the agency's non-AFDC distribution schedule. The clerks of court will provide information to identify a case if requested by the Department of Social Services.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.100, P.L. 100-485 and R.S. 9:303.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19:1527 (December 1993), amended LR 20: (April 1994).

§2802. Agency Guidelines

A. Information required to be provided in order for the department to properly identify and distribute payments are the names, mailing addresses, Social Security numbers, and dates of birth of both the custodial and absent parent, obligation amount, effective date of obligation, frequency of payment, docket number, child(ren)'s name(s), child(ren)'s Social Security numbers, and child(ren)'s dates of birth. Custodial parents must report changes of address to the Department of Social Services. If there is insufficient identifying information

to process a payment, the department will hold payments in a suspense file until necessary information is received.

B. Whenever a posting and/or distribution error is discovered resulting in an overpayment, action will be taken to resolve the problem by asking the custodial parent to return the check to the department. Otherwise, the department will institute recoupment of the overpayment by withholding up to 10 percent from future payment(s) in the case.

C. When there are disputes regarding the handling of the immediate income assignment on a non-IV-D case, the parties may ask for an administrative review of the matter through written request to the director, Support Enforcement Services, Box 94065, Baton Rouge, LA 70804-4065.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.100, P.L. 100-485 and R.S. 9:303.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19:1527 (December 1993), amended LR 20: (April 1994).

Gloria Bryant-Banks
Secretary

RULE

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

**Individual and Family Grant Maximum and Flood Insurance
(LAC 67:III.6501, 6502)**

The Department of Social Services, Office of Family Support, has amended LAC 67:III, Subpart 10, Individual and Family Grant Program. This change is necessary to amend the maximum grant and flood insurance amounts in the Individual and Family Grant (IFG) Program subsequent to annual federal adjustments.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 10. Individual and Family Grant Program

Chapter 65. Application, Eligibility, and Furnishing Assistance

Subchapter C. Need and Amount of Assistance

§6501. Maximum Grant Amount

A. The maximum grant amount in the IFG Program for federal fiscal year October 1993 through September 1994 is \$12,200.

* * *

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131 and P.L. 93-288.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:744 (September 1989), amended by the Department of Social Services, Office of Family Support, LR 17:474 (May 1991), LR 17:766 (August 1991), LR 17:888 (September 1991), LR 18:939 (September 1992), LR 18:1352 (December 1992), LR 19:167, 19:213 (February 1993), LR 19:784 (July 1993), LR 20: (April 1994).

§6502. Flood Insurance

* * *

B. For federal fiscal year October 1993 through September 1994, the dollar value of the required flood insurance policy for housing and personal property grants where the applicant resides in a flood zone is \$7,000 building and \$5,200 contents for a homeowner, and \$12,200 contents for a renter.

* * *

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131 and P.L. 93-288.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:744 (September 1989), amended by the Department of Social Services, Office of Family Support, LR 17:474 (May 1991), LR 17:766 (August 1991), LR 17:888 (September 1991), LR 18:939 (September 1992), LR 18:1352 (December 1992), LR 19:167, 19:213 (February 1993), LR 19:784 (July 1993), LR 20: (April 1994).

Gloria Bryant-Banks
Secretary

RULE

Department of Social Services Office of The Secretary

Child Care Centers (LAC 48:I.Chapter 53)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, proposes is amending the Louisiana Administrative Code, Title 48, Part I, Subpart 3, Licensing and Certification.

This rule is mandated by R.S. 46:1401-1424.

TITLE 48

Public Health—General

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 53. Day Care Centers

§5301. Purpose

It is the intent of the legislature to protect the health, safety, and well-being of the children of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950 to establish statewide minimum standards for the safety and well-being of children, to insure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to insure protection of all individuals under care in child care facilities and placement agencies and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate. This Chapter shall not give the Department of Social Services jurisdiction or authority to regulate, control, supervise, or in any way be involved in the form, manner, or content of any curriculum or instruction of a school or facility sponsored by a church or religious organization so long as the civil and human rights of the clients and residents are not violated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 20: (April 1994).

§5303. Authority

A. Legislative Provisions

1. The state of Louisiana, Department of Social Services, is charged with responsibility for developing and publishing standards for the licensing of child day care centers.

2. The licensing authority of the Department of Social Services is established by R.S. 46:1401-1424 (Act 367 of 1956 and amended by Act 152 of 1962, Act 241 of 1968, Act 290 of 1976, Act 678 of 1977, Act 409 of 1978, and Act 286 of 1985) making mandatory the licensing of all child care facilities and child placing agencies, including child day care centers. A child "day care center" is defined as any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision and guidance of seven or more children under the age of 18 years not related to the care giver and unaccompanied by parent or guardian, on a regular basis for at least 20 hours in a continuous seven-day week, and in which no individual child remains for more than 24 hours in one continuous stay shall be known as a full-time day care center. A day care center that remains open after 9 p.m. shall meet the appropriate regulations established for nighttime care.

B. Penalties

1. All child care facilities, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency, shall be licensed.

2. The law provides a penalty for operation of a center without a valid license. The penalty for operation without a valid license is a fine of "not less than seventy-five dollars nor more than two-hundred fifty dollars for each day" of operation without a license.

C. Inspections

1. According to law, it shall be the duty of the Department of Social Services "through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department, and without previous notice all child care facilities and child-placing agencies subject to the provisions of the Chapter" (R.S. 46:1401 through 1424).

2. Whenever the department is advised or has reason to believe that any person or agency or organization is operating a non-exempt child care facility without a license or provisional license, the department shall make an investigation to ascertain the facts.

D. The Louisiana Advisory Committee

1. The Louisiana Advisory Committee on Child Care Facilities and Child Placing Agencies was created by Act 286 of 1985 to serve two functions:

a. to develop minimum standards for licensure of Class "A" facilities and to review all standards, rules, and regulations for Class "A" facilities at least every three years;

b. to advise and consult with the Department of Social Services in matters pertaining to decisions to revoke or refuse a Class "A" license.

2. The committee is composed of 20 members, appointed by the governor, including provider and consumer representation from all types of child care services and the education and professional community.

E. Waivers. The secretary of the Department of Social Services, in specific instances, may waive compliance with a minimum standard if it is determined that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff and/or children is not imperiled. If it is determined that the facility or agency is meeting or exceeding the intent of a standard or regulation, the standard or regulation may be deemed to be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 20: (April 1994).

§5305. Standards

A. General Requirements

1. Governing Body (Applicable to Non-profit Organizations Only)

a. There shall be a responsible governing body which shall be one of the following:

i. a board of local citizens elected or appointed for that purpose; or

ii. board or committee comprised of members from a religious, charitable, educational organization, or a public authority, etc.

b. The governing body shall exercise sufficient authority so that it can be held reasonably responsible for the center's practice.

c. The governing body shall have the power to appoint and to dismiss the director of the center.

d. The governing body or its chief executive officer shall have clearly defined duties and responsibilities of the director and determine who has authority to employ and dismiss personnel.

e. The governing body shall maintain records regarding qualifications and references of the director.

f. Non-profit agencies shall have IRS determination on file.

2. Release of Children. Arrangements for the child's return to the parent shall not include third parties or other child care facilities unless written agreement between the day care facility and the parent is on file with the center.

3. Insurance. The child care facility must have liability insurance. Copy of current liability insurance for center and vehicle (if transportation is provided) must be on file in the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

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§5307. Definitions

Clock Hour—being involved in a learning situation for 60 minutes.

Department—the Department of Social Services of the State of Louisiana.

Director—the person who is responsible for the on site, daily implementation and supervision of the facility operation. The director may designate (in writing) program authority to a head teacher, assistant director, or other qualified employee.

Discipline—the ongoing process of helping children develop inner control so that they can manage their own behavior in an appropriate and acceptable manner.

Full Time—eight hours per day.

Group (or Unit)—the number of children who share a common indoor play space and relate to one primary staff care giver (who may be assisted by others) on a consistent, or daily basis.

Owner or Provider—a public or private organization or individual who for profit or not-for-profit delivers day care service for children, and who may employ a person to be full-time director responsible for the center's operation or may retain that responsibility.

Part Time—a minimum of four hours per day.

Shall or Must—mandatory.

Should—urged, advised or may.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 20: (April 1994).

§5309. Procedures

A. Initial Application. Before beginning operation, it is mandatory to obtain a license from the Department of Social Services. To do so, the following steps should be followed.

1. Carefully check all local zoning and building ordinances in the area where you are planning to locate.

2. Secure an application form issued by: Department of Social Services, Bureau of Licensing, Box 3078, Baton Rouge, LA 70821-3078; phone: (504) 922-0015.

3. The completed application must indicate Class "A" license. Any center applying for state or federal funding shall apply for Class "A" license. Licensure fees are required to be paid by all centers. A Class "A" license may not be changed to a Class "B" license if revocation procedures are pending.

4. After the center's location has been established, complete and return the application form. It is necessary to contact the following offices prior to building or renovating a facility:

- Office of Public Health, Sanitarian Services;
- Office of State Fire Marshal;
- Office of City Fire Department (if applicable);
- Zoning Department (if applicable);
- City or Parish Building Permit Office.

5. After the application has been received by the department, a request will be made to the Office of State Fire Marshal, Office of City Fire Department (if applicable),

Office of Public Health, and any known required local agencies to make an inspection of the location, as per their standards. It is the applicant's responsibility to obtain these inspections and approvals. A surveyor will visit the center to conduct a licensing survey.

6. A license will be issued on an initial application when the following items have been met and verification is received by the Bureau of Licensing:

- a. fire approval (state and/or city);
- b. health approval;
- c. zoning (if applicable);
- d. full licensure fee;
- e. licensure survey verifying substantial compliance;
- f. three references on director.

7. When a center changes location, it is considered a new operation and must submit a new application and fee for licensure. All items in Paragraph 6, except references, must be re-submitted.

8. When a facility changes ownership, a new application and fee is required. All approvals in Paragraph 6 must be current.

9. All new construction or renovation of a facility requires approval from agencies listed in Paragraph 4.

10. A license is valid for the period for which it is issued but may be revoked if the center falls below minimum standards.

11. The department is authorized to determine the period during which the license shall be effective. A license is not transferable to another person or location.

12. If a director or member of his immediate family has had a previous license revoked or refused, upon re-application, applicant shall provide satisfactory evidence that the reason for such revocation no longer exists.

B. Fees

1. Initial application fee of \$25 is required to be submitted with all initial applications. This fee will be applied toward the license fee when center is licensed. This fee is to be paid by *all* initial providers. *All* fees are non-refundable.

2. Annual licensure fees are required prior to issuance or renewal of the license. License fee schedules (based on capacity) are listed below.

15 or fewer:	\$ 25	51 - 100:	\$175
16 - 50:	\$100	101 or more:	\$250

3. Other licensure fees:

a. \$25 replacement fee for any facility replacing a license when changes are requested by the facility, i.e., change in capacity, name change, age range change (No processing charge when request coincides with regular renewal of license.);

b. \$5 processing fee for issuing a duplicate facility license with no changes.

C. Relicensing. The relicensing survey is similar to the original licensing survey. The director of the center will have an opportunity to review the survey deficiencies (if any) before it is submitted to the Department of Social Services.

1. A license is issued for a period of one year. Before expiration of the license, re-inspections by the Office of Public Health, Sanitarian Services; Office of State Fire Marshal; and City Fire (if applicable) shall be required.

2. If the survey reveals that the center is not substantially meeting minimum requirements, a recommendation will be made that a new license not be issued.

3. The Department of Social Services shall be notified before changes are made which might have an effect upon the license (for example, changes in age range of children served, changes in space).

D. Denial, Revocation or Non-renewal of License

1. An application for a license may be denied for any of the following reasons:

a. failure to meet any of the minimum standards prescribed by the Department of Social Services under R.S. 46:1401-1424;

b. conviction of a felony, as shown by a certified copy of the record of the court of conviction, of the applicant;

i. or if the applicant is a firm or corporation, of any of its members or officers;

ii. or if the person designated to manage or supervise the child care center;

c. if supervisor of the child care center is not reputable;

d. if the director or a member of the staff is temperamentally or otherwise unsuited for the care of the children in the child care center.

2. A license may be revoked, or renewal thereof denied, for any of the following reasons:

a. cruelty or indifference to the welfare of the children;

b. violation of any provision of R.S. 46:1401-1424 or of the minimum standards, rules, regulations, or orders of the Department of Social Services promulgated thereunder;

c. disapproval from any agency whose approval is required for licensure;

d. non-payment of licensure fee;

e. receipt of any fee payment by a non sufficient funds (NSF) check or check with endorsement canceled.

f. Any validated instance of corporal punishment, physical punishment, cruel, severe, or unusual punishment may result in revocation, denial or non-renewal of the license if the owner is responsible or if the employee who is responsible remains in the employment of the facility.

E. Appeal Procedure

1. If the license is refused or revoked because the center does not meet minimum requirements for licensure, the procedure is as follows:

a. The Department of Social Services, by certified letter, shall advise the day care center of the reasons for refusal or revocation, and its right of appeal.

b. The day care director/owner may appeal this decision by submitting a written request with the reasons to the secretary of the Department of Social Services. Write to Department of Social Services, Appeals Section, Box 2994, Baton Rouge, LA 70821-9118. This written request must be post-marked within 30 days of the director/owner's receipt of the above notification in Subparagraph a.

c. The Appeals Bureau of the Department of Social Services shall set a hearing to be held within 30 days after receipt of such a request.

d. An appeal hearing officer of the Department of Social Services shall conduct the hearing. Within 90 days after

the date the appeal is filed, the Department of Social Services shall advise the appellant by certified letter of the decision, either affirming or reversing the original decision. If the license is refused or revoked the center shall terminate operation immediately.

e. If the center continues to operate without a license, the Department of Social Services may file suit in the district court in the parish in which the facility is located for injunctive relief.

F. Records

1. Personnel. There shall be on file at the center for each regularly employed and substitute member of the staff who works more than 10 days in a 12-month period, whether paid or unpaid, a record including the information listed below:

- a. name, age, address, and telephone number;
- b. employee's starting and termination dates;
- c. name, address, and telephone number of person to contact in case of emergency;
- d. health records, to include a tuberculin test and documentation of good health, signed by a physician or designee;
- e. previous training, education, and work experience to include evidence that appropriate qualifications as described herein are met;
- f. record of any accident resulting in personal injury while on duty;
- g. job description, including duties to be performed, hours of work, and supervisor;
- h. documentation, signed and dated, that at least three references have been contacted by the director/owner or designee prior to employment;
- i. documentation of satisfactory criminal record check, as required by R.S. 15:587.1, or documentation that an application for criminal record check has been made if no response has been received. A criminal records check shall be requested by the owner or provider prior to the employment of any person who will have supervisory or disciplinary authority over children;
- j. documentation of valid driver's license if driving is part of employment;
- k. personnel records for persons who work 10 or fewer days in a 12-month period shall include, at a minimum, an application with name, address, and Social Security number; emergency contact; time sheets; and three references. If responsibilities include supervisory or disciplinary authority over children, provisions regarding criminal records checks, described in Subparagraph i of this Paragraph, are applicable.

2. Personnel records shall be kept on file in accordance with state law.

3. There shall be on file evidence, signed by a physician or designee, of good health for any persons living in a residence part of which is also used as a day care center.

4. Children's Records. There shall be on file at the center a record for each child containing the following:

- a. health record (see Appendix A);
- b. general information master card (see Appendix B).

5. Children's records shall be kept on file in accordance with state law.

6. Current written reports of approval from the Department of State Fire Marshal, City Fire (if applicable), and Office of Public Health, Sanitarian Services shall be on file.

7. Occupational license (if applicable) shall be on file.

8. Certificate of occupancy (zoning requirement, if applicable) shall be on file.

9. Current day care license shall be on display, except church affiliated centers (R.S. 46:1408) who may choose to keep the license on file.

10. A daily incident report of injuries, accidents, or unusual occurrences in behavior shall be on file.

11. A daily attendance report for children and staff shall be on file. (Time cards or time sheets are acceptable.)

G. Personnel

1. Qualifications. Director and/or head teacher, assistant director, or person with program authority:

- a. must be at least 21 years of age. During the director's absence from the center a staff member must be designated to assume the director's responsibilities. This staff member must be at least 21 years of age;
- b. must have at least one of the following:
 - i. certificate from a vocational child care training program approved by the Board of Elementary and Secondary Education, or child care education certificate program, plus one year of experience in a licensed child care center, or comparable setting, subject to approval by the department;
 - ii. three years of experience as a director or staff in a licensed child care center, or comparable setting, subject to approval by the department; plus six credit hours in child care, child development, or early childhood education. Thirty "clock hours" may be substituted for each three credit hours. Up to three credit hours or 15 clock hours may be in management/administration education.
 - iii. an associate of arts degree in child development or a closely related area, and one year of experience in a licensed center, or comparable setting, subject to approval by the department;
 - iv. a Child Development Associate Credential, (CDA), and one year of experience in a licensed child care center, or comparable setting, subject to approval by the department.
 - v. a bachelor's degree from an accredited college or university with at least 12 credit hours of child development or early childhood education, and one year of experience in a licensed child care center, or comparable setting, subject to approval by the department;
- c. documentation of the above must be available at the center.

2. Qualifications. Staff must be age 18 years or older. The center may, however, include in the staff-child ratio, a person 16 or 17 years old who works under the supervision of a qualified adult staff.

3. Qualifications. All center staff: all center staff includes the director, child care staff, and any other employees of the center such as the cook, housekeeper, chauffeur, substitutes, and volunteers.

a. Each staff member must be known in the community to be of good reputation.

A previous conviction of any employee of any crime of a violent and/or sexual nature, or any violation of a criminal statute enacted for the protection of children shall constitute sufficient reason for the dismissal of the employee. A current conviction of any employee of any of these types of offenses shall constitute sufficient reason for the immediate dismissal of the employee and revocation of a license already issued, if the employee remains on the center staff. A plea of guilty to any of the above mentioned crimes shall be considered the same as a conviction.

b. Health Requirements

i. Upon offer of employment all center staff shall be required to obtain a health appraisal. Health appraisal dated within three months *prior* to offer of employment or within one month *after* date of employment is acceptable. Health appraisal, to include the following, is due every three years thereafter; and shall verify the individual:

- (a). is in good health and is physically able to care for children;
- (b). is free from infectious and contagious diseases as defined under the Americans with Disabilities Act.
- (c) has no evidence of active tuberculosis. At the time of employment, a negative skin test or a negative chest x-ray is required.

ii. The director or any center staff shall not remain at work if he has any sign of a contagious disease as stated in §5323.B.5.

iii. Each person living in a private residence, part of which is used as a day care facility, shall meet the same medical requirements as employed personnel and children enrolled.

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§5311. Staff Development

A. The provider/director shall plan and implement policies relating to staff development. The written policies shall include the following:

- 1. Provisions for a one-day orientation to center policies and practices and health and safety procedures followed by four days of supervised working with children.
- 2. Documentation shall consist of a statement in the employee record signed by the employee and provider/director attesting to having received such orientation.

B. Providers/directors shall conduct, at a minimum, one staff training session and one staff meeting each three-month quarter. The staff meeting could include such matters as program planning, sharing new materials, and discussing center policy.

Documentation shall consist of the minutes of the training sessions and staff meetings.

C. The availability to staff of current reading materials including books, magazines, periodicals, pamphlets and journals relating to child care.

Documentation shall consist of observing that these materials are accessible in the facility to the staff;

D. Provisions for staff to attend child care workshops or conferences.

Documentation shall consist of attendance records and certificates received by staff.

E. Enrollment in and the completion of classes or training sessions when available in the subject areas of: child growth and development; child care programming and activities; health and safety practices; nutrition and good eating habits; design and use of space; working with parents; recognizing symptoms of abuse and neglect; discipline and guidance techniques; and administration and record practices. The staff shall obtain 12 clock hours of training per year approved by the Department of Social Services in addition to the training requirements outlined in Subsection B.

1. Documentation shall consist of attendance records and certificates of completion received by staff.

2. Cooks, drivers, and other ancillary personnel who do not have supervisory or disciplinary authority over children must complete at least three clock hours of training per year, excluding CPR.

3. A maximum of four hours per year for any individual staff person may be claimed for pediatric first aid or infant/child CPR. *Pediatric first aid* training, including rescue breathing and first aid for choking, shall be consistent with pediatric first aid training developed by the American Red Cross, the American Heart Association, or the National Safety Council for First Aid Training Institute, or the equivalent of one of the three.

4. Staff with baccalaureate or advanced degrees in child development or early childhood education are not required to meet in-service education requirements described in §5311.E.

F. At least two staff persons with current certification in infant/child CPR must be on the premises and accessible to the children at all times. Fifty percent of all staff on premises and accessible to the children, must have documented pediatric first aid training.

G. Off-site activities, i.e., field trips, shall require at least one pediatric first aid trained staff to be in attendance and accessible to children at all times.

H. Wading, swimming pools, or water activities shall require at least one caregiver, volunteer, or other supervising adult to be certified in CPR and basic water safety, as specified in pediatric first aid. In addition, when children are swimming in a pool of greater than two feet deep, caregiver must also be trained in emergency water safety.

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§5313. Required Child Care Staff

A. Required child care staff for centers serving 10 or fewer children (including the director's and/or staff's own preschool children):

<u>Number</u>	<u>Staff</u>
10 (if no more than two children are under age two)	1
10 (if three or more children are under age two)	2

B. Required child care staff for centers serving 11 or more children:

Children	Number	Staff
Infants under 12 months	6	1
One-year-olds	8	1
Two-year-olds	12	1
Three-year-olds	14	1
Four-year-olds	16	1
Five-year-olds	20	1
School age	25	1

When the center serves children of mixed ages, *excluding* children under two years, an average of the child/staff ratio may be applied.

C. Only those staff members directly involved in child care and supervision shall be considered in assessing child/staff ratio.

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HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 20: (April 1994).

§5315. Other Required Staff

A. When the number of children at the center exceeds 10, there must be an individual immediately available in case of an emergency.

B. If the number of children exceeds 42, the director shall be a full-time administrator. When the director is not on the premises, there must be an individual designated as responsible for the operation of the center. This staff shall be given the authority to respond to emergencies, inspections/inspectors and parental concerns.

C. There must be adequate provisions for cooking and housekeeping duties, except for those centers approved for catering. These duties shall not interfere with required supervision of children or required child/staff ratios.

D. If day and night care are offered, there must be separate shifts of staff. No employee can work two consecutive shifts.

E. If the director is responsible for more than one center, there must be an individual designated as responsible for the operation of each center.

F. There shall be provisions for substitute help, if the director or any regular employee is absent from the center then staff filling in for director shall be given the authority to respond to emergencies, inspections/inspectors and parental concerns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 20:

§5317. Group Size

A group means a specific number of children relating to a designated area and a designated caregiver, or caregivers, on a regular and consistent basis. An average of the group sizes may be applied on mixed age groupings as allowed under §5313.

Maximum number of children per group (specified space) or unit:

Ages of Children	Number of Children	Number of Staff
Infants (to 12 months)	12	2
One-year-olds	16	2
Two-year-olds	12	1
Three-year-olds	14	1
Four-year-olds	16	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 20: (April 1994).

§5319. Plant Equipment

A. Space Required

1. Indoor Space

a. There shall be a minimum of indoor space of at least 35 square feet per child. The space shall not include toilet facilities, hallways, storage or food preparation areas, or office. Any room counted as play space must be available for play during play hours. If rooms are used exclusively for dining or sleeping, they cannot be included in play space.

b. The number of children using a room shall be based on the 35 square feet requirement; except for group activities such as film viewing, parties, and dining.

c. There shall be provision for isolating temporarily, a child having or suspected of having a communicable disease so he can be removed from the other children. Movable partitions are permissible so that the space may be used for play when not needed for isolating an ill child.

2. Outdoor Play Space

a. There shall be outdoor space adjoining the center which provides a minimum of 75 square feet for each child in the group at any one time. The minimum outdoor play space shall be available for at least one-half of the number of children in care.

b. The outdoor play space shall be enclosed in such a manner as to protect the children from traffic hazards and to prevent the children from leaving the premises without proper supervision.

c. There shall be a soft surface (including grass, loosely packed soil or sand, mats, etc.) under climbing equipment, including slides and swings. If grass is used, equipment should be moveable to prevent the surface from being worn and hard. Concrete, asphalt, packed dirt and other hard surfaces are not acceptable surfaces under playground equipment from which a child may sustain a fall. Play equipment with a play surface of four feet or higher from the ground, from which a child may sustain a fall, requires a soft surface of loose organic materials or manufactured playground mats.

B. Furnishing and Equipment

1. There shall be a working telephone at the center.

Appropriate emergency numbers must be posted, such as fire department, police department, and medical facility.

2. Play equipment of sufficient quantity and variety for indoor and outdoor use shall be provided which is appropriate to the needs of the children.

- a. The equipment shall be maintained in good repair;
- b. shall include equipment which encourages active physical play (for example, climbing apparatus, swings, wheel-toys); and
- c. equipment which encourages quiet play or activity (for example, sand, clay, crayon, paints, story and picture books, dolls, puzzles, music).

3. There shall be low, open shelves within easy reach of the children for the storage of play materials in each play area.

4. There shall be individual space for each child's clothing, such as lockers or low hooks.

5. Chairs of a suitable size and table space shall be available for each child two-years or older.

6. Individual and appropriate sleeping arrangements must be provided for each child. (State and local health requirements regarding sleeping arrangements must be met.) Each child shall be provided with a cot, mat, or crib of appropriate size, height, and material, sufficient to insure his health and safety. Each infant shall have a crib separated from all other cribs (nonstackable). Mats may be used only if the area used for napping is carpeted or if the facility is centrally heated and cooled. If mats are used, they must be of adequate size and material to provide for the health and safety of the child. Each child's sleeping accommodations shall be assigned to him on a permanent basis and labeled.

7. Sheets shall be provided by either the center or the parent, unless the cots or mats are covered with vinyl or another washable surface. A sheet or blanket shall also be available for covering the child.

8. Cribs, cots, or mats shall be spaced at least 18 inches apart when in use with a head/toe arrangement so that no two children's heads are adjacent.

9. Center shall prohibit *smoking* in indoor areas of the facility, on playground while children are present, and on any center sponsored field trip.

C. Sanitary Requirements

1. The plant and equipment shall conform to state and local ordinances governing sanitation, as certified by a written statement given during the preceding 12 months by an authorized representative of the Office of Public Health, Sanitarian Services.

2. A yearly inspection and approval by the Office of Public Health, Sanitarian Services is required.

D. Fire Safety

1. A center shall in all respects meet the requirements of the fire prevention and safety authorities who have jurisdiction over it (that is, the state and/or city fire marshal). Thereafter, a yearly safety inspection and approval from the fire prevention and safety authorities is required.

2. Fire drills shall be conducted at least every 30 days. These shall be conducted at various times of the day and shall be documented. Documentation must consist of:

- a. date and time of drill;
- b. number of children and number of staff present;
- c. number of minutes to evacuate the center;
- d. problems noted during drill and corrections noted;
- e. signatures of staff present; and,
- f. must be kept on file in the center and available for review.

3. All personnel are to be trained in emergency and evacuation procedures, i.e., tornadoes, oil spill, chemical leak, train derailment, hurricane, flooding, etc., as appropriate for center's area. Documentation of training must consist of signed statements from all staff and must be kept on file in the center and available for review.

E. Safety Requirements

1. Drugs, poisons, harmful chemicals, equipment and tools *shall be locked* away from children.

2. Secure railing shall be provided for flights of more than three steps and for porches more than three feet from the ground.

3. Gates shall be provided at the head or foot of each flight of stairs to which children have access when children under two years of age are in care. Accordion gates are prohibited.

4. Fences shall be provided where there are open cisterns, wells, ditches, fish ponds and swimming pools.

5. First aid supplies shall be available at the day care center. Suggestions for first aid supplies may be obtained from the Red Cross.

6. The center and yard must be clean and free from hazards.

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§5321. Admission of Children/Procedures for Parents

A. Admission of children shall include an interview with the parent or guardian to secure necessary information about the child (see Appendices A and B) and to provide pertinent information about the center's program and policies.

B. The day care director shall ensure that a health record on each child, including school age children, is available verifying the child has had or is in the process of receiving all immunizations appropriate to her/his age. These documents shall be part of the child's records (see Appendix A). When the child leaves the day care facility, these documents shall be returned to the parent.

C. Parents or guardians/custodians shall be provided with a written description of the center's program, policies, fee (if any), annual and daily schedule. Parents will also be advised of the licensing authority of the Department of Social Services and will be given (in writing) the telephone number of the department, and advised that they may call the department should they have significant, unresolved licensing complaints.

D. Custodial parents or guardians, and non-custodial parents with written authorization by the custodial parent, shall be informed in writing that they are welcome to visit the center anytime during regular open hours as long as their child is enrolled. They should be advised not to distract staff from regular duties during such visits, unless an appointment has been made or an emergency arises.

E. Discrimination by child day care centers on the basis of race, color, creed, sex, national origin, handicapping condition or ancestry is prohibited. A written non-discrimination policy is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 20: (April 1994).

§5323. Care of the Children

A. Nutrition

1. Well-balanced and nourishing meals and snacks shall be provided.

a. Children in care for more than four hours must receive a quantity of food that will supply approximately 1/2 to 2/3 of the current Recommended Dietary Allowances of the National Research Council.

Order from National Academy Press, 2101 Constitution Avenue N.W., Washington, D.C. 20418 (Call 202-334-3313).

b. *To ensure well-balanced and nourishing meals and snacks, the specified patterns for meals and snacks included under the Child Care Food Program of the United States Department of Agriculture (see Appendix C) must be followed.*

2. Meals and snacks must be offered at 2 to 2½ hour intervals.

3. Weekly menus for meals and snacks shall be posted for viewing by the parents and reviewing by the licensing surveyors.

4. Children coming in the morning without breakfast shall be served this meal.

5. It is not permissible for children to bring their own food to the center with the following exceptions.

a. Bottled formula for infants should be supplied by the parent and must be labeled.

b. Children on therapeutic diets prescribed by a physician may bring their own food for meals and snacks if a written request is received and kept on file.

c. Refreshments for special occasions such as birthday parties and holidays, with prior approval from the director.

6. Food shall not be sold to the children.

7. Infants are to be fed and supervised individually.

a. Infants shall be held while feeding. A bottle shall not be propped at any time.

b. Written permission from a parent is necessary in order to place an infant who can hold a bottle in the crib with the bottle.

c. Any current feeding recommendations of physicians should be kept on file and followed.

8. Drinking water shall be readily available to the children in single service cups or cups that can be sanitized.

Drinking fountains are permissible. Infants and toddlers should be offered water at intervals.

9. All food, including that brought from home, as allowed under §5323.A.5, must be properly prepared and stored in a safe and sanitary manner. Perishable food must be refrigerated at 45°F or below.

B. Health Service to the Child

1. No drugs of any type, including aspirin, shall be given by the center personnel unless prescribed by the child's physician or authorized in writing by the parent.

2. Each child in the center shall have all medical information required by the Office of Public Health.

3. Each child shall be observed for possible signs of illness or infections and appropriate action taken.

4. If symptoms of contagious or infectious diseases develop while the child is in care, he shall be placed in isolation until a parent or designated person has been consulted. Any child who has had a 101° temperature reading the last 12 hours is suspect.

5. Children with the following illnesses or symptoms are to be excluded from the day care center based on potential contagiousness of the disease. Periods may be extended beyond this depending upon individual conditions.

<u>ILLNESS/SYMPTOM</u>	<u>EXCLUDE UNTIL</u>
Meningococcal disease (Neisseria meningitis)	Well with proof of non-carriage ¹
Hib disease (hemophilus influenza)	Well with proof of non-carriage ¹
Diarrhea (two or more loose stools or over and above what is normal for that child)	Diarrhea resolved or is controlled (contained in diaper or toilet)
Fever of unknown origin (100° oral or 101° rectal or higher) and some behavioral signs of illness	Fever resolved or cleared by child's physician or health department
Chicken pox	Skin lesions (blisters) scabbed over completely
Hepatitis A	One week after illness started and fever gone
AIDS (or HIV infection)	Until child's health, neurologic development, behavior, and immune status is deemed appropriate (on a case-by-case basis) by qualified persons ² , including the child's physician, chosen by the child's parent or guardian and the center director
Undiagnosed generalized rash	Well or cleared by child's physician
Any child with a sudden onset of vomiting, irritability or excessive sleepiness	Evaluated and cleared by child's physician

¹ Proof of Non-Carriage: Either by completion of appropriate drug regimen of Rifampin or by a negative throat culture obtained after completion of treatment for meningitis.

² These persons should include the child's physician and other qualified individuals such as the center director, a representative of the state's Office of Public Health, and a child development specialist and should be able to evaluate whether the child will receive optimal care in the specific program being considered and whether an HIV-infected child poses a potential threat to others.

With most other illnesses, children have either *already exposed* others before becoming obviously ill (e.g., colds) or *are not contagious one day after beginning treatment* (e.g., strep throat, conjunctivitis, impetigo, ringworm, parasites, head lice, and scabies). The waiting periods required after the onset of treatment vary with the disease. Check with your local health department for information on specific diseases. Children who are chronic carriers of viral illnesses such as CMV (cytomegalovirus) and herpes can and should be admitted to day care centers.

Note: A center shall institute a policy of using universal precautions when activities involve contact with blood or other body fluids (such as diaper changing, cleaning up blood spills, etc.). For additional information refer to the universal precautions as required by Chapter XXI of the State Sanitary Code.

6. The parent or designated person shall be notified as soon as possible if a child develops symptoms of illness or suffers an accident while in care.

7. Each child shall have on file a statement signed by the parent authorizing the center to administer or obtain emergency treatment.

C. Daily Program

1. There shall be a schedule of the day's plan of activities, providing for flexibility and changes, as seem necessary. The program of activities shall be adhered to with reasonable closeness, but shall accommodate and have due regard for individual differences among the children. The program shall provide time and materials for both vigorous and quiet activity for children to share or to be alone, indoor and outdoor play and rest. Regular time should be allowed for routines such as washing, lunch, rest, snacks and putting away toys. Active and quiet periods should be alternated so as to guard against over-stimulation of the child. Quiet play such as story telling or music should precede the lunch hour, which then should be followed by a rest period.

2. Pre-school children shall have a rest period of at least one hour.

3. While awake, infants shall not remain in a crib, a baby bed, or a playpen for more than 30 consecutive minutes.

D. Care for Children During Nighttime Hours

1. All of these minimum standards for child care centers apply to child care centers which provide care during nighttime hours with the inclusion of the following standards as set forth in §5323.D. Any child care center caring for children at night, but for less than 24 hours must follow the same requirements for personnel standards as previously stated.

2. In addition, the following standards shall apply:

a. One adult must remain awake all night if a child day care center is providing nighttime care, and must make periodic checks on children. There must be at least two adults on the premises at all times, regardless of the number of children in attendance.

b. Meals must be served to children who are in the center at the ordinary meal times.

c. Each child shall have a separate bed or cot with his or her own linens covering the bedding.

d. Children of the opposite sex over six years of age shall *not* sleep in the same room without adult supervision.

e. Evening quiet time activity such as story time, games, and reading shall be provided to each child arriving before bedtime.

f. No physical restraints shall be used to confine children to bed.

E. Supervision

1. Children shall be supervised at all times including nap time. Children shall never be left alone in any room or outdoors at any time without an adult present.

2. While on duty with a group of children, child care staff members shall devote their entire time in supervision of the children and in participation with them in their activities.

F. Discipline

1. Each center shall establish policy in regard to methods of discipline. This written, prominently posted policy must clearly state *all* types of discipline that are used and methods of discipline prohibited.

2. No child shall be subject to physical punishment, corporal punishment, verbal abuse or threats. Cruel, severe, unusual or unnecessary punishment shall not be inflicted upon children. Derogatory remarks shall not be made in the presence of children about family members of children in care or about the children themselves.

3. No child or group of children shall be allowed to discipline another child.

4. When a child is removed from the group for disciplinary reasons, he should never be out of sight of a staff member.

5. No child shall be deprived of meals or any part of meals for disciplinary reasons.

6. Reports of mistreatment of children coming to the attention of the Department of Social Services will be investigated.

7. Any validated instance of corporal punishment, physical punishment, cruel, severe, or unusual punishment, may result in revocation of the license if the owner is responsible or if the employee who is responsible remains in the employment of the facility.

G. Abuse and Neglect. Any suspected abuse and/or neglect of a child in a day care center must be reported in accordance with R.S. 14:403 to the local Child Protection Agency. This statement shall be included in the written discipline policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the

§5325. Transportation

The center which provides transportation of children assumes additional responsibility for the safety of children. The center's transportation plan must be posted if the service is provided. If transportation is not provided, there must be a notice posted to that effect.

A. Transportation Furnished by Center

1. The director shall ensure that transportation arrangements conform to state laws, including seat belts and child restraints.

2. The driver shall be covered by liability insurance.

3. The driver shall hold a valid appropriate Louisiana driver's license.

4. The driver shall not leave the vehicle unattended at any time while transporting children.

5. The driver shall see that:

a. each child boards or leaves the vehicle from the curb side of the street and/or is safely conducted across the street;

b. a responsible person is present when the child is delivered to his home or the center;

c. good order is maintained on the vehicle.

6. The vehicle shall be maintained in good repair.

7. Vehicles shall carry liability insurance in accordance with state law.

B. Transportation by Commercial Concern. When the center contracts with a commercial concern for transportation, it must select one with a good reputation and reliable drivers. The above rules on transportation shall be observed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 20: (April 1994).

Gloria Bryant-Banks
Secretary

RULE

**Department of Social Services
Office of the Secretary**

Child Care Assistance (LAC 67:I.Chapter 1)

The Department of Social Services, Office of the Secretary adopts the following rule in the Child Care Assistance Program effective May 1, 1994.

This rule is being adopted to consolidate all program policy in correct format prior to publication in the *Louisiana Administrative Code*. It does not contain any changes in policy.

Title 67

SOCIAL SERVICES

Part I. Office of the Secretary

Chapter 1. Child Care Assistance Program

§101. Eligibility Requirements

A. Child Care and Development Block Grant

1. Household income does not exceed 75 percent of the state median income for a household of the same size.

a. Income is defined as gross earnings from all sources of employment. Earnings must be verified, using a minimum of four check stubs from the most recent four pay periods, or the standard verification form from the employer.

b. Medical expenses are deducted from the household's total earned income to determine income eligibility if they are:

i. verified by the applicant,

ii. regular and incurred at least once each month,

iii. nonreimbursable by insurance or other sources,

iv. not covered by Medicaid, and

v. \$35 or more each month.

Verification can consist of receipts from a drugstore or a doctor's office, etc., but must be sufficient to satisfy the criteria listed above. Deductions shown on check stubs for hospitalization or dental insurance are deducted as medical expenses.

c. A household is defined as a group of persons who share income and living expenses, with one or more adults acting as parents to the dependent children. The household must reside in Louisiana to be eligible for Child Care Assistance. Homelessness does not preclude being considered a "household."

2. The family includes a child in need of child care services who is under age 13, or age 13 to age 18 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or under court supervision. If the child is not already placed with a child care provider, care must be scheduled to begin no later than 12 weeks following the date of application.

3. The child customarily resides full-time with a parent(s) or guardian(s) who is applying for child care services.

4. One of the following two conditions is met:

a. the parent(s) or guardian(s), regardless of age, as well as all household members 18 years of age and older, is:

i. employed at least 20 hours per week (parent(s) or guardian(s) must also be earning the federal minimum wage or gross wages equivalent to the federal minimum wage multiplied times 20 hours per week), or

ii. attending a job training or educational program that is legally authorized by the state for at least 20 hours per week (attendance at a job training or educational program must be verified, including the date of completion), or

iii. some combination of employment and training or education as defined in §101.A.4.a that equals at least 20 hours per week, or

b. the child is in need of or receiving protective services, in which case the parent(s) or guardian(s) and all adult members of the household are not required to be employed or attending a job training or educational program. Protective services status must be verified by the Office of Community Services.

5. The child for whom application is being made is not eligible for or receiving child care benefits through the Aid to Families with Dependent Children (AFDC) program (including AFDC Child Care Assistance, Project Independence child care, Transitional Child Care, etc.). A parent or guardian can apply for Child Care Assistance 12 weeks prior to the termination of the child's eligibility for Transitional Child Care (TCC); if otherwise eligible, the applicant's name is placed on the waiting list until TCC eligibility is exhausted.

6. The family requests child care services, provides the information necessary for determining eligibility and fees, and meets appropriate application requirements established by the state.

7. Eligible cases are assigned a certification period of three to six months, beginning with the first month in which the eligibility determination is made. The parent or guardian of a child is required to report any changes that could affect eligibility or benefit amount within 10 days of knowledge of the change. Specifically, parents or guardians must report:

- a. address changes;
- b. household composition changes;
- c. employment or earned income changes;
- d. changes in attendance at training or educational programs;
- e. changes in regular medical expenses;
- f. changes in child care providers;
- g. receipt of Aid to Families with Dependent Children (AFDC);
- h. absences from child care of five or more consecutive working days; and
- i. changes in the number of days or hours that a child is attending.

Failure to report a change that affects eligibility or benefit amount can result in action to recover ineligible benefits.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1133 (October 1992), LR 18:1415 (December 1992), LR 20: (April 1994).

§103. Waiting Lists

A. A limited amount of federal funding is available each year through the Child Care and Development Block Grant. As each child is determined eligible and authorized for services, anticipated agency expenditures on his behalf for 12 months are deducted from the total allocation for that year, to assure that expenditures can be made. Each regional office is responsible for tracking obligations of the funds allocated to that region.

B. When all the funds for the current year have been obligated, no payments can be made for any additional children determined eligible. Instead, a waiting list is maintained for each parish. Eligibles on the waiting lists are assigned a priority code according to the following criteria:

1. children in need of protective services;
2. disabled children;
3. all other children.

Within each priority group identified above, the waiting lists are maintained in chronological order by date of application.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1269 (November 1992), LR 20: (April 1994).

§105. Child Care Providers

A. Provider is defined as an individual operating a family day care home, providing in-home child care, or serving in an administrative capacity with a Class A child care center, or BESE-regulated facility i.e., owner, director, officer of the board, etc.

B. Under no circumstances can the following individuals be considered eligible child care providers:

1. members of the child's household, and
2. the child's parent or guardian, regardless of whether that individual lives with the child.

C. The parent or guardian is assured freedom of choice in selecting from a variety of child care categories, including center-based child care, family child care, and in-home child care. The parent or guardian will be afforded the maximum freedom to select the child care provider of his choice.

D. Family child day care home providers and in-home child care providers must be at least 18 years of age to be eligible for participation. Under the Child Care and Development Block Grant, relatives providing child care to only grandchildren, nieces, and/or nephews must apply for registration as a family child day care home, and must meet registration requirements within one year. The use of funds for sectarian worship or instruction, or the purchase of land or buildings, is prohibited.

E. Purchase of service contracts using Child Care and Development Block Grant funds will be used to develop or enhance resources necessary to meet the needs of special needs children, who require care for which specialized training, equipment or facilities are essential. Contracts could be used for developing licensed Class A centers or upgrading existing programs in such centers to handle crack/HIV/severely handicapped or emotionally disturbed infants and young children. Contracts would be designed to preserve parental freedom of choice in selecting providers.

F. A quality incentive will be paid to each child care provider that achieves NAEYC certification. The incentive will be paid once each calendar quarter, and will be equal to 10 percent of all payments received by that provider from the certificate portion of the Child Care and Development Block Grant for services provided during the prior calendar quarter.

G. Funds in the form of scholarships will be granted to those child care providers who demonstrate an intention to attain appropriate training in early childhood development.

H. The Child Care Assistance Program will provide cash assistance to child care providers to pay for repairs and improvements that are necessary to comply with DSS licensing or registration requirements. The program will pay for one-

half of the cost of such a repair or improvement, up to the following maximums, which are based on the capacity of the child care provider:

<u>Number of Children</u>	<u>Maximum Grant</u>
Up to 20	\$ 50
21-40	\$100
41-60	\$150
61-80	\$200
81-100	\$250
101-120	\$300
Over 120	\$350

A provider can receive no more than one such grant in any fiscal year. To apply, the provider must submit an application form along with verification that the repair or improvement is needed to meet DSS licensing or registration requirements and an estimate of the cost of the repair or improvement.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1269 (November 1992), LR 19:659 (May 1993), LR 19:784 (June 1993), LR 19:1034 (August 1993), LR 20: (April 1994).

§107. Payment

A. Each family shall contribute toward the payment of child care based on the size of the family and ability to pay. The sliding fee scale is as follows:

SLIDING FEE SCALE FOR CHILD CARE ASSISTANCE RECIPIENTS

NUMBER IN FAMILY UNIT	2	3	4	5	6	RECIPIENT'S SHARE OF CHILD CARE FEE
ANNUAL FAMILY INCOME	0 - 8,879	0 - 11,139	0 - 13,399	0 - 15,659	0 - 17,919	5%
	8,880 - 10,795	11,140 - 13,055	13,400 - 15,705	15,660 - 18,355	17,920 - 21,003	10%
	10,796 - 12,380	13,056 - 14,972	15,706 - 18,011	18,356 - 21,050	21,004 - 24,087	30%
	12,381 - 13,966	14,973 - 16,889	18,012 - 20,317	21,051 - 23,745	24,088 - 27,171	50%
	13,967 - 15,551	16,890 - 18,806	20,318 - 22,623	23,746 - 26,440	27,172 - 30,255	70%
	15,552 - 16,341	18,807 - 19,762	22,624 - 23,773	26,441 - 27,784	30,256 - 31,793	90%
	16,342 & ABOVE	19,763 & ABOVE	23,774 & ABOVE	27,785 & ABOVE	31,794 & ABOVE	100%

NUMBER IN FAMILY UNIT	7	8	9	10	11	RECIPIENT'S SHARE OF CHILD CARE FEE
ANNUAL FAMILY INCOME	0 - 20,179	0 - 22,439	0 - 24,699	0 - 26,959	0 - 29,219	5%
	20,180 - 23,652	22,440 - 26,301	24,700 - 28,950	26,960 - 31,599	29,220 - 34,247	10%
	23,653 - 27,125	26,302 - 30,163	28,951 - 33,200	31,600 - 36,238	34,248 - 39,275	30%
	27,126 - 30,598	30,164 - 34,025	33,201 - 37,451	36,239 - 40,878	39,276 - 44,303	50%
	30,599 - 34,070	34,026 - 37,886	37,452 - 41,702	40,879 - 45,517	44,304 - 49,332	70%
	34,071 - 35,802	37,887 - 39,812	41,703 - 43,821	45,518 - 47,831	49,333 - 51,839	90%
	35,803 & ABOVE	39,813 & ABOVE	43,822 & ABOVE	47,832 & ABOVE	51,840 & ABOVE	100%

B. The state's share of the child care payment will be made directly to the child care provider. The provider is responsible for collecting the recipient's share of the payment.

C. Maximum child care payment rates are considered to be the provider's actual rate or the following state-established rate, whichever is less:

**Standard Rate Schedule
Regular Care**

	Child Under Age 2			Age 2 and Older		
		full-time	part-time		full-time	part-time
Class A Centers	monthly	\$ 238.30	\$ 119.15	monthly	\$ 216.50	\$ 108.25
	weekly	\$ 55.00	\$ 27.50	weekly	\$ 50.00	\$ 25.00
	daily	\$ 11.00	\$ 5.50	daily	\$ 10.00	\$ 5.00
	hourly	\$ 1.38	\$ 1.38	hourly	\$ 1.25	\$ 1.25
All Other Providers	monthly	\$ 216.50	\$ 108.25	monthly	\$ 216.50	\$ 108.25
	weekly	\$ 50.00	\$ 25.00	weekly	\$ 50.00	\$ 25.00
	daily	\$ 10.00	\$ 5.00	daily	\$ 10.00	\$ 5.00
	hourly	\$ 1.25	\$ 1.25	hourly	\$ 1.25	\$ 1.25

**Standard Rate Schedule
Special Needs Care**

	Child Under Age 2			Age 2 and Older		
		full-time	part-time		full-time	part-time
Class A Centers	monthly	\$ 287.88	\$ 149.94	monthly	\$ 270.80	\$ 135.40
	weekly	\$ 68.74	\$ 34.37	weekly	\$ 62.50	\$ 31.25
	daily	\$ 13.74	\$ 6.87	daily	\$ 12.50	\$ 6.25
	hourly	\$ 1.72	\$ 1.72	hourly	\$ 1.56	\$ 1.56
All Other Providers	monthly	\$ 270.80	\$ 135.40	monthly	\$ 270.80	\$ 135.40
	weekly	\$ 62.50	\$ 31.25	weekly	\$ 62.50	\$ 31.25
	daily	\$ 12.50	\$ 6.25	daily	\$ 12.50	\$ 6.25
	hourly	\$ 1.56	\$ 1.56	hourly	\$ 1.56	\$ 1.56

A 25 percent premium is paid for the care of special needs children, who are defined as anyone up to age 13 who because of mental, physical or emotional handicap would require specialized facilities, lower staff ratio and/or specialized training to meet the developmental and physical needs of the child.

D. Payments to providers will be a percentage of either the provider's actual charge or the state maximum rate for authorized services, whichever is less. In no case will payment be made for absences of more than 10 working days by a child in any calendar month. Payment will also not be made for an extended closure by a provider of more than four consecutive days in any calendar month.

E. Payments will be authorized at the following rates, for the following number of hours.

1. Payment rate shall be the lesser of:
 - a. the standard state maximum rate, or
 - b. the actual rate charged.
2. The number of hours authorized for payment:
 - a. for a child attending school and in child care more than 20 hours per week shall be the lesser of:
 - i. the total number of hours per week the parent(s) or guardian(s) is working or in school or training, minus the number of hours the child is in school while the parent is working or in school or training, plus one hour for each day the parent(s) or guardian(s) is working or in school or training, or
 - ii. the number of hours the child is actually in care.
 - b. for all other situations shall be the lesser of:
 - i. the total number of hours per week the parent(s) or guardian(s) is working or in school or training, plus one hour for each day the parent(s) or guardian(s) is working or in school or training, or
 - ii. the number of hours the child is actually in care.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:1269 (November 1992), amended LR 20: (April 1994).

Gloria Bryant-Banks
Secretary

RULE

Department of Transportation and Development Office of Weights and Standards

Truck Permits—Sunday Curfews (LAC 73:I.Chapters 3 and 5)

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, Office of Weights and Standards has amended Chapters 3 and 5 of Part I of Title 73 of the Louisiana Administrative Code, to eliminate the requirement of Sunday afternoon curfews for oversize and overweight permitted vehicles.

TITLE 73

WEIGHTS, MEASURES, STANDARDS

Part I. Weights and Standards

Chapter 3. Oversize and Overweight Permit Regulations

§309. Permit Restrictions

* * *

D. Night, Inclement Weather, and Holiday Movement

1. Most vehicles and loads requiring a permit will be prohibited from moving at night, in inclement weather, and on certain designated holidays by the Truck Permit Office. The state police may override the Truck Permit Office for safety reasons.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Standards, LR 20: (April 1994).

§311. Checking Permits

* * *

B. Comparing the Permit to the Vehicle or Load

* * *

6. The date shall be compared to the dates the movement is to begin and end as noted on the permit.

* * *

b. Monthly oversize permits are issued for Monday through Friday only, Monday through Saturday only, or for every day of the week. (holidays may be excepted.) The Monthly Oversize Permit may be used for more than one trip per day.

* * *

AUTHORITY NOTE: Promulgated in accordance with R. S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Standards, LR 20: (April 1994).

§313. Permit Violations

* * *

C. Writing Permit Tickets

* * *

3. For vehicles which do have a valid permit, the officer shall cite: R.S. 32:387, over permitted size, over permitted overhang; R.S. 32:387, over permitted weight; R.S. 32:387, no escort, no warning flags, no warning signs, no warning lights, traveling on interstate, traveling on a holiday, traveling in severe weather, traveling in moderate weather, traveling at night, exceeding permitted speed, etc.; R.S. 32:387, permit not in vehicle.

* * *

7. Permit Restriction Violations

a. When restrictions have been written on a permit or when the Truck Permit Office confirms (on A-forms and C-forms) that their master copy shows permit restrictions, then the officer shall issue a violation ticket and assess a fine of one hundred dollars. The officer shall impound the vehicle until all permit restrictions have been met. This procedure applies to vehicles operating without an escort; traveling on Interstate highways, at night, during inclement weather, or on designated holidays; or violating any other permit restrictions except operating without red flags, warning signs, or warning lights.

* * *

AUTHORITY NOTE: Promulgated in accordance with R. S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Standards, LR 20: (April 1994).

Chapter 5. Oversize and Overweight Vehicles or Loads

* * *

Subchapter F. Oversize and Overweight Permit Laws and Regulations

§561. Permit Restrictions

* * *

B. Interstate Movements

* * *

e. There are to be no movements at night, in inclement weather, and on certain designated holidays.

C. Curfews, Night, Inclement Weather, and Holiday Movement

1. In general, vehicles and loads requiring a permit are prohibited from traveling at night, in inclement weather, and on certain designated holidays.

AUTHORITY NOTE: Promulgated in accordance with R. S. 32:2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Standards, LR 20: (April 1994).

Subchapter H. Enforcement Procedures and Penalties
§571. Permit Violations

H. Overweight

5. Permit Restrictions—If a vehicle is operating without an escort, warning flags, warning signs, or warning lights when they are required by its permit; is traveling at night, during inclement weather, or on a designated holiday when prohibited by its permit; is exceeding the permitted speed limit; or is violating any other permit restrictions—the fine will be:

\$100, and the driver must comply with all permit restrictions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Standards, LR 20: (April 1994).

Jude W. P. Patin
Secretary

RULE

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

Deferred Retirement Option Plan (DROP)

Act 229 of the Regular Session of 1993 provided for participation in the Deferred Retirement Option Plan (DROP) for a period of up to three years. The Department of the Treasury, Board of Trustees of the State Employees' Retirement System hereby adopts the following rules:

1. Any eligible member entering DROP for the first time on or after July 1, 1993 may make a one-time election to participate in DROP for a period not to exceed three years. Once specified, the period of participation may not be extended.

2. Any member in the initial DROP participation period on July 1, 1993, or who completed their DROP participation period between May 20, 1993 and July 1, 1993, may extend their originally-selected participation period by up to one

additional year upon giving written notice to the retirement system, so long as they have not terminated state service.

3. Any member in the initial DROP participation period between July 1, 1993 and September 1, 1993 who entered DROP prior to July 1, 1993 may extend their originally-selected participation period by up to one additional year upon giving written notice to the retirement system.

4. Any member in the initial DROP participation period who entered DROP prior to July 1, 1993 and who elects after September 1, 1993 to extend their originally selected DROP participation period by up to one year may do so upon 30 days prior written notice to the retirement system.

5. Any member who has completed DROP participation prior to July 1, 1993, and who has remained in state service without a break, may re-enter the DROP program for up to one additional year upon written notice to the retirement system.

6. When a person is in an extended DROP participation period, leave earned during that time cannot be converted to retirement credit.

7. When a person is in an extended DROP participation period, interest will not be credited to the DROP account.

8. When a member extends their DROP participation period, the monthly amount credited to the DROP account during the original participation period will be the amount credited to the DROP account during the extended DROP participation period.

James O. Wood
Executive Director

NOTICES OF INTENT

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Marketing
Market Commission

Red River Tomatoes (LAC 7:V.1735)

Under the authority of the State Market Commission, R.S. 3:401 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Market Commission intends to adopt a regulation pertaining to inspection and grading of Red River Valley Tomatoes.

This rule complies with and is enabled by R.S. 3:405, 3:411 and 3:412.

The text of this proposed rule may be read in its entirety in the Emergency Rule Section of this April 20, 1994 *Louisiana Register*.

All interested persons may submit written comments, data, views or arguments on the proposed rules through June 1, 1994 to James Pruitt, Department of Agriculture and Forestry, 5835 Florida Boulevard, Baton Rouge, LA 70806. No preamble regarding this rule is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Red River Valley Tomatoes**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs to state or local governmental units are anticipated to result from the proposed rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of the proposed rules.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Producers of Red River Valley Tomatoes will be affected. There should be no effect on their workload or paperwork.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Producers of Red River Valley Tomatoes should become more competitive with other tomato producers as the consuming public becomes more aware of the size and taste benefits of their products. Strict enforcement of the proposed regulations should aid in promoting this perception.

Richard Allen
Assistant Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Culture, Recreation and Tourism
Office of State Museum**

Building Rental Policy (LAC 25:III.103)

The Department of Culture, Recreation and Tourism, Office of State Museum, proposes to amend the following rule (public access, building rental policy) in accordance with the authority of R.S. 25:342-244. The purposes of the change are to (1) delete facilities not available to the policy; and (2) to increase the Museum Cabildo donation fee to bring it more in line with like facilities in the area.

Title 25

CULTURAL RESOURCES

Part III. Office of State Museum

Chapter 1. Public Access

§103. Building Rental Policy

The Louisiana State Museum is responsible for the preservation of historic buildings placed in its care and the collections contained within the buildings. In order to meet this responsibility the Board of Directors of the Louisiana State Museum has adopted the following policy for use of the museum's facilities for functions not sponsored by the Louisiana State Museum.

1. Requests for Usage. Requests will be considered from:
 - a. nonprofit organizations with purposes similar to the educational and historical museum purposes of the Louisiana State Museum;
 - b. official governmental agencies for governmental functions;
 - c. groups and individuals whose proposed usage does not involve commercial or political promotion or fundraising and whose usage is, in the opinion of the Museum Board, not in conflict with the purpose of the Louisiana State Museum.
2. Procedures
 - a. Requests will be considered from:
 - i. eligible organizations/agencies/groups/individuals for receptions and similar functions numbering no more than 500 persons and occurring during nonpublic hours;
 - ii. eligible organizations/agencies/groups/individuals for business meetings, lectures and slide presentations numbering no more than 200 persons and occurring during nonpublic hours.
 - iii. eligible organizations/agencies for business meetings, lectures and slide presentations numbering no more than 100 persons and occurring during public hours.
 - b. The museum director is authorized to approve usage of the building within the provisions of this policy, in addition to museum-sponsored programs/functions.
 - c. Requests for usage of the buildings that do not clearly come within this policy will be submitted to the Museum Board's Buildings and Grounds Committee. The committee will make a recommendation to the Museum Board for final action.
 - d. The Museum Board will deny an application if, in the board's opinion, the proposed usage would endanger the museum's building and/or collections or interfere with its interpretive exhibitions and other programs.
 - e. The Museum Board may waive the donation when the board determines that to do so would be in the best interest of the museum.
 - f. Base service charge fees will not be waived for nonmuseum functions.
 - g. The museum does not provide catering services. Host organizations must make arrangements with the caterer of their choice. The museum reserves the right to reject caterers that do not comply with the museum's instructions concerning proper care of museum facilities.
 - h. All requests must be submitted in writing prior to the anticipated function in sufficient time (14 days) to allow for proper planning, coordination and completion of the necessary written agreement.

i. All rentals will be based on a written agreement signed at least 10 days in advance of the event or function by the authorized representative of the museum and the organization or group renting the space. The agreement must specify all costs, fees and arrangements. All arrangements must be preapproved. Spaces in all buildings may be designated as not available.

j. Base service charge fees are established to cover costs of security, custodial and utility services. The museum may, at its discretion, make additional charges based on the nature of the function. Such additional charges will be specified in the rental agreement.

k. The museum will not remove collections/exhibition items to accommodate host organization.

l. Smoking is prohibited in the museum.

m. Host organization will designate an authorized representative who will be present at the function and responsible for all coordination with the museum.

n. If the number in attendance, time and space used is greater than indicated in the written agreement, the host organization will be billed the additional required fees, in accordance with the policy.

o. A deposit of 50 percent of the written agreement indicated cost is required one week prior to the date of the event/function. The balance will be payable upon billing after the function.

p. The museum does not furnish special equipment, tables, etc. for functions in excess of 100 persons for sit-down dinners.

q. Approved functions which require closing any portion of the museum prior to the scheduled time will be charged an additional \$100 per hour for the period closed.

r. Host organizations will be charged no less than the actual costs for repairing damage to the museum's building and/or collections caused by the function. These charges will be in addition to all other charges.

3. Rates. Established rates apply to buildings open/available at the time of the request.

a. Donation. Applicants eligible under Paragraph 1.c above will donate a gift to the Louisiana Museum Foundation fund designated for use by the State Museum for endowment, educational acquisitions, publications, conservation, and building function support purposes. Expenditures of monies in the fund generated by these donations shall be subject to approval of the Joint Legislative Committee on the Budget. Donations will be made in accordance with the following schedule:

Location	Building	Rate (3 hours)	Each Additional Hour
New Orleans	Cabildo	\$4,000	\$1,000
New Orleans	Presbytere	\$3,000	\$1,000
New Orleans	Old U.S. Mint	\$2,500	\$ 900
New Orleans	Arsenal	\$1,500	\$ 500
New Orleans	Madame John's Legacy	\$1,500	\$ 500

b. Base Service Charge Fees—All Buildings

i. Business Meetings, Lectures, Slide Presentations

(a). 10 a.m.-5 p.m., maximum 100 persons: \$100;

(b). after 5 p.m., maximum 200 persons,

minimum one hour:

Guests	First Hour	Each Additional Hour
1-100	\$200	\$50
101-200	\$300	\$75

An additional cleaning and repair fee of \$100 during public hours and \$300 during nonpublic hours will be charged for costs involved in preparation and post-function cleaning, set-up, and take down.

ii. Receptions and Similar Functions. After 5 p.m., maximum 500 persons, minimum one hour:

Guests	First Hour		Each Additional ½ Hour	
	1st Floor	2nd Floor	1st Floor	2nd Floor
1-200	\$250	\$300	\$50	\$ 75
201-300	\$300	\$350	\$75	\$100
301-500	Both Floors	\$450	Both Floors	\$150

An additional cleaning repair fee of \$300 will be charged for costs involved in preparation and post-function cleaning, set-up and take down.

iii. Sit-Down Dinner. After 5 p.m., maximum 100 persons:

Guests	First Hour	Each Additional Hour
1-50	\$250	\$100
50-100	\$500	\$200

An additional cleaning and repair fee of \$500 will be charged for costs involved in preparation and post-function cleaning, set-up and take down.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342-344.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum LR 11:683 (July 1985), amended LR 13:83 (February 1987) LR 16:295 (April 1990), LR 20:

Written comments may be addressed to James F. Sefcik, Assistant Secretary, Department of Culture, Recreation and Tourism, Box 2448, New Orleans, LA 70176-2448.

James F. Sefcik
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Building Rental Policy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs (savings) as a result of this rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change should increase the State Museum's designated fund for donations revenues by approximately 10 percent or \$10,000 annually overall due to an increase in the donation fee for the Cabildo.

Funds may only be used for endowment, educational, acquisitions, publications, conservation and building function support purposes as approved by the Joint Legislative Committee on the Budget.

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

This rule change will provide economic benefit to the State Museum through the increase of revenues placed in the

designated donations fund in accordance with Paragraph 3.a of this rule.

Donation revenues generated from this rule are designated for use by the museum for endowment, educational, acquisitions, publications, conservation and building function support purposes. Expenditure of funds subject to approval of the Joint Legislative Committee on the Budget.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule will put the State Museum Cabildo rental and donation fees more in line with existing fees in like facilities in the area.

James F. Sefcik
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Culture, Recreation and Tourism
Office of State Museum**

Museum Admission Fees (LAC 25:III.105)

The Department of Culture, Recreation and Tourism, Office of State Museum, proposes to amend the following rule relative to admission fees to state museum buildings, per authority of R.S. 25:342-344. The purpose of the change is to (1) put fees more in line with like facilities within the New Orleans area; (2) explain and clarify school and special group fees; and (3) increase self-generated revenues.

Title 25

CULTURAL RESOURCES

Part III. Office of State Museum

Chapter 1. Public Access

§105. Admission Fees

A. Admission fees for single admissions to the Louisiana State Museum buildings in New Orleans are:

	Single Building	All Buildings Open to Public
Adult	\$4	\$10
Student/Sr. Citizen/Active Military	\$3	\$ 7.50
Under 12 years	Free	Free

B. Special or group tour rates and requirements for Louisiana State Museum buildings are as follows:

1. There must be a minimum of 25 persons in the group or tour which are old enough to require an admissions fee.

2. Tour/group should make arrangements in advance at (504) 568-6968.

3. Admission Fees

	Single Building	All Buildings
Adult	\$3.20	\$8
Student/Sr. Citizen/Active Military	\$2.40	\$6
Under 12 years	Free	Free

C. School Groups

1. Must be affiliated with a recognized public or private school system.

2. Must be accompanied by one chaperon per every 10 children, these chaperons will be admitted free. Additional chaperons will be required to pay admission fee.

3. Prefer arrangements to be made in advance at (504) 568-6968.

4. School groups admitted free when in accordance with items listed above.

D. Visitors may choose from the Presbytere, Cabildo, Old U.S. Mint, and the 1850 House.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342-344.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum LR 12:89 (February 1986), amended LR 13:85 (February 1987), LR 20:

Written comments may be addressed to James F. Sefcik, Assistant Secretary, Department of Culture, Recreation and Tourism, Box 2448, New Orleans, LA 70176-2448.

James F. Sefcik
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Museum Admission Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs (savings) as a result of this rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

As a result of this rule change, it is anticipated that the Office of State Museum will generate an additional \$66,000 annually of self-generated revenues.

Funds will be used in operating services for the Cabildo complex utilities due to the system being upgraded during the recent renovation.

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

Individual patrons (visitors) to a single museum building will be required to pay an additional \$1 or may purchase a multiple building ticket at a savings of approximately 35 percent.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule change will bring admissions fees to State Museum buildings up and more in line with existing fees for like facilities in the area.

James F. Sefcik
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Office of Commerce and Industry**

**Industrial Ad Valorem Tax Exemption Program
(LAC 13:I.Chapter 15)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division is hereby giving notice of its intention to amend and adopt the Industrial Ad Valorem Tax

Exemption Program, Article VII, Part II, Section 21(F) of the Louisiana Constitution of 1974.

Title 13

ECONOMIC DEVELOPMENT

Part I. Office of Commerce and Industry

Subpart 1. Finance

Chapter 15. Industrial Ad Valorem Tax Exemption Program

§1503. Rule 2, Time Limits for Filing of Advance Notifications and Applications

A. An advance notification of intent to apply for tax exemption shall be filed with the Office of Commerce and Industry on the prescribed form prior to the beginning of construction or installation of facilities. The board may, in its discretion, extend the time for filing, for good cause shown by the applicant. The phrase "beginning of construction" shall mean the first day on which foundations are started, or, where foundations are unnecessary, the first day on which installation of the facility begins. An advance notification fee of \$100 shall be submitted with the form. This paragraph applies to all applications other than those covered in §1505, miscellaneous capital expenditures.

B. Application for tax exemption and the Project Completion Report must be filed with the Office of Commerce and Industry on the forms prescribed not later than three months after the beginning of operations. If the construction is not complete at the time of filing the application, and operation of the project has begun, the applicant must file the Project Completion Report within 30 days after completion of construction (also, see §1525). The deadline for filing the application may be extended pursuant to §1523.

C. An application fee shall be submitted with the application based on the amount equal to 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 per project.

D. The Office of Commerce and Industry reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the fee submitted is incorrect or the form is filed incomplete or with incorrect information. The document may be resubmitted with the correct fee. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Processing fees, for advance notifications, applications, or affidavits of final cost which have been accepted for eligible projects, shall not be refundable.

E. In order to include an application for the next scheduled meeting of the Board of Commerce and Industry, applications must be received a minimum of one month prior to the next scheduled Screening Committee meeting date. The authorized board representative, at his discretion, may accept certain applications beyond this date.

F. If applicant submits the application after the required due date established by Subsection B of this Section, the term of the initial contract of exemption may be reduced by one year for each year or portion thereof, that the application is filed late. The board may impose any other penalty for late submission that it deems appropriate.

G. Contractee's eligibility for exemption and the property exempted for the initial contract period will be reviewed by the board based upon the facts and circumstances existing at the time the application is considered. The property exempted for the initial contract period may be increased or decreased based upon review of the application.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry on December 9, 1946, amended by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:

§1505. Rule 3, Miscellaneous Capital Additions

Tax exemption applications for miscellaneous capital additions totaling \$5,000,000 or less; or, accumulated capital additions totaling \$5,000,000 or less may be filed. Any dollar amount above the \$5,000,000 limit per application shall automatically be restricted from the total. This type application should be filed using the following guidelines:

1. Not later than March 31 of each year, with the exception of Orleans Parish (see Paragraph 4), applications for tax exemption shall be filed on the prescribed form with the Office of Commerce and Industry, listing the nature, the date and the amount of miscellaneous capital additions completed during the preceding calendar year, and deducting therefrom such replacements made, if any, at their original cost. Such amounts shall be clearly identifiable on the records of the manufacturer.

2. An application fee shall be submitted with the application based on the amount equal to 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 per project.

3. The Office of Commerce and Industry reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the fee submitted is incorrect or the form is filed incomplete or with incorrect information. The document may be resubmitted with the correct fee. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Processing fees, for advance notifications, applications, or affidavits of final cost which have been accepted for eligible projects, shall not be refundable.

4. For Orleans Parish applications for tax exemption on miscellaneous capital additions should be filed not later than October 31 and should cover items completed since August 1 of the preceding year, and deducting therefrom such replacements made, if any, at their original cost. Such amounts shall be clearly identifiable on the records of the manufacturer.

5. The board may restrict the years of eligible exemption, on the initial contract, if applicant submits the application after the required due date established by §1505.1 and 4 which is relative to said location of new manufacturing establishment or addition. The term of the contract may be reduced by one year for each calendar month, or portion thereof, that the application is filed late. The board may impose any other penalty for late submission that it deems appropriate.

6. A miscellaneous capital addition is an accumulation, over a 12-month period of small capital outlay purchases totaling a maximum of \$5,000,000.

7. Contractee's eligibility for exemption and the property exempted for the initial contract period will be reviewed by the board based upon the facts and circumstances existing at the time the application is considered. The property exempted for the initial contract period may be increased or decreased based upon review of the application.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), amended LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20: §1507. **Rule 4, Manufacturing Establishment Clarified**

A. The terms "manufacturing establishment" and "addition" as used herein mean a new plant or establishment or an addition or additions to any existing plant or establishment which engage in the business of working raw materials into wares suitable for use or which give new shapes, qualities, or combinations to matter which already has gone through some artificial process.

B. The Board of Commerce and Industry shall consider for tax exemption buildings and facilities used in the operation of new manufacturing establishments located within the state of Louisiana (subject to the limitations stated in §1517, Rule 9) and additions for existing manufacturing establishments within the state of Louisiana. Exemptions are granted to the actual owners of buildings which house a manufacturing operation, and/or facilities which are operated specifically in the manufacturing of a product. The board recognizes two categories of ownership:

1. owners who engage in manufacturing at said facilities, and,

2. owners who are not engaged in manufacturing at said manufacturing establishment, but who have provided either or both of the following for a predetermined manufacturing establishment:

a. buildings to house a manufacturing establishment, and/or,

b. facilities which consist of manufacturing equipment operated specifically in the manufacturing process.

C. If a property owner includes clauses in the lease agreement or correspondence relating to the Industrial Ad Valorem Property Tax Exemption Program ("the program"), that the lessors have joined in and ratified all actions of the lessees, and the lease provisions make it evident that the property owner contemplated and bargained for an actual role in the property renovations and improvements, the lessee could make application for the program.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry on December 9, 1946, amended by the Department of Economic Development, Office of Commerce and Industry, LR 20: §1509. **Rule 5, Office Furniture and Fixtures**

Office furniture and fixtures are eligible for tax exemption only when they are an integral part of the manufacturing operation and permanently located at the manufacturing establishment.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Office of Commerce and Industry, LR 20:

§1511. Rule 6, Portable Equipment

Portable equipment is subject to exemption if it is not removed from the exempted property and if such equipment is necessary to the continued maintenance or operation of the manufacturing process. Such property, therefore, is not to be rented, leased or used outside facility boundaries.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Office of Commerce and Industry, LR 20:

§1513. Rule 7, Relocations

A. A manufacturing establishment moved from one location in the state to another place within the state shall be eligible for the unexpired consecutive years, if any, of the tax exemption contract granted the original location. Exemption may be granted at the new location on those costs of necessary replacements which are in excess of the original cost at the prior facility.

B. Capital additions for remodeling an existing manufacturing facility may be exempted. If replacements are made, only the capital expenditures in excess of original cost shall be eligible for tax exemption.

C. Exemption may be granted on the cost of rebuilding partially or completely damaged facility, but only on the amount in excess of the original cost.

D. Original costs, deducted from replacements made or rebuilding, shall be clearly identifiable on the records of the manufacturer.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry on December 9, 1946, amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:

§1515. Rule 8, Used Equipment

Used equipment is eligible for tax exemption provided no ad valorem property taxes have been paid in Louisiana on said property.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Office of Commerce and Industry, LR 20:

§1517. Rule 9, Assessed Property

A. The Board of Commerce and Industry shall not consider for tax exemption any manufacturing establishment, or addition thereto, once such establishment or addition has been in operation for a period of six months unless the assessor of the parish in which the establishment or addition is located certifies in writing that said establishment or addition is not on the taxable rolls. If the establishment or addition is on the taxable rolls the Board shall consider granting tax exemption if the assessor and the Louisiana Tax Commission both agree in writing to remove the establishment or addition from the taxable rolls should the tax exemption be granted.

B. Under no circumstances shall the board consider for tax exemption any buildings, equipment and/or additions listed on an application submitted by a manufacturing establishment

once ad valorem property taxes have been paid on the buildings and/or equipment listed on said application. Items listed on said application, where ad valorem property taxes have been paid, shall be considered as ineligible items and shall be restricted from the amount applied for.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry on December 9, 1946, amended by the Department of Commerce, Office of Commerce and Industry LR 11:97 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:

§1519. Rule 10, Land

The land on which a manufacturing establishment is located is not eligible for tax exemption.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry on December 9, 1946, amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:

§1521. Rule 11, Inventories

Inventories of raw materials used in the course of manufacturing and inventories of finished products are not eligible for tax exemption. However, materials which are an essential and integral part of a manufacturing process, but do not form part of the finished product, may be exempted along with the manufacturing facility. Some examples of these are: ammonia in a freezing plant, solvent in an extraction plant and catalyst in a manufacturing process.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the Board of Commerce and Industry on December 9, 1946, amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:

§1523. Rule 12, Extension of Time

The authorized board representative may, upon receipt of a written request, prior to the document due date, grant an extension of time for the submission of applications (§1503, Rule 2 only), project completion reports, or affidavits of final cost for a period not to exceed six months.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Office of Commerce and Industry, LR 20:

§1525. Rule 13, Effective Date of Contract

A. The owner of a new manufacturing establishment or addition, shall carefully document the beginning date of effective operation, and also document the date that construction is essentially complete. The owner must file that information with the Office of Commerce and Industry on the prescribed Project Completion Report form not later than three months after the beginning of operations or 30 days after completion of construction, whichever occurs last. The authorized board representative shall indicate, with a return copy of that report, the effective date of the tax exemption contract, which shall be December 31 of the year in which effective operation began or construction was essentially completed, whichever was sooner.

B. The assessment date for Orleans Parish is August 1. The effective date of contracts for a new manufacturing establishment or addition located in Orleans Parish shall be

July 31 of the applicable year.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry on December 9, 1946, amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:

§1527. Rule 14, Affidavit of Final Cost

Within six months after construction has been completed, and/or receipt of the fully executed contract whichever is later, the owner of a manufacturing establishment or addition shall file on the prescribed form an Affidavit of Final Cost showing complete cost of the exempted project. A fee of \$100 shall be filed with the Affidavit of Final Cost for an on-site inspection that shall be conducted by a representative of the Office of Commerce and Industry. Upon request by the Office of Commerce and Industry, a map showing the location of all facilities exempted in the project shall be submitted in order that the exempted property may be clearly identifiable.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry on December 9, 1946, amended by the Department of Commerce, Office of Commerce and Industry, LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:

§1529. Rule 15, Renewal of Tax Exemption Contract

A. If a renewal of the exemption is desired, a renewal application must be filed on the prescribed forms with the Office of Commerce and Industry not more than six months prior to and not later than the expiration of the initial contract. A fee of \$50 shall be filed with the renewal application. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Upon proper showing of full compliance with the initial contract of exemption, the contract may be approved by the Board of Commerce and Industry for an additional period up to but not exceeding five years.

B. Contractee's eligibility for a renewal contract and the property exempted for the renewal period will be reviewed by the board using the same criteria that was used for the initial contract and based upon the facts and circumstances existing at the time the renewal application is considered. The property exempted for the renewal period may be increased or decreased based upon review of the renewal application. The term of the renewal contract may be reduced by one year for each calendar month, or portion thereof, that the renewal application is filed late. The board may impose any other penalty for late renewal submission that it deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry on December 9, 1946, amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:

§1531. Rule 16, Violation of Rules or Documents

On the board's initiative, or whenever written complaint on an alleged violation of terms of tax exemption rules or documents is received, the assistant secretary for the Office of Commerce and Industry may cause to be made a full investigation on behalf of the board and he shall have full authority for such investigation including, but not exclusively, authority to

call for reports or pertinent records or other information from the contractees and complainants. Results of the investigation will be presented to the board.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry on December 9, 1946, amended by the Department of Economic Development, Office of Commerce and Industry, LR 20: §1533. **Rule 17, Reporting Requirements for Changes in Operations**

A. The Office of Commerce and Industry is to be notified immediately of any change which affects the tax exemption contract. This includes any changes in the ownership or operational name of a firm holding a tax exemption contract. The board may consider restrictions or cancellation of a contract for cessation of the manufacturing operation, or retirement of any portion of the exempted equipment. Failure to report any changes constitutes a breach of contract and, with approval by the board, shall result in restriction or cancellation of same.

B. The manufacturing establishment shall file annually with the assessor of the parish in which the manufacturing plant is located, a complete taxpayer's report on forms furnished by that assessor in order that the exempted property may be separately listed on the assessment rolls.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Office of Commerce and Industry, LR 20:

§1535. **Sale or Transfer of Exempted Manufacturing Establishment**

In the event a contractee should sell or otherwise dispose of property covered by a contract of exemption, the purchaser of the said plant or property may, within three months of the date of such act of sale, apply to the board for a transfer of the contract. The board shall consider all such applications for transfer of contracts of exemption strictly on the merits of the application for such transfer. No such transfer shall in any way impair or amend any of the provisions of the contract so transferred other than to change the name of the contractee. Failure to request or apply for a transfer within the stipulated time period shall constitute a violation of the contract.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Office of Commerce and Industry, LR 20:

The effective date of this rule will be August 20, 1994. Persons who wish to submit comments should contact John Jernigan, Industrial Ad Valorem Tax Exemption Administrator or Paul Adams, Finance Division Director, Office of Commerce and Industry, Box 94185, 101 France Street, Baton Rouge, LA. 70804 (504) 342-5398. Comments will be accepted through 5 p.m., June 30, 1994.

R. Paul Adams
Financial Incentives Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Industrial Ad Valorem Tax Exemption Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no additional implementation cost to either the Department of Economic Development or any other state agency, or to local government, as a result of the amended and adopted rules. Administration of the program has been funded by application fees collected since September 1, 1986. There will be no change to the application fee collection as a result of the proposed rules adoption.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no change to the revenue collections of any state or local government entities. The program has been in existence since the first industrial tax exemption law in Louisiana was passed by Act 19 of 1936, but was allowed to expire on December 8, 1941 as the nation entered World War II. The industrial tax exemption was reinstated through Act 401, a constitutional amendment approved by the Regular Session of 1946, and ratified by the electors of the state of Louisiana on November 5, 1946, and was made part of the new state constitution in 1974.

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

The net property tax savings amounts to approximately onepercent per year of the value of the investment; for example, the tax exemption on a \$20 million facility would amount to approximately \$200,000 a year or approximately \$2,000,000 over the 10 year life of the exemption.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The tax exemption has been the state's principal industrial inducement since 1936. Over 14,750 contracts have been written since the program's inception in 1937, and, over 267,000 new permanent jobs have resulted from the investments in these plants. Figures compiled by the Department of Economic Development on the 10-Year Tax Exemption Program show, for a 10-year period (1983-1992), that 43,650 permanent jobs were created from the \$15.7 billion invested in 5,151 new and expanded industries in Louisiana.

R. Paul Adams
Financial Incentives Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Mobile Sources Emissions Reduction
(LAC 33:III.611) (AQ91)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations by the adoption of LAC 33:III.611, (AQ91).

This section provides a mechanism for interested entities to purchase older, higher-emitting vehicles for VOC and NO_x emissions credits. Accelerated vehicle scrappage programs have been suggested as a possible means to clean the air in urban areas.

R.S. 30:2054.B.(8)(b)(v) requires the DEQ to establish this program by September 1, 1994 in the six-parish ozone nonattainment area surrounding and including East Baton Rouge. This proposed rule will also allow the ozone nonattainment area of Calcasieu Parish to participate. Additionally, the 1990 Clean Air Act Amendments encourage the use of market-based incentive programs for attaining required emissions reductions.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 6. Regulations on Control of Emissions Through the Use of Emission Reduction Credits Banking

§611. Mobile Sources Emission Reductions

A. Pollutants. Reductions in the following types of air emissions are eligible for banking pursuant to this rule:

1. volatile organic compounds (VOCs); and
2. nitrogen oxides (NO_x).

B. Eligible Sources. To qualify as emission reduction credits, mobile source emission reductions must meet the same criteria as stationary source emission reductions. The emission reductions from mobile sources must be real, quantifiable, enforceable, surplus, and permanent. Eligible credit-generating vehicles must have been registered and insured by the owner (without change of ownership) at an address within the nonattainment area continuously for at least the previous 12 months prior to the date the vehicle is purchased by the program to be eligible for credit. Eligible vehicles are required to be operable (capable of being used or operated) and driven to the designated intake site by the owner or his/her legal representative (or in the case of corporate-owned vehicles, a certified agent), on a day pre-arranged by the department. In addition, vehicles must undergo a physical inspection designed to ensure that major body components have not been removed and that the vehicle could be readily used for normal transportation purposes. The site may be owned or leased by a certified automobile crusher who is licensed and certified by the Used Motor Vehicle and Parts Commission. Vehicle model years 1981 and pre-1982, light-duty gas vehicles (LDGVs), and light-duty gas trucks (LDGTs) up to 10,000 pounds gross vehicle weight rating (GVWR) will be considered for mobile emission reduction credits (MERCs).

C. Calculating Credits

1. Mobile emission reduction credits (MERCs) for VOCs and NO_x shall be issued each year according to the following:

a. the formula below includes emission factors estimated by the department, using the latest version of EPA's mobile-source emissions model (MOBILE):

$$MERC = \frac{[(SCRAP - REPLACE) \times MILESC \times 0.000001102]}{DF}$$

where:

MERC = mobile emission reduction credit (pounds per year of pollutant);

SCRAP = emission rate of scrapped vehicle in grams per mile, based on the model-year of the scrapped vehicle;

REPLACE = average in-use vehicle emission rate in grams per mile for year in which vehicle is scrapped;

MILESC = annual mileage corresponding to model-year of scrapped vehicle;

0.000001102 = conversion factor (grams to tons);

DF = discount Factor, equal to 1.2; or

b. mobile emission test results certificate or other state-certified/EPA-approved program.

2. MERC calculations for all model years will be provided, annually, by the department for the method described in Subsection C.1 of this Section. MERCs shall be valid for a period of three years and shall not be traded.

D. Vehicle Visual Inspection. In order to be eligible for MERCs, each vehicle to be scrapped shall be subjected to a visual inspection prior to scrapping. Inspections shall be conducted by a licensed automobile crusher and information recorded on a form designed by and submitted to the Department of Environmental Quality. The physical presence of the following elements shall be included in the inspection and shall be required for approval:

1. exhaust system;
2. bumpers;
3. doors;
4. fenders;
5. side and quarter panels;
6. hood and trunk lid;
7. windshields and windows;
8. seats;
9. instrumentation and gauges; and
10. date of safety inspection sticker.

E. Automobile Scrappage. All retired vehicles must be scrapped by a certified automobile crusher who is licensed and certified by the Used Motor Vehicle and Parts Commission. Recycling of vehicle parts must be done by a recycler/dismantler who is licensed by the Used Motor Vehicle and Parts Commission. Solid, liquid, and gaseous waste generated by vehicle scrappage must be disposed of or recycled in accordance with applicable federal, state, and local laws. At a minimum, scrapping shall entail the permanent destruction or recycling of the following vehicle components:

1. fuel metering system:
 - a. carburetor and internal parts (or fuel injection system);
 - b. air/fuel ratio feedback and control system; and
 - c. cold start enrichment system;
2. air induction system:
 - a. controlled hot air intake system;
 - b. intake manifold;

- c. heat riser valve and assembly; and
- d. turbocharger systems;
- 3. ignition system:
 - a. distributor and internal parts;
 - b. spark advance/retard system;
 - c. spark plugs;
 - d. ignition coil and/or control module; and
 - e. ignition wires;
- 4. evaporative control systems:
 - a. vapor storage canister;
 - b. vapor-liquid separator; and
 - c. fuel tank and filler cap;
- 5. positive crankcase ventilation (PCV) system:
 - a. PCV; and
 - b. oil filler cap;
- 6. exhaust gas recirculation (EGR) system:
 - a. EGR valve body, and carburetor spacer if applicable; and
 - b. EGR rate feedback and control system;
- 7. air injection system:
 - a. air pump;
 - b. valves affecting distribution of flow; and
 - c. distribution manifold;
- 8. catalyst or thermal reactor system:
 - a. catalytic converter and constricted fuel filler neck;
 - b. thermal reactor;
 - c. exhaust manifold; and
 - d. exhaust portliner and/or double walled exhaust pipe;
- 9. engine:
 - a. cylinder block;
 - b. pistons;
 - c. connecting rods;
 - d. crankshaft;
 - e. valve train; and
 - f. cylinder head;
- 10. transmission:
 - a. all components housed within the transaxle;
 - b. torque converter;
 - c. clutch related components, including flywheel, pressure plate, friction disc, and throw-out bearing; and
 - d. all components housed within the transmission case;
- 11. miscellaneous items used in systems and components listed in Subsection E.1-10 of this Section:
 - a. hoses, clamps, fittings, tubing, sealing gaskets or devices, and mounting hardware;
 - b. pulleys, belts, and idlers;
 - c. vacuum-, temperature-, and time-sensitive valves and switches; and
 - d. electronic controls; and
- 12. vehicle frame.

F. Recordkeeping Requirements. The following information shall be recorded on a form prepared by the participating automobile crusher and submitted to the department in duplicate:

- 1. name, address, license number, and telephone number of the automobile crusher, and name of person(s) conducting vehicle visual inspection;
- 2. vehicle make, vehicle model, vehicle model-year, vehicle license plate number, vehicle identification number,

vehicle mileage, checklist of vehicle components scrapped, and date of scrapping;

- 3. scrapped vehicle owner's name, address, and telephone number, and vehicle owner's insurance company and policy number;
- 4. copy of Louisiana certificate of title for each scrapped vehicle;
- 5. copy of proof of insurance for each scrapped vehicle; and
- 6. a duplicate copy of the permit to dismantle vehicle and the notice of acquisition.

G. Compliance Auditing and Enforcement. The department may audit any files and/or records created to comply with recordkeeping requirements. The department shall reserve the right to inspect facilities, including automobile crushers, for compliance with the requirements specified in this rule during regular business hours, Monday through Friday. Department inspectors shall be afforded immediate access to scrapping/dismantling facilities on request. Violation of any provisions of this rule, including falsification of information in reports, shall be grounds for the department to disallow or void any MERCs resulting from or associated with the violation and shall be subject to the penalties specified in R.S. 30:2025.

H. Geographic Areas. Each bank is limited to a designated ozone non-attainment area, and separate accounts shall be maintained for NO_x and VOCs. Ozone nonattainment areas designated as marginal and above may participate.

I. Participation in Mobile Source Emission Reductions Program

1. Point-source Facilities Obtaining MERCs. Any stationary point-source facility in ozone nonattainment areas designated marginal and above may request the purchase of MERCs. The department will develop and maintain a directory of automobile year models/types available and the owners wishing to scrap their vehicles. The facility wishing to purchase MERCs will contact the department and indicate the amount of VOC and/or NO_x emission reduction credits they are seeking. The department will release to that facility the names and telephone numbers of owners sufficient to meet all or part of the desired number of emission reduction credits. It will be the responsibility of the facility to negotiate a fair market value, a minimum of \$450, with the owner of the vehicle. A written statement of that negotiation shall be provided to the department signed by both the facility agent and the owner(s) of the vehicle(s) to be scrapped. A check from the facility to the vehicle owner will be submitted with the written statement of negotiation to the department. Upon receipt of the written statement of negotiation and the facility's check to the vehicle owner, the department will arrange for a licensed and certified automobile crusher to accept the designated vehicles for destruction. A department representative will witness the destruction of the vehicle(s) and will release the facility's check to the vehicle owner. The purchased MERCs will be transferred to the facility's ERC bank balance. In the event that vehicle scrapping does not take place after the written statement of negotiation and the check are forwarded to the department, the department will return to the facility the facility's check upon demand.

2. Private Entities. (Any private entity wishing to participate in the mobile source emission reduction program without benefit of a list of owners wishing to scrap their vehicles.) It will be the responsibility of the private entity to negotiate a fair market value, a minimum of \$450, with the owner of the vehicle. A written statement of that negotiation shall be provided to the department signed by both the private entity agent and the owner(s) of the vehicle(s) to be scrapped. A check from the private entity to the vehicle owner will be submitted with the written statement of negotiation to the department. Upon receipt of the written statement of negotiation and the private entity's check to the vehicle owner, the department will arrange for a licensed and certified automobile crusher to accept the designated vehicles for destruction. A department representative will witness the destruction of the vehicle(s) and will release the private entity's check to the vehicle owner. In the event that vehicle scrapping does not take place after the written statement of negotiation and the check are forwarded to the department, the department will return to the private entity the private entity's check upon demand.

J. Uses of MERCs. Credit for the emission reductions are applicable for only three years. MERCs can be used as an alternative method of compliance with the following:

1. solvent cleaning operations;
2. fugitive emissions of volatile organic compounds;
3. emissions of oxides of nitrogen from boilers and process heaters in petroleum refineries;
4. emissions from gaseous- and liquid-fueled internal combustion engines;
5. emissions of oxides of nitrogen from stationary gas turbines;
6. emissions of oxides of nitrogen from electric power generating systems;
7. emissions of oxides of nitrogen from industrial, institutional, and commercial boilers, steam generators, and process heaters; and
8. emissions of oxides of nitrogen from small industrial, institutional, and commercial boilers, steam generators, and process heaters.

K. Application and Processing Fees. All fees shall be assessed in accordance with the provisions of LAC 33:III.Chapter 2.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

A public hearing will be held on May 27, 1994, 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 Friday, June 3, 1994, 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, Fourth Floor, Baton Rouge, LA, 70810 or to FAX number (504)765-0486. Commentors should reference this proposed regulation by AQ91.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Mobile Sources Emissions Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that an annual cost of \$23,385 is needed to support this program activity in LDEQ. Fees will be generated to support this program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Title transfers and dismantling certificates will be issued by the Department of Public Safety and Corrections which will yield additional revenue for that department. Fees associated with emissions credits will be collected by the LDEQ which will be used to implement the program.

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

Participation in this program is voluntary. The owners of older model cars participating in the program will receive a minimum of \$450. The owners of automobile crushing equipment participating in the program will profit through the sale of the scrap metal. Entities wishing to purchase a vehicle through this program can earn VOC and NO_x emissions credits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Auto salvage yards will not benefit from participating in this program; consequently, only auto crushing businesses will be able to see an economic value. This will limit competition. There will be no significant impact on employment in either the governmental or the nongovernmental agencies/businesses.

Gus Von Bodungen
Assistant Secretary

Richard W. England
Legislative Fiscal Officer

NOTICE OF INTENT

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

Certification of Radiographers (NE12F) (LAC 33:XV.575)

Under the authority of the Louisiana Environmental Quality Act, 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 5 (NE12F).

This rule is essentially the current (DEQ) regulation with a few minor rewordings. The content of the rule is only

changed where federally mandated. The change involves the length of time between industrial radiographer internal audits. (Please note that this time-span has been the division's policy for a number of years and was previously enforced through a licensing condition.)

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter B. Personal Radiation Safety Requirements For Radiographers

§575. Training and Testing

A. No licensee or registrant shall permit any individual to act as a radiographer as defined in this Chapter unless such individual:

1. has been instructed in the subjects outlined in I, II, and III, Appendix A of this Chapter, demonstrates understanding thereof and, if deemed necessary by the division, has successfully completed an examination administered by the division or its agent;

2. has received copies of and instruction in the regulations contained in this Chapter and the applicable sections of Chapters 4 and 10, appropriate license[s], and the licensee's or registrant's operating and emergency procedures, and demonstrates understanding thereof; and

3. demonstrates competence to use the sources of radiation, radiographic exposure devices, related handling tools, and radiation survey instruments which may be employed in his assignment.

B. Each licensee or registrant shall maintain, for inspection by the division, until disposition is authorized by the division, records of the above training, including copies of written tests and dates of oral tests and field examinations.

C. Each licensee or registrant shall conduct a program of internal audits to ensure that the Louisiana Radiation Protection Regulations, (LAC 33:XV), Louisiana radioactive material license conditions, and the licensee's or registrant's operating and emergency procedures are followed by each radiographer. These internal audits shall be performed at least quarterly, and each radiographer shall be audited at least quarterly. Records of internal audits shall be maintained for review by the division for two consecutive years from the date of the audit.

D. Each licensee or registrant shall provide, as a minimum, two-person crews when sources of radiation are used at temporary job sites.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

A public hearing will be held on May 27, 1994, 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 Friday, June 3, 1994, 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, fourth Floor, Baton Rouge, LA 70810 or to fax number (504) 765-0486. Commentors should reference this proposed regulation by Log NE12F.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Certification of Radiographers

- 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 additional costs or economic benefits to directly affected persons or non-governmental groups are expected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect of this proposed rule on competition and employment is anticipated.

Gustave 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

Certification of Radiographers (LAC 33:XV.575, 578, and 579) (NE12L)

Under the authority of the Louisiana Environmental Quality Act, 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 5, (NE12L).

This rule will amend the Radiation Protection Division's regulations concerning industrial radiographers' certification requirements. This rule will require that all radiographers

take an examination every five years to be certified to perform industrial radiography in Louisiana. The division believes this action to be necessary to enhance the level of radiation protection in the state.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§575. Training and Testing

A. No licensee or registrant shall permit any individual to act as a radiographer, as defined in this Chapter, until such individual:

1. HAS BEEN INSTRUCTED FOR AT LEAST 40 HOURS IN THE SUBJECTS OUTLINED IN I, II, AND III, APPENDIX A OF THIS CHAPTER, AND DEMONSTRATES UNDERSTANDING THEREOF PURSUANT TO LAC 33:XV.575.A.6. BOTH THE INSTRUCTOR AND THE COURSE OF INSTRUCTION MUST BE APPROVED BY THE DIVISION PRIOR TO THE TIME OF INSTRUCTION;

2. HAS COMPLETED ON-THE-JOB TRAINING SUPERVISED BY ONE OR MORE RADIOGRAPHER TRAINERS:

A. THE TRAINER SHALL BE AUTHORIZED ON THE LICENSE OR CERTIFICATE OF REGISTRATION;

B. THE ON-THE-JOB TRAINING SHALL INCLUDE AT LEAST:

I. 200 HOURS OF ACTIVE PARTICIPATION IN RADIOACTIVE MATERIALS INDUSTRIAL RADIOGRAPHY OPERATIONS FOR AN INDIVIDUAL TO PERFORM INDUSTRIAL RADIOGRAPHY UTILIZING RADIOACTIVE MATERIALS, AND/OR

II. 120 HOURS OF ACTIVE PARTICIPATION IN X-RAY INDUSTRIAL RADIOGRAPHY OPERATIONS FOR AN INDIVIDUAL TO PERFORM INDUSTRIAL RADIOGRAPHY UTILIZING X-RAYS;

C. THE HOURS OF ON-THE-JOB TRAINING DO NOT INCLUDE SAFETY MEETINGS OR CLASSROOM TRAINING OR USE OF A CABINET X-RAY UNIT; AND

D. THE FORM DRC-20, AVAILABLE FROM THE DIVISION, OR THE EQUIVALENT MUST BE SUBMITTED TO THE DIVISION DOCUMENTING THE ON-THE-JOB TRAINING;

3. HAS RECEIVED COPIES OF AND INSTRUCTION IN THE REGULATIONS CONTAINED IN THIS CHAPTER AND THE APPLICABLE SECTIONS OF LAC 33:XV.CHAPTERS 4 AND 10, APPROPRIATE LICENSE(S), AND THE LICENSEE'S OR REGISTRANT'S OPERATING AND EMERGENCY PROCEDURES, AND DEMONSTRATES UNDERSTANDING THEREOF PURSUANT TO LAC 33:XV.575.A.5 AND 6;

4. HAS DEMONSTRATED COMPETENCE PURSUANT TO LAC 33:XV.575.A.5 AND 6 TO USE THE SOURCES OF RADIATION, RADIOGRAPHIC EXPOSURE DEVICES, RELATED HANDLING TOOLS, AND RADIATION SURVEY INSTRUMENTS WHICH MAY BE EMPLOYED IN HIS ASSIGNMENT;

5. HAS SUCCESSFULLY COMPLETED A COMPANY-SPECIFIC WRITTEN EXAM AND FIELD TEST COVERING THE SUBJECTS LISTED IN LAC 33:XV.575.A.3 AND 4;

6. HAS SUCCESSFULLY COMPLETED WITHIN THE LAST FIVE YEARS A RADIATION SAFETY EXAM ADMINISTERED BY THE DIVISION OR ITS AGENT. THE EXAM MUST BE

SUCCESSFULLY COMPLETED AT LEAST ONCE EVERY FIVE YEARS.

B. Each licensee or registrant shall maintain, for inspection by the division, until disposition is authorized by the division, records of the above training and certification, including copies of written tests and dates of oral tests and field examinations.

C. Each licensee or registrant shall conduct a program of internal audits to ensure that the Louisiana Radiation Protection Regulations (LAC 33:XV), Louisiana radioactive material license conditions, and the licensee's or registrant's operating and emergency procedures are followed by each radiographer. These internal audits shall be performed at least quarterly, and each radiographer shall be audited at least quarterly. Records of internal audits shall be maintained for review by the division for two consecutive years from the date of the audit.

D. Each licensee or registrant shall provide, as a minimum, twoperson crews CONSISTING OF AT LEAST TWO QUALIFIED RADIOGRAPHERS OR A QUALIFIED RADIOGRAPHER AND AN APPROVED INSTRUCTOR when sources of radiation are used at temporary jobsites.

E. A RADIATION SAFETY OFFICER (RSO) SHALL BE DESIGNATED FOR EVERY INDUSTRIAL RADIOGRAPHY LICENSE, AND A CERTIFICATE OF REGISTRATION SHALL BE ISSUED BY THE DEPARTMENT. THE RSO'S QUALIFICATIONS SHALL INCLUDE:

1. POSSESSION OF A HIGH SCHOOL DIPLOMA OR CERTIFICATE OF HIGH SCHOOL EQUIVALENCY BASED ON THE GED TEST;

2. COMPLETION OF THE TRAINING AND TESTING REQUIREMENTS OF LAC 33:XV.575;

3. TWO YEARS OF DOCUMENTED RADIATION PROTECTION EXPERIENCE, INCLUDING KNOWLEDGE OF INDUSTRIAL RADIOGRAPHIC OPERATIONS WITH AT LEAST 40 HOURS OF ACTIVE PARTICIPATION IN INDUSTRIAL RADIOGRAPHIC OPERATIONS; AND

4. FOUR HOURS OF EMERGENCY SOURCE RETRIEVAL TRAINING.
AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:

§578. RECIPROCITY

A. RECIPROCAL RECOGNITION BY THE DIVISION OF AN INDIVIDUAL RADIOGRAPHER CERTIFICATION WILL BE GRANTED PROVIDED THAT:

1. THE INDIVIDUAL HOLDS A VALID CERTIFICATION IN THE APPROPRIATE CATEGORY AND CLASS ISSUED BY ANOTHER STATE OR JURISDICTION;

2. THE REQUIREMENTS AND PROCEDURES FOR CERTIFICATION IN THE STATE OF JURISDICTION ISSUING THE CERTIFICATION AFFORD THE SAME OR COMPARABLE CERTIFICATION STANDARDS AS THOSE AFFORDED BY LAC 33:XV.575; AND

3. THE APPLICANT PRESENTS THE CERTIFICATION TO THE DIVISION PRIOR TO ENTRY INTO LOUISIANA.

B. CERTIFIED INDIVIDUALS WHO ARE GRANTED RECIPROCITY BY THE DIVISION SHALL MAINTAIN THE CERTIFICATION UPON WHICH THE RECIPROCAL RECOGNITION WAS GRANTED OR PRIOR TO THE EXPIRATION OF SUCH CERTIFICATION, SHALL MEET THE REQUIREMENTS OF LAC 33:XV.575.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:

§579. IDENTIFICATION CARDS

A. ISSUANCE OF I.D. CARD

1. AN I.D. CARD SHALL BE ISSUED TO EACH PERSON WHO SUCCESSFULLY COMPLETES THE REQUIREMENTS OF LAC 33:XV.575.A.

2. EACH PERSON'S I.D. CARD SHALL CONTAIN HIS/HER PHOTOGRAPH. THE DIVISION WILL TAKE THE PHOTOGRAPH AT THE TIME THE EXAMINATION IS ADMINISTERED.

3. THE I.D. CARD REMAINS THE PROPERTY OF THE STATE OF LOUISIANA AND MAY BE REVOKED OR SUSPENDED UNDER THE PROVISIONS OF LAC 33:XV.579.

4. ANY INDIVIDUAL WHO WISHES TO REPLACE HIS/HER I.D. CARD SHALL SUBMIT TO THE DIVISION A WRITTEN REQUEST FOR A REPLACEMENT I.D. CARD, STATING THE REASON A REPLACEMENT I.D. CARD IS NEEDED. A NON-REFUNDABLE FEE OF \$20.00 SHALL BE PAID TO THE DIVISION FOR EACH REPLACEMENT OF AN I.D. CARD. THE PRESCRIBED FEE SHALL BE SUBMITTED WITH THE WRITTEN REQUEST FOR A REPLACEMENT I.D. CARD. THE INDIVIDUAL SHALL MAINTAIN A COPY OF THE REQUEST IN HIS/HER POSSESSION WHILE PERFORMING INDUSTRIAL RADIOGRAPHIC OPERATIONS UNTIL A REPLACEMENT I.D. CARD IS RECEIVED FROM THE DIVISION.

B. EXPIRATION OF I.D. CARD. EACH I.D. CARD IS VALID FOR A PERIOD OF FIVE YEARS, UNLESS REVOKED OR SUSPENDED IN ACCORDANCE WITH LAC 33:XV.579. EACH I.D. CARD EXPIRES AT THE END OF THE DAY INDICATED ON THE I.D. CARD.

C. RENEWAL OF I.D. CARD

1. APPLICATIONS FOR EXAMINATION TO RENEW AN I.D. CARD SHALL BE FILED IN ACCORDANCE WITH LAC 33:XV.575.

2. THE EXAMINATION FOR RENEWAL OF AN I.D. CARD SHALL BE ADMINISTERED IN ACCORDANCE WITH LAC 33:XV.575.

3. A RENEWAL I.D. CARD SHALL BE ISSUED IN ACCORDANCE WITH LAC 33:XV.579.

D. REVOCATION OR SUSPENSION OF AN I.D. CARD

1. ANY RADIOGRAPHER WHO VIOLATES THESE RULES MAY BE REQUIRED TO SHOW CAUSE AT A FORMAL HEARING WHY HIS/HER I.D. CARD SHOULD NOT BE REVOKED OR SUSPENDED IN ACCORDANCE WITH THESE RULES.

2. WHEN A DIVISION ORDER HAS BEEN ISSUED FOR AN INDUSTRIAL RADIOGRAPHER TO CEASE AND DESIST FROM THE USE OF SOURCES OF RADIATION OR THE DIVISION REVOKES OR SUSPENDS HIS/HER I.D. CARD, THE INDUSTRIAL RADIOGRAPHER SHALL SURRENDER THE I.D. CARD TO THE DIVISION UNTIL THE ORDER IS CHANGED OR THE SUSPENSION EXPIRES.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

A public hearing will be held on May 27, 1994, 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 Friday, June 3, 1994, 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 Log Number NE12L.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Radiation Safety Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Estimated implementation costs to the department are anticipated at \$6,400 yearly for FY 94-95 and FY 95-96 due to administrative costs incurred to administer approximately 50 tests per year at a cost of \$128 per test to the radiographers registering for the examination.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected effect on revenue collections of local governments. The state expects to collect approximately \$6,400, as a result of these regulations, in examination fees charged to the radiographers.

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

There are 500 estimated industrial radiographers in the state who will be required to take an examination to receive their certification. Twenty-five percent of the radiographers have already taken the examination in Texas. The remainder of the radiographers will have to take the exam in Texas, until Louisiana begins administering the test. In Texas, the test will cost approximately \$65 per person until the middle of 1994, when Louisiana will start administering its own examination, and the fee will increase to \$128 per person. Louisiana must charge more because we will be buying the test from the State of Texas, administering it, maintaining additional paperwork, and issuing a registration card.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect of this proposed rule on competition and employment is anticipated due to the fact that Texas already requires this exam and the Nuclear Regulatory Commission (NRC) will require this test shortly for all states.

Gustave Von Bodungen
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

HSWA I and II
(LAC 33:V.Subpart 1) (HW39F)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division Regulations, LAC 33:V.Subpart 1, (HW39F).

The changes include a broad scope of topics: general provisions for treatment, storage, and disposal facilities, permits, manifest requirements, generator requirements, air emission standards, waste piles, landfills, land treatment, surface impoundments, incinerators, groundwater protection, closure and post closure, recyclable materials, interim status, and lists of hazardous wastes. These rule changes are proposed to bring state rules into conformity with federal requirements.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

A public hearing will be held on May 27, 1994, 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 Friday, June 3, 1994, 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, Fourth Floor, Baton Rouge, LA, 70810 or to FAX number (504) 765-0486. Commentors should reference this proposed regulation by HW39F. Check or money order is required in advance for each copy of HW39F.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101;

3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; and at the Office of the State Register, 1051 North Third Street, Baton Rouge LA 70802, phone (504) 342-5015.

James B. Thompson, III
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Hazardous Waste Rule Revisions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
These rule changes are being submitted to bring state rules into conformity with federal rules. Since the state is already required to conform to federal rules, this rule package will have no effect on the regulated community.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
These rule changes will have no effect on revenue collections. These rule changes are being submitted to bring state rules into conformity with federal rules.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no anticipated costs or economic benefits associated with these rule changes.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no anticipated effects on competition or employment since all members of the regulated community must follow the same rules. These rules simply bring state rules into conformity with federal rules.

Glenn A. Miller
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

HSWA I and II Revisions (LAC 33:V.Subpart 1) (HW39L)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division Regulations, LAC 33:V, (HW39L).

The changes include a broad scope of topics: general provisions for treatment, storage, and disposal facilities, permits, manifest requirements, generator requirements, air emission standards, waste piles, landfills, land treatment, surface impoundments, incinerators, groundwater protection, closure and post closure, recyclable materials, interim status, and lists of hazardous wastes. These amendments are required by federal rules, except for the

following more stringent citations which have no federal equivalent: LAC 33:V.305, 2305, 2521.C, 2905, 2911.E, and 3913. These more stringent citations are presently in existence; however, amendments are being made for clarification purposes as suggested by the EPA. This action is required by EPA for the purpose of Louisiana obtaining HSWA (Hazardous and Solid Waste Amendments) authorization.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

A public hearing will be held on May 27, 1994, 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 Friday, June 3, 1994, 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, Fourth Floor, Baton Rouge, LA, 70810 or to FAX number (504)765-0486. Commentors should reference this proposed regulation by Log HW39L. Check or money order is required in advance for each copy of HW39L.

This proposed regulation is available through the Office of the State Register at 1051 North Third Street, Room 512, Baton Rouge, LA 70802 and also for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 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: HSWA I and II Revisions**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

These rule changes are being submitted primarily to clarify existing rules. There are only two rule changes that result in stricter conditions. However, they have no practical effect since no facility had ever applied for an exemption, nor have exemptions ever been granted to facilities in this class. Consequently, there are no costs or savings associated with this proposal.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

These rule changes will have no effect on revenue collections. These rule changes are being submitted primarily to clarify existing rules.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

There are no anticipated costs or economic benefits associated with these rule changes.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There are no anticipated effects on competition or employment since all members of the regulated community must follow the same rules and because these rules are being issued primarily to clarify existing rules.

Glenn A. Miller
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Office of the Governor
Commission on Law Enforcement
and Administration of Criminal Justice
Sentencing Commission**

**Felony Sentencing Guidelines
(LAC 22:IX.Chapters 1-4)**

The Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission gives notice that rulemaking procedures have been initiated to amend the Felony Sentencing Guidelines, LAC Title 22:IX, Subpart 1, under the provisions of the Administrative Procedure Act, R.S. 49:950, et seq. The changes herein proposed have an effective date of May 1, 1994.

Adoption of the amendments described here is necessary to eliminate technical problems experienced by the courts and the Office of Probation and Parole in implementing the Felony Sentencing Guidelines as of January 1, 1992 and to make such other adjustments as are necessary to ensure the timely and expeditious sentencing of offenders in a fair and equitable manner under the Sentencing Guidelines without delay.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part IX. Sentencing Commission

Subpart 1. Felony Sentencing Guidelines

Chapter 1. Purpose and Principles

§103. Sentencing Principles

* * *

K. In imposing sentence, the court shall consider the Sentencing Guidelines in effect at the time of the guilty plea, plea of nolo contendere, or verdict of guilty.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:45 (January 1992), repromulgated LR 18:165 (February 1992), amended LR 20:

* * *

Chapter 2. Determining Sentences Under the Sentencing Guidelines

§205. Criminal History Index Classification System

C. Criminal History Index Factors

3. Method of Calculation

a. Prior felony convictions and adjudications: Score all prior felony convictions and applicable felony adjudications of delinquency by the number of points ascribed to the seriousness level of the offense of conviction as set forth in §402.A and C. If the prior felony of conviction is based on an unranked offense, i.e., not ranked in the crime seriousness ranking tables, the court may assign a seriousness score of one point to the conviction. If the court believes that a seriousness score of one point significantly under-represents the seriousness of the prior conviction, the judge may use the seriousness score of an analogous offense, provided the court states for the record why the unranked offense is analogous to the ranked offense which serves as the basis for the score.

b. Prior misdemeanor convictions and adjudications: Add one-fourth point, not to exceed a total of one point, for each qualifying misdemeanor. An offender's criminal history index score for misdemeanor convictions or adjudications shall not increase the offender's criminal history index more than one class. The following misdemeanor convictions or adjudications qualify:

i. a misdemeanor conviction for an offense in Louisiana Revised Statute Title 14 or the Uniform Controlled Dangerous Substances Law of R.S. Title 40 or any local ordinance which is substantially similar to an offense in Title 14 or the Uniform Controlled Dangerous Substances Law of Title 40;

ii. any misdemeanor conviction for a traffic offense in R.S. Title 32 or local traffic ordinance substantially similar to any Title 32 traffic offense if the current offense of conviction involves the operation of a motor vehicle;

iii. any misdemeanor adjudication if, at the time of the commission of the current offense, the offender was under age 17, and is being prosecuted as an adult.

c. Prior similar criminal behavior: Add one-half point for each prior felony conviction or adjudication if the prior offense of conviction or adjudication is in the same crime family as the current offense of conviction. See §402.D, Crime Family Table. The court also may add the additional one-half point if the court finds that the prior conviction or adjudication was analogous to the offenses in the crime family of the current offense, and states for the record the reasons for the finding.

d. Offenses committed during custody status: Add one point if the current felony offense was committed while the offender was in a custody status.

e. Multiple convictions on same day: Count only the most serious conviction or adjudication if more than one conviction or adjudication occurred on the same day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of

Criminal Justice, Louisiana Sentencing Commission, LR 18:46 (January 1992), repromulgated LR 18:166 (February 1992), amended LR 18:960 (September 1992), LR 19:892 (July 1993), LR 20:

§209. Departures from the Designated Sentence Range

C. *Mitigating circumstance* means a factor which is present to a significant degree which lessens the seriousness of the offense below the level of the typical case arising under the offense of conviction. Factors which constitute a legal defense shall not be considered mitigating circumstances. The following factors constitute mitigating circumstances:

17. The offender has spent a significant period of time of any custody status during which he has not engaged in any criminal activity resulting in a felony or misdemeanor conviction, as defined herein. If deemed appropriate, the court may consider the suggested crime-free time reduction factors in §402.E. Any prior conviction or adjudication of a level 0 offense shall not be reduced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:46 (January 1992), amended LR 18:960 (September 1992), LR 19:892 (July 1993), LR 20:

Chapter 3. General Sentencing Policy

§301. Plea Agreements Involving Stipulated Sentences

C. Stipulating Specific Facts and Circumstances

1. As part of a plea agreement under the Guidelines, the parties may stipulate the facts and circumstances of the case and the prior criminal history of the defendant.

2. If the parties enter such a stipulation at the time of the plea, the court shall either:

a. accept the stipulation, or

b. refuse to accept the plea of guilty with such a stipulation.

3. If such a stipulation is entered and accepted, the court shall consider such a stipulation to be the facts and circumstances of the case and the criminal history of the defendant for purposes of imposition of sentence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:49 (January 1992), amended LR 20:

Chapter 4. Louisiana Sentencing Guidelines Tables

§401. Criminal Seriousness Tables

A. Crime Seriousness Master Ranking List

Battery of a police officer (Type I: Serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections) (R.S. 14:34.2(B)): Level 3.

Battery of a police officer (Type II: No serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections) (R.S. 14:34.2(B)): Level 5.

Assault by drive-by shooting (R.S. 14:37.1): Level 3.

Looting (14:62.5): Level 3.

Carjacking (14:64.2): Level 1.

Contributing to the delinquency of juveniles (Become involved in commission of felony) (14:92(A)(11),(E)): Level 6.

Operating a vehicle while intoxicated (Child Endangerment Law) (14:98(J)): Level 5.

False personation of a peace officer (14:112.1): Level 6.

B. Felonies Ranked Numerically by Statute Number

Battery of a police officer (Type I: Serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections) (R.S. 14:34.2(B)): Level 3.

Battery of a police officer (Type II: No serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections) (R.S. 14:34.2(B)): Level 5.

Assault by drive-by shooting (R.S. 14:37.1): Level 3.

Looting (14:62.5): Level 3.

Carjacking (14:64.2): Level 1.

Contributing to the delinquency of juveniles (Become involved in commission of felony) (14:92(A)(11),(E)): Level 6.

Operating a vehicle while intoxicated (Child Endangerment Law) (14:98(J)): Level 5.

False personation of a peace officer (14:112.1): Level 6.

C. Ranked Felonies in Alphabetical Order

Battery of a police officer (Type I: Serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections) (R.S. 14:34.2(B)): Level 3.

Battery of a police officer (Type II: No serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections) (R.S. 14:34.2(B)): Level 5.

Assault by drive-by shooting (R.S. 14:37.1): Level 3.

Looting (14:62.5): Level 3.

Carjacking (14:64.2): Level 1.

Contributing to the delinquency of juveniles (Become involved in commission of felony) (14:92(A)(11),(E)): Level 6.

Operating a vehicle while intoxicated (Child Endangerment Law) (14:98(J)): Level 5.

False personation of a peace officer (14:112.1): Level 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:50 (January 1992), amended LR 18:961 (September 1992), LR 19:892 (July 1993), LR 20:

§402. Criminal History Tables

D. Crime Family Table

Battery of a police officer (Type I: Serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections) (R.S. 14:34.2(B)): Level 3.

Battery of a police officer (Type II: No serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections) (R.S. 14:34.2(B)): Level 5.

Assault by drive-by shooting (R.S. 14:37.1): Level 3.

Looting (14:62.5): Level 3.

Carjacking (14:64.2): Level 1.

Contributing to the delinquency of juveniles (Become involved in commission of felony) (14:92(A)(11),(E)): Level 6.

Operating a vehicle while intoxicated (Child Endangerment Law) (14:98(J)): Level 5.

False personation of a peace officer (14:112.1): Level 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:50 (January 1992), amended LR 18:961 (September 1992), LR 19:893 (July 1993), LR 20:

Interested persons may submit written comments on the proposed amendments to the Felony Sentencing Guidelines until 5 p.m., June 1, 1994, to Carle L. Jackson, Director, Louisiana Sentencing Commission, 1885 Wooddale Boulevard, Room 708, Baton Rouge, LA 70806.

Complete tables 401.A, B, C, and 402.D, including amendments, can be obtained from the Office of State Register, 1051 North Street, Baton Rouge, LA 70802 or from the Louisiana Sentencing Commission, 1885 Wooddale Boulevard, Room 708, Baton Rouge, LA 70806.

Michael A. Ranatza

Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Felony Sentencing Guidelines

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendments to the Felony Sentencing Guidelines will have no implementation costs (savings) to state or local governmental units, other than the cost of \$2,420 to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice for printing and mailing the amendments as updates to the current text of the Felony Sentencing Guidelines.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendments to the Felony Sentencing Guidelines will have no effect on revenue collections of state or local governmental units.

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

The proposed amendments to the Felony Sentencing Guidelines will have no effect on cost and/or economic benefits to directly affected persons beyond the penalties imposed by the court in accordance with the Sentencing Guidelines, or to non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments to the Felony Sentencing Guidelines will have no effect on competition and employment.

Michael A. Ranatza
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Clinical Laboratory Personnel; Licensure and Certification
(LAC 46:XLV.3501-3543)**

Notice is hereby given, in accordance with R.S. 49:953, that the Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1311-1329 and 37:1270(A)(5), and the provisions of the Administrative Procedure Act, and on the recommendation of the Clinical Laboratory Personnel Committee constituted under R.S. 37:1314, intends to adopt rules governing the licensure and certification of clinical laboratory personnel to practice clinical laboratory science in the state of Louisiana. LAC 46:XLV, Subpart 2, Chapter 35, §§3501-3543.

The full text of this proposed rule may be obtained from the Board of Medical Examiners at the address set forth below, or at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804. Telephone (504) 342-5015. Please refer to 9404#032 when inquiring about this proposed rule.

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to Delmar Rorison, Executive Director, Board of Medical Examiners, Suite 100, 830 Union Street, New Orleans, LA 70112-1499. Written comments must be submitted to and received by the board within 60 days of from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Delmar Rorison
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
RULE TITLE: Clinical Laboratory Personnel; Licensure and Certification

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Clinical Laboratory Personnel Committee will incur substantial costs in the development of rules, procedures and forms for licensing, materials and postage for multiple mailings to persons subject to licensure, receipt and processing (computer entry) of application and licensure information, issuance of licenses, data processing equipment or time-sharing costs, estimated at a minimum of \$29,000 during FY 93-94 and \$167,300 for FY 94-95. In subsequent years, it is anticipated that mailing and application/renewal processing costs will decline, but general operating expenses (office space, executive and clerical personnel and expenses of enforcement investigations and proceedings) will be incurred. Minimum costs of \$205,500 are projected for FY 95-96.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that licensing/certification and renewal fees mandated by the Clinical Laboratory Personnel Law, as implemented by the proposed rules, will generate revenues of \$225,000 in FY 94-95 and \$234,000 in FY 95-96.

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

All persons who currently engage in clinical laboratory science at clinical laboratories in Louisiana (excepting research laboratories, laboratories operated by the federal government and certain others) will be required to hold licensure or certification on and after January 1, 1995. Each applicant for licensure or certification will be required to pay a fee of \$50 or \$25, as applicable to the class of licensure or certification sought, and to complete application and, annually, renewal forms supplied by the Clinical Laboratory Personnel Committee. It is not anticipated that the proposed rules will have any significant impact on the income of such persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules implement a new licensing law which, on and after January 1, 1995, will prohibit persons who do not satisfy prescribed minimum standards for licensure from practicing clinical laboratory science. The law and proposed rules will impact competition and employment in public and private sector clinical laboratories by restricting employment to persons eligible for and holding licenses.

Delmar Rorison
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Illegal Payments; Required Disclosures of Financial Interests (LAC 46:XLV.Chapter 42)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Board of Medical Examiners, pursuant to the authority vested in the board by R.S. 37:1744, R.S. 37:17345 and 37:1270(B)(6), and the provisions of the Administrative Procedure Act, intends to adopt rules implementing, interpreting and providing for enforcement of the provisions of Act 657 of 1993, requiring written disclosure of a physician's financial interest in another health care provider prior to referring a patient to such health care provider and of Act 827 of 1993, prohibiting certain payments in return for the referral or solicitation of patients by physicians and other health care providers, LAC 46:XLV.4201 through 4217 as follows:

Title 46

Professional and Occupational Standards

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 42. Illegal Payments; Required Disclosures of Financial Interests

§4201. Scope and Purpose of Chapter

A. Scope of Chapter. The rules of this Chapter interpret, implement and provide for the enforcement of R.S. 37:1744 and R.S. 37:1745, requiring disclosure of a physician's financial interest in another health care provider to whom or to which the physician refers a patient and prohibiting certain payments in return for referring or soliciting patients.

B. Declaration of Purpose; Interpretation and Application. Physicians owe a fiduciary duty to patients to exercise their professional judgment in the best interests of their patients in providing, furnishing, prescribing, recommending, or referring patients for health care items and services, without regard to personal financial recompense. The purpose of these rules and the laws they implement is to prevent payments by or to a physician as a financial incentive for the referral of patients to a physician or other health care provider for diagnostic or therapeutic services or items. These rules shall be interpreted, construed and applied so as to give effect to such purposes and intent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744, R.S. 37:1745 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:

§4203. Definitions and Construction

A. Definitions. As used in this Chapter:

Board—the Louisiana State Board of Medical Examiners

Financial Interest—a significant ownership or investment interest established through debt, equity or other means and held, directly or indirectly, by a physician or a member of a physician's immediate family, or any form of direct or indirect remuneration for referral.

Group Practice—a group of two or more physicians legally organized as a general partnership, registered limited liability partnership, professional medical corporation, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar organization or association;

a. in which each physician who is a member of the group provides substantially the full range of services which the physician routinely provides, including medical or podiatric care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment and personnel;

b. for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed under a billing number assigned to the group and amounts so received are treated as receipts of the group;

c. in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined;

d. in which no physician who is a member of the group directly or indirectly receives compensation based on the volume or value of referrals by the physician, except payment of a share of the overall profits of the group, which may include a productivity bonus based on services personally performed or services incident to such personally performed services, so long as the share of profits or bonus is not determined in any manner which is directly related to the volume or value of referrals by such physician;

e. in which members of the group personally conduct no less than 75 percent of the physician-patient encounters of the group practice; and

f. in the case of a faculty practice plan associated with a hospital, institution of higher education, or medical school with an approved medical residency training program in which physician members may provide a variety of different specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, solely with respect to services provided within such faculty practice plan.

Health Care Item—any substance, product, device, equipment, supplies or other tangible good or article which is or may be used or useful in the provision of health care.

Health Care Provider—any person licensed by a department, board, commission or other agency of the State of Louisiana to provide, or which does in fact provide, preventive, diagnostic, or therapeutic health care services or items.

Immediate Family—as respects a physician, the physician's spouse, children, parents and siblings.

Investment Interest—a security issued by an entity, including, without limitation, shares in a corporation, interests in or units of a partnership, bonds, debentures, notes, or other debt instruments.

Payment—the tender, transfer, distribution, exchange or provision of money, goods, services, or anything of economic value.

Person—and includes a natural person or a partnership, corporation, organization, association, facility, institution, or

any governmental subdivision, department, board, commission or other entity.

Physician—and includes a doctor of medicine or a doctor of podiatric medicine.

Referral—any direction, recommendation or suggestion given by health care provider to a patient, directly or indirectly, which is likely to determine, control or influence the patient's choice of another health care provider for the provision of health care services or items.

Remuneration for Referral—any arrangement or scheme, involving any remuneration, directly or indirectly, in cash or in kind, between a physician, or an immediate family member of such physician, and another health care provider which is intended to induce referrals by the physician to the health care provider or by the health care provider to the physician.

B. Construction. Masculine terms wheresoever used in this Chapter shall be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744, R.S. 37:1745 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:

Subchapter A. Illegal Payments

§4205. Prohibition of Payments for Referrals

A. A physician shall not knowingly and willfully make or offer to make any payment, directly or indirectly, overtly or covertly, in cash or in kind, to induce another person to refer an individual to the physician for the furnishing or arranging for the furnishing of any health care item or service.

B. A physician shall not knowingly and willfully solicit, receive or accept any payment, directly or indirectly, overtly or covertly, in cash or in kind, in return for referring a patient to a health care provider for the furnishing or arranging for the furnishing of any health care item or service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1745 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:

§4207. Exceptions

A. Proportionate Return on Investment. Payments or distributions by an entity representing a direct return on investment based upon a percentage of ownership shall not be deemed a payment prohibited by R.S. 37:1745(B) or by §4205 of these rules, provided that:

1. the amount of payment to an investor in return for the investment interest is directly proportional to the amount or value of the capital investment (including the fair market value of any pre-operational services rendered) of that investor;

2. the terms on which an investment interest was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must be no different from the terms offered to other investors;

3. the terms on which an investment interest was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must not be related to the previous or expected volume of referrals, items or services furnished, or the amount of business otherwise generated from that investor to the entity;

4. there is no requirement that an investor make referrals to, be in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity as a condition for becoming or remaining an investor;

5. the entity or any investor does not market or furnish the entity's items or services to investors differently than to non-investors; and

6. the entity does not loan funds to or guarantee a loan for an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity if the investor uses any part of such loan to obtain the investment interest.

B. General Exceptions. Any payment, remuneration, practice or arrangement which is not prohibited by or unlawful under §1128B(b) of the Federal Social Security Act (Act), 42 U.S.C. §1320a-7b(b), as amended, with respect to health care items or services for which payment may be made under Title XVIII or Title XIX of the Act, including those payments and practices sanctioned by the Secretary of the United States Department of Health and Human Services, through the Office of Inspector General, pursuant to §1128B(b)(3)(E) of the Act, through regulations promulgated at 42 C.F.R. §1001.952, as the same may hereafter be amended, shall not be deemed a payment prohibited by R.S. 37:1745(B) or by §4205 of these rules with respect to health care items or services for which payment may be made by any patient or private or governmental payor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1745 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:

§4209. Effect of Violation

Any violation of or failure of compliance with the prohibitions and provision of §4205 of this Chapter shall be deemed a violation of the Medical Practice Act, R.S. 37:1285 or of the Podiatry Practice Act, R.S. 37:624, as applicable, providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1745 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:

Subchapter B. Disclosure of Financial Interests in Third-Party Health Care Providers

§4211. Required Disclosure of Financial Interest

A. Mandatory Disclosure. A physician shall not make any referral of a patient outside the physician's group practice for the provision of health care items or services by another health care provider in which the referring physician has a financial interest (as defined by §4203.A.3 and Subsection B of this Section), unless, in advance of any such referral, the referring physician discloses to the patient, in accordance with §4215 of this Chapter, the existence and nature of such financial interest.

B. Special Definition: Significant Financial Interest. As to a physician, an ownership or investment interest shall be considered "significant," within the meaning of §4211.A, if such interest satisfies any of the following tests:

1. Such interest, in dollar amount or value, represents five percent or more of the gross assets of the health care provider in which such interest is held.

2. Such interest represents five percent or more of the voting securities of the health care provider in which such interest is held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:

§4213. Prohibited Arrangements

Any arrangement or scheme, including cross-referral arrangements, which a physician knows or should know has a principal purpose of ensuring or inducing referrals by the physician to another health care provider, which, if made directly by the physician would be a violation of §4211, shall constitute a violation of §4211.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:

§4215. Form of Disclosure

A. Required Contents. The disclosure required by §4211 of this Chapter shall be made in writing, shall be furnished to the patient, or the patient's authorized representative, prior to or at the time of making the referral, and shall include:

1. the physician's name, address and telephone number;
2. the name and address of the health care provider to whom the patient is being referred by the physician;
3. the nature of the items or services which the patient is to receive from the health care provider to which the patient is being referred; and
4. the existence and nature of the physician's financial interest in the health care provider to which the patient is being referred.

B. Permissible Contents. The form of disclosure required by §4211 of this Chapter may include a signed acknowledgement by the patient or the patient's authorized representative that the required disclosure has been given.

C. Approved Form. Notice to a patient given substantially in the form of Disclosure of Financial Interest prescribed in the Appendix to these rules shall be presumptively deemed to satisfy the disclosure requirements of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:

§4217. Effect of Violation; Sanctions

A. Effect of Violation. Any violation of or failure of compliance with the prohibitions and provision of §4211 of this Chapter shall be deemed a violation of the Medical Practice Act, R.S. 37:1285 or of the Podiatry Practice Act, R.S. 37:624, as applicable, providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a physician culpable of such violation.

B. Administrative Sanctions. In addition to the sanctions provided for by §4217, upon proof of violation of §4211 by a physician, the board may order that all or any portion of any amounts paid by a patient, and/or by any third-party payor on

behalf of a patient, for health care items or services furnished upon a referral by the physician in violation of §4211, be refunded by the physician to such patient and/or third-party payor, together with legal interest on such payments at the rate prescribed by law calculated from the date on which any such payment was made by the patient and/or third party-payors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:

Appendix

[Name of Physician/Group]
[Address]
[Telephone Number]

DISCLOSURE OF FINANCIAL INTEREST

As Required by La. Rev. Stat. §37:1744 and
46 La. Admin. C. §46:XLV.4211-.4215

TO: _____ Date: _____
(Name of Patient to Be Referred)

(Patient Address)

Louisiana law requires physicians and other health care providers to make certain disclosures to a patient when they refer a patient to another health care provider or facility in which the physician has a significant financial interest. [I am/we are] referring you, or the named patient for whom you are legal representative, to:

(Name and Address of Provider to Whom Patient is Referred)

to obtain the following health care services, products or items:

(Purpose of the Referral)

[I/we] have a financial interest in the health care provider to whom we are referring you, the nature and extent of which are as follows:

PATIENT ACKNOWLEDGEMENT

I, the above-named patient, or legal representative of such patient, hereby acknowledge receipt, on the date indicated and prior to the described referral, of a copy of the foregoing Disclosure of Financial Interest.

(Signature of Patient or Patient's Representative)

Inquiries concerning the proposed rules may be directed in writing to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the Louisiana State Board of Medical Examiners, Suite 100, 830 Union Street, New Orleans, LA 70112-1499. Written comments must be submitted to and received by the board within 60 days of from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument

or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Delmar Rorison
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Illegal Payments; Required Disclosures of
Financial Interests**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that the proposed rule amendments will result in any additional costs to the Board of Medical Examiners.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that the proposed rule amendments will have any effect on the board's revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

Physicians who pay or receive any form of remuneration in return for the referral of patients to or from another health care provider would be affected by the law's prohibition (implemented by the proposed rules) against such referrals (with certain exceptions). Physicians who make referrals, not otherwise prohibited by the rules, to other health care providers in which they have a significant financial interest, would be required by the law and proposed implementing rules to furnish referred patients with written notice of such financial interest prior to making the referral. In the latter case, the written disclosure requirement may result in additional paperwork for referring physicians. As there is no known available data on the number of physicians and podiatrists who may be affected by the payment prohibition or disclosure requirement, and because the proposed rules allow a variety of forms of written disclosure, it is not possible to estimate the effect on costs physicians may have to incur as a result of the proposed rules. While it is anticipated that the proposed rules and the laws they implement may impact the receipts or income of physicians, podiatrists and other health care providers who currently receive income or other remuneration in return for referral of patients, there is no known available data indicating either the number of physicians, podiatrists and other health care providers who might be so affected or the amount of income or other remuneration which would be affected. An estimate of the impact on receipts and/or income of persons or groups who may be affected by the proposed rules is, accordingly, not possible.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

It is not anticipated that the proposed rules will have any significant impact on competition or employment in either the public or private sector.

Delmar Rorison
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Advance Directives

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing to adopt the following rule in the Medicaid Program under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Section 4751 of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) requires that providers of hospital, nursing facility, providers of home health care or personal care services, hospices programs, health maintenance organizations and health insuring organizations under the Medicaid State Plan must provide written material on patient/clients's rights in making decisions about their medical care as well written information on its policies, procedures implementing such individual rights. Louisiana R.S. 40:1299.58.1 et seq. recognizes that all persons have the right to control the decisions that relate to their own medical care and that this control includes decisions on "life sustaining procedures" being maintained, withheld or withdrawn in the event the person is diagnosed as having a terminal and irreversible condition.

Rule

The Department of Health and Hospital, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following provisions to comply with federal and state law governing individuals' rights to control the decisions that relate to their own medical care.

Section 1. Definitions

Advance Directive—a written statement of instruction in a form recognized under state law relating to the provision of medical care in the event of incapacity, including the living will and the durable power of attorney for health care.

Durable Power of Attorney for Health Care—a document made in accordance with La. Civil Code, Act 2985 et seq, designating a person to act on the executing persons's behalf in making medical treatment decisions.

Health Care Provider—means any health maintenance organization, home health agency, hospice, hospital, or nursing facility.

Information Concerning Advance Directive—pamphlets on advance directive in Louisiana and preprinted advance directive forms.

Living Will—a written declaration made in accordance with R.S. 40:1299.58.3, in which a persons provides instruction regarding the kinds of life-saving or life-sustaining care and treatment that the person does or does not wish to receive in the event of incapacitation or terminal illness, including the suspension of nutrition and hydration.

Section 2. Information Dissemination by the Department

The department shall supply all health care providers with information concerning advance directives.

Section 3. Information Dissemination by All Health Care Providers

A. A health care provider shall distribute information concerning advance directives to each person at the time of admission into a facility or upon initiation of services, as follows:

1. A hospital and a nursing facility shall provide the written information at the time the patient/resident is admitted.

2. A hospice program shall provide the written information at the time care commences.

3. A home health agency shall provide the written information before the commencement of home care services.

4. A health maintenance organization or health insuring organization shall provide the written information at the time of enrollment.

B. A health care provider shall have a written policy concerning advance directives which shall be available for inspection.

C. If a health care provider declines to comply with an advance directive or parts thereof, this information shall be included in the written information disseminated by the health care provider under Subsections A and B. In addition, the health care provider must assist a person whose advance directive would not be honored by that provider to locate another provider who will honor the advance directive. Such assistance may consist of transferring the person to another facility or referring the person to a new provider within the facility who will honor the advance directive.

Section 4. Health Care Provider Responsibilities

Each health care provider shall establish and maintain written policies and procedures regarding advance directives. A health care provider shall maintain these policies and procedures for review by the Department during a survey. These policies and procedures must include:

A. a written provision relating to individual rights, under federal and state law/regulation to make decisions concerning medical treatment;

B. the right of a patient to formulate advance directives as defined by the federal and state laws/regulations;

C. a provisions providing adequate written notice of individual adult patients (at the time of admission, commencement, or enrollment) concerning patient rights;

D. a copy of existing advance directives in the patient's medical records;

E. documentation of information dissemination as required in Section 3.

F. documentation of an individual's decision not to execute an advance directive after receiving information about directives;

G. a plan for participation in community and staff educational campaigns regarding advance directive by newsletters, articles in local newspapers, local news reports, or commercials; and

H. an assurance of compliance with state law with regard to:

1. informing relevant personnel and networks of health care providers and services;

2. providing information about advance directives;

3. ascertaining existence of advance directives;

4. making reasonable efforts to obtain copies by written request; and

5. transferring copies of advance directives brought in by individuals seeking provider services.

Section 5. Advance Directive in the Event of Incapacity

If a persons is mentally incapacitated at the time of admission to or initiation of service by a health care provider, the health care provider shall disseminate information regarding advance directives to the family or legal representative of the person. When the persons's incapacity has been alleviated, the health care provider shall provide the information to the person.

Section 6. Previously Executed Advance Directives

Except as provided by R.S. 40:1299.58.7(B) and (D), when the health care provider is presented with a copy of a patient's advance directive, the health care provider shall comply with the advance directive.

Section 7. Penalties

A. The department may access provider records to verify documentation of date and time of execution of advance directives. Any inquiry shall be directed to the appropriate staff member. Determination of a violation shall result in a notice of non-compliance.

B. Failure to correct a violation listed in a notice of non-compliance may result in sanctions against the provider imposed by the department and may include exclusion from the Medicare and Medicaid programs.

C. Registration of any complaint shall be processed according to the department's complaint procedure.

Section 8. Organ Procurement Information

A. The health care provider shall disseminate informative literature on organ donation simultaneously with the description of state law regarding advance directives.

B. Only a health care professional trained in the requesting process may discuss organ donation with a patient. Any discussion of organ donation with a patient by an untrained health care professional is strictly prohibited.

Interested persons may submit written comments to: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing will be held on this matter at 9:30 a.m., Tuesday, May 24, 1994, in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing. The deadline date for receipt of all comments is 4:30 p.m. on the day following the public hearing.

Copies of this and all other Medicaid rules and regulations are available in the Medicaid parish offices for review by interested parties.

Rose V. Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Advance Directives

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that implementation of this proposed rule will increase state expenditures by \$250 for SFY 1995 but no expenditures will be required for SFY 1996 and for SFY 1997.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that implementation of this proposed rule will generate state revenue collections in the amount of \$250 for SFY 95 but no collections are anticipated for SFY 96 and for SFY 97.

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

There are no estimated costs or economic benefits to Medicaid recipients or to affected health care providers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Thomas D. Collins
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

2990 Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Case Management Services for the Chronically Mentally Ill

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing to adopt the following rule in the Medicaid program as authorized by R.S. 46:153 under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Bureau of Health Services Financing adopted the rule governing the provision of targeted case management services for the chronically mentally ill population on June 20, 1989. These regulations were published in the *Louisiana Register* on June 20, 1989, Volume 15, No. 6. with a subsequent revision adopted on May 20, 1993 and published in that issue of the *Louisiana Register*, Volume 19, No. 5. The bureau is proposing changes to these regulations in order to enhance the quality of these essential services to this population and to enhance efficiency and economy. The major focus of these changes is to strengthen the bureau's oversight of the providers' enrollment and participation requirements. These revisions specify that licensure must be for optional targeted case management services; providers must satisfactorily complete the certification process required by the Medicaid agency; and all these services are to be provided by an individual with a bachelor's degree in an area required by the bureau or a registered nurse. Other changes represent revisions in format only.

Rule

The Bureau of Health Services Financing requires providers of targeted case management services to the chronically mentally ill to meet the following additional provisions for enrollment and participation for delivery of these services.

2. Enrollment Requirements. The applicant for case management services must participate in a site visit which will consist of a review and approval of the following:

a. a current license for the provision of targeted case management services in the state of Louisiana;

b. the administrative capacity to provide targeted case management services as evidenced by a review of the following:

i. the current provider budget for targeted case management;

ii. a current audit report, if the agency has been in existence;

iii. provider policies and procedures;

iv. provider organizational chart;

v. the provider has a written program philosophy and specifies the target population to be served;

c. established linkages with the resources available in the community as evidenced by memorandums of agreement with other agencies and/or a current resource file which lists formal and informal resources available in the community;

d. a relationship with a local inpatient hospital and a 24-hour crisis response system must also be identified and documents provided to verify the relationship;

e. qualified staff who meet the requirements outlined in the Medicaid Case Management Services Manual or current targeted case management Medicaid regulation. Documentation of adherence to any legally mandated regulations related to specific populations such as children;

f. an orientation program for all new staff and demonstrates the capacity for ongoing staff training;

g. a written plan to determine the effectiveness of the program including continuous quality improvement (QA) plan approved by the Medicaid program or its designee;

h. a written policy for intake/screening, including referral criteria;

i. a written policy for closure a plan for maintenance of needed services after case closure;

j. participate in the Case Management Information System (CAMIS) and provide up-to-date data to the Medicaid program or its designee on a monthly basis via electronic mail. The CAMIS software and electronic mail software will be provided free of charge.

Current providers of targeted case management for CMI shall re-enroll with the Medicaid program and meet the requirements outlined in sections 2.a through 2.j above. To re-enroll the provider must contact the regional Office of Mental Health between July 1 and July 31, 1994 to schedule a site visit.

3. Standards of Participation. In order to be reimbursed by the Medicaid Program, the provider of case management services must:

A. ensure that each recipient has freedom of choice with regard to providers of any service, including case management services.

B. employment of case managers commencing effective with this rule shall meet the following requirements:

(1) be an individual with at least a bachelor's degree and one year of subsequent experience in a human services field; or

(2) be a licensed registered nurse with two subsequent years of experience in public health nursing or a human services field; and

(3) be supervised by a Qualified Mental Health Professional (QMHP) as defined by the Office of Mental Health.

C. obtain prior authorization:

(1) candidates for case management services must be Medicaid eligible and authorized as a member of the targeted population by the Medicaid agency or its designee;

(2) the case management service plan must be approved by the Medicaid agency or its designee;

D. participate in provider training and technical assistance as required by the Medicaid agency or its designee;

E. ensure that services are provided according to an individualized service plan developed by an interdisciplinary team of professionals;

F. ensure that only one individual who is an employee of the case management agency is assigned as the primary case manager for each recipient;

G. ensure that the one case manager for each recipient under this provision visits the recipient on site at his place of residence at least once per month for the first 90 days of service and at least every 90 days thereafter;

H. ensure that the individual assigned as the case manager has at least weekly contact with the recipient or his/her legal representative and that these contacts are documented in progress notes and address the efficacy of the case plan;

I. ensure that the case manager assigned to serve the recipient as well as any other employee of the case management provider providing services keep sufficient records to document services being provided;

J. ensure that appropriate professional consultation is available to each case manager at all times;

K. ensure that appropriate referrals for services are made and documented for each recipient served under this provision;

L. ensure that the maximum caseload established by the Bureau of Health Services Financing for a case manager is not exceeded;

M. abide by the provisions of the Provider Agreement entered into with the Bureau of Health Services Financing.

4. A. - C. ...

D. Standard provisions concerning such procedures as on-site monitoring, participation in quality assurance and utilization reviews, audits, submittal of cost reports, etc., contained in the Case Management Provider Manual or current Medicaid regulations shall be adhered to by providers of Case Management services.

HISTORICAL NOTE: promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services

Financing, LR 15:478 (June 1989), amended LR 20:

These proposed regulations are scheduled to become effective on July 20, 1994.

Interested persons may submit written comments to: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing will be held on this matter at 9:30 a.m., Tuesday, May 24, 1994, in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing. The deadline date for receipt of all comments is 4:30 p.m. on the day following the public hearing.

Copies of this and all other Medicaid rules and regulations are available in the Medicaid parish offices for review by interested parties.

Rose V. Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Case Management Services for Chronically Mentally Ill Persons

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Bureau of Health Services Financing will contract with the Office of Mental Health to perform oversight functions related to private contracts for case management services for the chronically mentally ill. Fifty-five current OMH staff will be used for enrollment and monitoring, prior authorization, program coordination and disability determinations. According to current estimates, OMH will require no additional positions to perform these functions. These estimates are based on 73 providers and 5,000 clients to be served statewide in FY 94-95. DHH will require no additional state general fund support for this program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated increase in federal Medicaid revenues resulting from this proposed rule is \$1,095,970 in FY 94-95 and \$1,139,809 in FY 95-96.

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

There is no cost associated with this proposal to directly affected persons or non-governmental groups. The provision of improved mental health case management services to the chronically mentally ill population will benefit these persons and enhance their overall welfare.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Thomas D. Collins
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections Office of Motor Vehicles

Driver's License Retesting Fee (LAC 55:III.127)

In accordance with R.S. 49:950 et seq., and under authority conferred by Title 32 of the Revised Statutes, in general, and R. S. 32:412, in particular, the Department of Public Safety and Corrections, Office of Motor Vehicles gives notice that rulemaking procedures have been initiated to adopt retesting fees, LAC 55:III.127.

This regulation is being adopted to allow for the Office of Motor Vehicles to recover the costs incurred when administering driver's license tests a second or subsequent time.

The text of this proposed rule, which became effective February 24, 1994, through declaration of emergency, was published on page 277 of the March 20, 1994 *Louisiana Register*.

Title 55 PUBLIC SAFETY Part III. Motor Vehicles

Chapter 1. Driver's License

§127. Retesting Fees

Each person who takes a second or subsequent test, whether written or driving, administered by the Office of Motor Vehicles in connection with an application for the issuance or renewal of a driver's license, shall pay a nonrefundable fee of \$10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412 H.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 20:

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than May 30, 1994 at 4:30 p.m. to John Politz, Assistant Secretary, Department of Public Safety and Corrections, Office of Motor Vehicles, Box 64886, Baton Rouge, LA 70896 or to 109 South Foster Drive, Baton Rouge, LA 70806.

Paul W. Fontenot
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Driver's License Retesting Fee

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation costs to the state are \$28,250 for the first year and \$22,000 thereafter. These costs will be incurred in programming expenses, purchase of additional driver's guides and printing of receipts to be issued. The source of these funds will be the Office of Motor Vehicles Testing Fund which was created by R.S. 32:412.

ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated revenues resulting from the implementation of this rule depend on the number of driver's license applicants who fail the test. In 1992, there were 115,643 new driver's license applications. Assuming 10 percent of these persons fail the test, the revenue would be \$115,643. (No statistics are kept for second and subsequent testers, therefore the percentage may vary). These funds will go into the Office of Motor Vehicles Testing Fund.

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

The only persons who would be directly affected by this rule are those persons applying for issuance or renewal of a driver's license who fail either the written or driving test. Those persons would pay an additional \$10 for second and subsequent tests.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Rex McDonald
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Social Services Office of Family Support

Job Opportunities and Basic Skills Training Program (LAC 67:III.2916)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.Subpart 5, Job Opportunities and Basic Skills Training Program.

In accordance with 45 CFR 250.21(d)(8), the JOBS Program proposes to restrict the educational component with regard to the availability of postsecondary education. This action is necessary to maximize the effectiveness of the program and to establish goals for participants which are both realistic and achievable as stated in §2903.A.2 of the *Louisiana Administrative Code* for this program.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 5. Job Opportunities and Basic Skills Training Program

Chapter 29. Organization

Subchapter C. Activities and Services

§2916. Program Components

* * *

1. Education

a. A postsecondary education of an associate (two year) or baccalaureate (four year) degree from a college or university is an appropriate goal for employment only under the following conditions:

i. The participant will be ready to enter the college program within one semester, or an equivalent amount of time, from the initial development of the employment goal.

ii. There is no identifiable deterrent which would prevent or delay the participant's completion of the course of study, and the participant is expected to complete the course

of study within the two or four year timeframe of the curriculum selected.

* * *

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq. and 45 CFR 250.

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 19:504 (April 1993), LR 20:

Interested persons may submit written comments through May 20, 1994 to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on May 26, 1994 in the second floor auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Job Opportunities and Basic Skills
Training Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no costs associated with this rule other than the state cost of approximately \$175 for publishing and printing the material necessary to effect the rule. The proposal is a cost-saving measure: restricting participation in the program will save the costs of an inappropriate educational activity and the related support services. Since the total costs for each participant vary, anticipated savings cannot be projected, but all savings will be diverted to other participant activities and services.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will have no effect on revenue collections for either.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

The rule produces no cost or economic benefit to any persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There is no estimated impact on competition or employment.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Office of the Secretary**

Sanctions; Fee Scales (LAC 67:I.101;107)

The Department of Social Services, Office of the Secretary proposes to amend the following rule in the Child Care Assistance Program effective August 1, 1994.

This rule adopts sanctions for the receipt of ineligible benefits in the Child Care Assistance Program, and updates the Sliding Fee Scale to incorporate changes in the state median income.

Title 67

SOCIAL SERVICES

Part I. Office of the Secretary

Chapter 1. Child Care Assistance Program

§101. Eligibility Requirements

A. Child Care and Development Block Grant

1. - 7. ...

8. Sanction procedures will be used in those cases in which ineligible benefits equal to at least \$200 are uncollectible from the client.

a. If the case is currently in payment status, it will be closed until ineligible payments are recovered. The number of months of the sanction period will be determined by dividing eligible monthly benefits at the time of closure into the total amount of ineligible benefits.

b. If the case is not in payment status, and the client subsequently reappplies, the application will be rejected until ineligible payments are recovered. The number of months of the sanction period will be determined by dividing current monthly eligible benefits into the total amount of ineligible benefits.

c. If the client contacts the regional office of the Child Care Assistance Program about a sanction due to receipt of ineligible benefits and expresses an interest in repayment, the regional office will again attempt to recover the ineligible amount. When the client begins to make payments, the client can reapply and, if eligible, be placed on the waiting list.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1133 (October 1992), LR 18:1415 (December 1992), LR 19:698 (November 1993), LR 20: (April 1994), LR 20:

§107. Payment

A. Each family shall contribute toward the payment of child care based on the size of the family and ability to pay. The sliding fee scale is as follows:

Sliding Fee Scale for Child Care Recipients

Number in Family Unit											
Monthly Family Income	2	3	4	5	6	7	8	9	10	11	Recipient's Share of Child Care Fee
	0-785	0-990	0-1195	0-1400	0-1605	0-1810	0-2015	0-2220	0-2425	0-2630	5%
	786-913	991-1135	1196-1368	1401-1602	1606-1835	1811-2068	2016-2302	2221-2535	2426-2768	2631-3002	10%
	914-1041	1136-1279	1369-1541	1603-1803	1836-2064	2069-2326	2303-2588	2536-2849	2769-3111	3003-3373	30%
	1042-1169	1280-1424	1542-1714	1804-2004	2065-2294	2327-2584	2589-2874	2850-3164	3112-3454	3374-3744	50%
	1170-1297	1425-1568	1715-1887	2005-2205	2295-2524	2585-2842	2875-3160	3165-3479	3455-3797	3745-4115	70%
	1298 and Above	1569 and Above	1888 and Above	2206 and Above	2525 and Above	2843 and Above	3161 and Above	3480 and Above	3798 and Above	4116 and Above	100%

* * *

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:1269 (November 1992), amended LR 19:695 (November 1993), LR 20: (April 1994), LR 20:

Interested persons may submit written comments by May 23, 1994 to the following address: Linda Beauvais, Assistant Director, Child Care Assistance Program, Department of Social Services, Box 3776, Baton Rouge, LA 70821. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on May 23, 1994 in the Second Floor Auditorium, 755 Third St., Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sanctions; Fee Scales**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed agency rule adopts sanctions for the receipt of ineligible benefits, and updates the sliding fee scale with current information on the state median income. There are no costs or savings associated with implementation of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have no effect on revenue collections. In 1991, the state of Louisiana applied for and was allocated funds under the federal Child Care and Development Block Grant. The third annual grant, received on September 30, 1993, totals \$24,156,054. The Child Care and Development Block Grant is 100 percent federal funds; revenues available to Louisiana in each of the first three grant years are as follows:

Fiscal Year	Amount of Federal Funds
'91	\$21,668,917
'92	\$23,623,963
'93	\$24,156,054

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

The full amount of each year's Child Care and Development Block Grant will be used for activities to increase the affordability, availability and quality of child care in Louisiana. As of December 31, 1993, there were 6,576 children in child care subsidized by these funds. In addition, there were 523 Class A child care centers, 302 Family Day Care Homes, and 135 in-home providers receiving payments for providing child care, and eligible to participate in quality-improvement activities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule will have no impact on competition or employment.

Robert Casse, Jr., Ph.D.
Deputy Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Ambulance Services

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, notice is hereby given that the Board of Trustees intends to amend the Plan Document for the State Employees Group Benefits Program, as approved and adopted by the Board of Trustees on December 9, 1993, in the following particulars:

1. Article 3, Section I, Subsection F, Part 18 is amended by deleting subpart c in its entirety.

2. Article 3, Section VIII is amended by deleting Subsection HH in its entirety and redesignating Subsections II through MM as HH through LL, respectively.

The purpose, intent, and effect of these amendments is to remove the exclusion of payment for ambulance services for any person who is a member of a prepaid ambulance service.

Interested persons may present their views, in writing, to James R. Plaisance, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804 until 4:30 p.m. on May 27, 1994.

James R. Plaisance
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Ambulance Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule is being passed to remove the exclusion of payment for ambulance services for any person who is a member of a prepaid ambulance service.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state or local governmental units will not be affected.

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

The cost impact of these changes is not definitely determinable, but will be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

James R. Plaisance
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Plan Document

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, notice is hereby given that the Board of Trustees intends to readopt the entire plan document for the State Employees Group Benefits Program.

The plan document sets forth all terms and conditions pursuant to which eligibility and benefit determinations are made with regard to the self insured health and accident benefit plan provided for state employees and their dependents pursuant to R.S. 42:851 et seq.

The proposed plan document is available and may be viewed in its entirety from the Board of Trustees, State Employees Group Benefits Program, 5825 Florida Boulevard, Baton Rouge, LA and at the Office of the State Register, 1051 North Third Street, Suite 512, Capitol Annex, Baton Rouge, LA, phone (504)342-5015.

Interested persons may present their views, in writing, to James R. Plaisance, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804 until 4:30 p.m. on May 19, 1994.

James R. Plaisance
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Readoption of Plan Document

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have no fiscal impact on state or local governments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have no fiscal impact on state or local governments.

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

This rule will readopt the plan document. It will not affect the plan members of the program or any others.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

James R. Plaisance
Executive Director

David W. Hood
Senior Fiscal Analyst

ADMINISTRATIVE CODE UPDATE

**CUMULATIVE ADMINISTRATIVE CODE UPDATE
January, 1994 through March, 1994**

LAC Title	Part.Section	Effect	Location LR 20	Month Page
4	VII.125	Amended	Jan 29	
	VII.905,911	Amended	Jan 48	
	VII.915	Adopted	Mar 294	
	VII.1243	Repromulgated	Jan 48	

7	XXVII.14727 XXIX.15111 XXXV.17502	Repromulgated Amended Repromulgated	Feb 154 Feb 153 Jan 28
10	XV.301-321 XV.303 XIX.321	Amended Repromulgated Amended	Feb 154 Mar 280 Feb 199
13	I.723,725,727	Repealed	Feb 160
22	I.Chapter 3	Adopted	Jan 58
28	I.903 I.903 I.903 I.917	Amended Amended Amended Repromulgated	Feb 162 Mar 282 Mar 285 Jan 28
33	I.3905-3931 III.2117 III.2201-2205 III.2203 III.Chapter 31 V.10303,10305 XI.301 XV.Chapter 3	Amend/Repromul Amended Adopted Repromulgated Amended Amended Amended	Feb 181 Mar 289 Feb 162 Mar 288 Mar 289 Jan 58 Mar 294 Feb 178
34	III.201 III.701	Amended Amended	Feb 185 Jan 47
35	I.1709	Adopted	Feb 160
46	XXXVII.1107	Amended	Feb 191
48	I.2301 I.2315-2323	Amended Adopted	Mar 307 Feb 193
61	I.4307 I.5301 V.Chapters 1-35	Amended Adopted Amended	Mar 316 Feb 197 Feb 198
7	III.2902 V.1103 VII.101	Amended Amended Amended	Feb 199 Feb 198 Mar 317
9	III.Chapter 13 III.1501,1503	Adopted Adopted	Mar 317 Mar 318
9	I.901	Adopted	Mar 318
76	V.701 VII.201 VII.203	Amended Amended Amended	Mar 321 Mar 323 Mar 323

POTPOURRI

POTPOURRI

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Annual Plant Pest Quarantines

In accordance with LAC 7:XV.9507 and 9509, we are hereby publishing the annual quarantine.

1.0 Sweetpotato Weevil (*Cylas formicarius elegantulus* Sum)

(a) In the United States: the states of Alabama, Florida, Georgia, Mississippi, South Carolina, and Texas; in Arkansas, Ouachita County; in California, Merced and Stanislaus counties.

(b) In the state of Louisiana:

1) The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Rapides, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Feliciana.

2) That portion of Natchitoches Parish lying south and west of the Red River.

3) The following areas are non-sweet potato areas:

(a) Those portions of Claiborne parish as follows:

The property of V.O. Seal in the Northwest corner of Section 10, Township 21 North, Range 6 West; and all properties within a one-mile radius thereof.

(b) Those portions of Grant parish as follows:

The property of Rance Robertson in the Southeast corner of Section 30, Township 5 North, Range 1 East; the property of Rance Robertson in the Southwest corner of Section 31, Township 5 North, Range 1 East; the property of Rance Robertson in the Southeast corner of Section 31, Township 5 North, Range 1 East; the property of Milton Stewart in the Southwest corner of Section 30, Township 5 North, Range 1 East; the property of Walter Dobernig in the Southeast corner of Section 35, Township 5 North, Range 1 West; and all properties within a one-mile radius thereof.

2.0 Pink Bollworm (*Pectinophora gossypiella* Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

ARIZONA

(1) Generally infested area: The entire state.

ARKANSAS

(1) Generally infested area: None

(2) Suppressive area: The entire counties of: Clay, Craighead, Crittenden, Cross, Greene, Mississippi, Monroe, Poinsett, and St. Francis.

CALIFORNIA

(1) Generally infested area: The entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San

Bernardino, and San Diego.

(2) Suppressive area: The entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, and Tulare.

MISSOURI

(1) Generally infested area: the entire state.

MISSISSIPPI

(1) Generally infested area: None

(2) Suppressive area: That portion of Washington County as follows:

That portion of the county lying within Township 18 North, Range 7 West, Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, and 24; and Township 18 North, Range 6 West, Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, and 18.

NEW MEXICO

(1) Generally infested area: The entire state.

OKLAHOMA

(1) Generally infested area: The entire state.

TEXAS

(1) Generally infested area: The entire state.

3.0 Phytophagous Snails

The entire states of California and Arizona.

4.0 Leaf Scald (*Xanthomonas albilineans*)

All areas of the country where sugarcane is grown.

5.0 Lethal Yellowing

The states of Florida and Texas.

6.0 Sweet Potato Mosaic

The states of Alabama and Georgia and any other state which may hereafter be found to be infected with sweet potato mosaic; and all other states which do not maintain restrictions against the movement of regulated products from the quarantined area.

7.0 Tristeza, Xyloporosis, Psorosis, Exocortis.

All citrus-growing areas of the United States.

8.0 Burrowing Nematode (*Radopholus similis*)

The states of Florida and Hawaii and the Commonwealth of Puerto Rico.

9.0 Oak Wilt (*Ceratocystis fagacearum*)

ARKANSAS

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Icard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

ILLINOIS

Entire state.

INDIANA

Entire state.

IOWA

Entire state.

KANSAS

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

KENTUCKY

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart,

Henderson, Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

MARYLAND

Infected Counties: Allegany, Frederick, Garrett, and Washington.

MICHIGAN

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

MINNESOTA

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

MISSOURI

Entire state.

NEBRASKA

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.

NORTH CAROLINA

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

OHIO

Entire state.

OKLAHOMA

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

PENNSYLVANIA

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

SOUTH CAROLINA

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

TENNESSEE

Infected Counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

TEXAS

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

VIRGINIA

Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

WEST VIRGINIA

Infected counties: all counties *except* Tucker and Webster.

WISCONSIN

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

10.0 Phony Peach

ALABAMA

Entire state.

ARKANSAS

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

FLORIDA

Entire state.

GEORGIA

Entire state.

KENTUCKY

County of McCracken.

LOUISIANA

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

MISSISSIPPI

Entire state.

MISSOURI

County of Dunklin.

NORTH CAROLINA

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

SOUTH CAROLINA

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

TENNESSEE

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

TEXAS

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

11.0 Citrus Canker [*Xanthomonas campestris* pv *citri* (Hasse) Dawson]

Any areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 et seq.

12.0 Pine Shoot Beetle [*Tomicus piniperda* (L.)]

ILLINOIS

Counties of Cook, Du Page, Iroquois, Kane, Kankakee, Livingston and Will.

INDIANA

Counties of Allen, Benton, De Kalb, Delaware, Elkhart, Fulton, Grant, Huntington, Jasper, Kosciusko, Lagrange, Lake, La Porte, Marshall, Miama, Newton, Noble, Porter,

Pulaski, St. Joseph, Starke, Steuben, Tippecanoe, Wells, White, and Whitley.

MICHIGAN

Counties of Allegan, Barry, Berrien, Branch, Calhoun, Cass, Clinton, Eaton, Genesee, Gratiot, Hillsdale, Ingham, Ionia, Isabella, Jackson, Kalamazoo, Lenawee, Livingston, Macomb, Midland, Monroe, Montcalm, Oakland, Saginaw, St. Joseph, Shiawassee, Tuscola, Van Buren, Washtenaw, and Wayne.

NEW YORK

Counties of Chautauqua, Cattaraugus, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, and Wyoming.

OHIO

Counties of Ashland, Ashtabula, Cuyahoga, Erie, Geauga, Huron, Knox, Lake, Lorain, Mahoning, Medina, Portage, Richland, Summit, Trumbull, and Wayne.

PENNSYLVANIA

Counties of Crawford, Erie, and Lawrence.

Any other areas designated as quarantined under the Federal Pine Shoot Beetle quarantine 7 CFR 301.50 et seq.

Bob Odom
Commissioner

POTPOURRI

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

Notice of Substantive Changes to AQ85

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that the agency is seeking to incorporate substantive changes to the proposed amendments to the Air Quality Regulations, LAC 33:III.Chapter 6, (AQ85), which were originally proposed on December 20, 1993.

These substantive changes will address some of the following:

The original language in Section 621.B.1 was changed to read that ERCs which have already been used or for which a permit application has been submitted (either for netting or offsetting purposes) shall not be reduced in quantity or confiscated under any circumstances. A sentence was added to read that a 30-day comment period will be allowed for the affected facility(ies) to respond to the department's confiscation or to submit an alternative emissions reduction proposal. B.4 was added to read "Refunding of Unused ERCs...If all of the ERCs withheld for the reasonable further progress demonstration are not utilized, then the department shall refund the unused ERCs to the generating sites on a pro rata basis. Refunds will be in a direct proportion to a site's individual contribution to the amount of ERCs withheld for reasonable further progress. The period of time that an ERC was held by the department will not count toward the

contemporaneous period for netting nor the 10-year life for offsetting purposes."

Section 615.A was changed to read "after adoption of the final rule, shall be submitted on March 1, following the year in which the reductions occur. Thereafter, the bank balance (and the applicants certification) should be submitted annually on March 1."

Section 615.B was changed to read "prior to adoption of the final rule, shall be submitted within six months after adoption of the final rule. Thereafter, the bank balance (and the applicants certification) should be submitted annually on March 1."

Section 617.I was changed to handle requests for recalculation of ERC's.

Section 623.A was changed to allow a provision for partial withdrawal of ERCs.

Section 182(b)(1) of the CAAA requires all ozone nonattainment areas classified as moderate and above to submit a Reasonable Further Progress Plan by November 15, 1993, which describes how the area will achieve an actual VOC emission reduction of at least 15 percent during the first six years after enactment of the CAAA. The 1996 target level of emissions is the maximum amount of ozone season VOC emissions that can be emitted by an ozone nonattainment area in 1996 for that nonattainment area to be in compliance with the 15 percent Reasonable Further Progress Plan requirements. The banking rule is part of the Contingency Measures for the 15 percent VOC Reduction RFP.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

A public hearing will be held on May 27, 1994, 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 Friday, June 3, 1994, 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, Fourth Floor, Baton Rouge, LA, 70810 or to Fax number (504)765-0486. Commentors should reference this proposed regulation by the AQ85S. Check or money order is required in advance for each copy of AQ85S.

AQ85 and AQ85S are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 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 Emissions through the Use of
Emissions Reduction Credits Banking (AQ85)**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
There is no significant impact to either costs or savings of local government resulting from the promulgation of this rule. State costs in FY 94-95 are estimated to increase \$23,385 to fund salaries and operating expenses for one additional position necessary to process the expected applications and maintain the emission bank data base.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
There should be no effect on revenue collections of local government. It is anticipated that 468 applications will each generate a \$50 fee to support the state's cost of the program. State revenue is estimated to increase \$23,385 in FY 94-95 from an increase in the number of permit modifications and from application fees processed.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**
The directly affected facilities will experience an increase in costs associated with the application fee. The affected facilities also have the potential of realizing economic benefit through the sale of those credits to other facilities wishing to expand in the ozone nonattainment area.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
There is no anticipated negative effect on competition or employment.

Gus Von Bodungen
Assistant Secretary

Richard W. England
Legislative Fiscal Officer

POTPOURRI

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

SIP Hearing for Redesignation of New Orleans CSMA

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et. seq., the secretary gives notice that a change in the "State Implementation Plan" for ozone abatement procedures has been initiated as follows.

Redesignation of the New Orleans CSMA to ozone attainment status is being proposed by Louisiana. The parishes included in this redesignation are: Jefferson, Orleans, St. Bernard, St. Charles, and St. Tammany parishes. St. John the Baptist Parish in the CSMA was previously designated to attainment and is included in this package only to demonstrate ambient monitoring compliance with the Ozone National Ambient Air Quality Standard.

Designation of Jefferson, Orleans, St. Bernard, St. Charles, and St. John the Baptist Parishes as nonattainment for ozone was published by EPA as a final rule September 11, 1978. Guidelines provided to the state by EPA were followed in preparing the 1979 submittal with the result that the Revised

State Implementation Plan was approved by EPA. The design number for Jefferson, Orleans, and St. Bernard Parishes was 0.17 ppm and for St. Charles Parish was 0.16 ppm in 1979 in the State Implementation Plan. Sufficient improvement in ozone monitoring data in these parishes has been shown in the intervening years to qualify for attainment status.

A public hearing will be held at 7 p.m. on Tuesday, May 31, 1994, in the City Council Chambers of the New Orleans City Hall, 1300 Perdido Street, New Orleans, LA, to receive comments on this proposed redesignation.

Interested persons are invited to attend and submit oral comments on the proposal. All interested persons are invited to submit written comments concerning the SIP change. Such comments should be submitted no later than June 7, 1994 to Annette H. Sharp. She may be contacted at (504) 765-0219. Written comments should be mailed to her at the following address: Air Quality Regulatory Division, Box 82135, Baton Rouge, LA, 70884-2135. A copy of the SIP changes may be viewed at the Air Quality Regulatory Division from 8 a.m. to 4:30 p.m., Monday through Friday, 7290 Bluebonnet, Second Floor, Baton Rouge, LA, or the Southeast Regional Office located at 3945 North I-10 Service Road, Metairie, LA.

Gus VonBodungen
Assistant Secretary

POTPOURRI

**Department of Environmental Quality
Office of Legal Affairs and Enforcement
Enforcement and Regulatory Compliance Division**

Semiannual Regulatory Agenda

The Department of Environmental Quality wishes to announce the availability of the spring 1994 edition of the Semiannual Regulatory Agenda prepared by the Enforcement and Regulatory Compliance Division. The current agenda contains information on rules which have been proposed but have not been published as final rules and rules which are scheduled to be proposed in 1994. Check or money order is required in advance for each copy of the agenda. Interested persons may obtain a copy by contacting Cora James, Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA 70884-2282 or by calling (504)765-0399.

James H. Brent, Ph.D.
Administrator

POTPOURRI

Department of Environmental Quality
Office of the Secretary

Environmental Equity

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2011 D.(5), the Department of Environmental Quality will conduct a public fact-finding hearing. The purpose of this hearing is to explore issues concerning environmental justice/equity in the administration of department programs.

The public hearing will be held on Saturday, May 28, 1994 at 10 a.m., in McNeese State University's Administration and Business College Building. Interested persons are invited to attend and submit oral comments. Individuals with a disability requiring special accommodations in order to participate should contact Frederick J. Barrow at the address given below or at (504)765-0741.

Interested persons are also invited to submit written comments. Such comments should be submitted to Frank Alexis, Office of the Secretary, Box 82263, Baton Rouge, LA, 70884-2263 or to 7290 Bluebonnet Boulevard, Sixth Floor, Baton Rouge, LA, 70810 or to FAX number (504) 765-0746. Comments will be accepted by this office until August 25, 1994.

William A. Kucharski
Secretary

POTPOURRI

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

Pre-admission Certification and Length of Stay
Requirements for Inpatient Hospital Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is providing notice that there will be another public hearing on the notice of intent entitled Pre-admission Certification for Inpatient Hospital Services which was published in the November 20, 1993 issue of the *Louisiana Register*, Volume 19, Number 11. This public hearing will be held at 9:30 a.m. on May 20, 1994 in the auditorium of the Department of Transportation and Development at 1201 Capitol Access Road, Baton Rouge, LA.

Rose V. Forrest
Secretary

POTPOURRI

Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S.30:80 et seq, and as such are being declared orphaned oilfield sites.

Operator	Field	Well Name and Number	Serial Number
Affiliated Petroleum Corp.	Zwolle	Geo H Thomas 001	068638
A.R. Service & B.E. Stephens	Holly	R O Roy Fuller A 001	012038
Baker Petroleum Corp.	Monroe	Ollie Albritton 001	176324
Baker Petroleum Corp.	Simsboro	Shriner Hospital 001	183707
Bech Oil & Gas, Inc.	North Bee Brake	C 5 RA SUB; Quinn 001	152146
Bech Oil & Gas, Inc.	North Bee Brake	C 5 RA SUA; Quinn 003	153074
Bech Oil & Gas, Inc.	North Bee Brake	Quinn 004	210629
Bech Oil & Gas, Inc.	Kincaid Bayou	E 5 SU1; Finley 001	138337
Bech Oil & Gas, Inc.	Nebo Hemphill	Shapiro 007	154436
Bech Oil & Gas, Inc.	Nebo Hemphill	WX D RD SUO; Kennon Heirs 001	213176
Bech Oil & Gas, Inc.	Nebo Hemphill	WX F RB SU29; Shapiro 006	213744
Bech Oil & Gas, Inc.	Nebo Hemphill	Shapiro 006	213816
Bech Oil & Gas, Inc.	Nebo Hemphill	WX C RB SU29; Shapiro 008	214163
Bech Oil & Gas, Inc.	Searcy	WX A RA SUD; Killingsworth 001	209396
Bech Oil & Gas, Inc.	Trout Creek	Duke et al 001	173557

A.E. Boger et al	Caddo Pine Island	Ark Louisiana Gas Co	001	079456
E.N. Callens & Frank J. Hall	Caddo Pine Island	F Comegys	001	064774
William Carlton	Wildcat-So La Lafayette Dist	Boise Southern	001	204013
Carroll Parishes Operating Co.	Wildcat-No La Monroe Dist	First National Bank	002	212156
Alex Crowell	Lake End	J W Coats	001	071872
W.L. Driskell	Homer	Gill	001	186590
ETC Oil Corp.	Calcasieu Lake	SL 2402	002	135137
Explorer Oil & Gas Corp.	Wildcat-So La Houma Dist	N M Jones et al	001	181585
Gas Gathering & Transit Corp.	Lake End	J W Coats	A-9	068830
E.G. Gasperson	Longwood	Noel-Fly-Sharp	001	094830
A.A. Gilbert	Holly	R N Parker	001	029289
Homer T. Glover	Converse	H C Raimond	001	097188
Gumbo Oil Co.	Chauvin	Israel Martin	001	120023
Gumbo Oil Co.	Chauvin	Israel Martin	001-D	121424
J.Y. Hamilton & A.D. Eaves	Monroe	Hamilton Eaves	001	093818
Harry Hanburg	Shreveport	SG Sample	001	022041
A.B. Hanner, Sr.	Caddo Pine Island	Burton A	001	024225
Robert W. Harvey	Milestone Forks	H A Turner Sr et al B	007	056843
Robert W. Harvey	Milestone Forks	H A Turner Sr et al D	001	071168

Robert W. Harvey	Milestone Forks	H A Turner Sr et al D	009	080236
Robert W. Harvey	Milestone Forks	H A Turner Sr et al C	010	087902
Robert W. Harvey	Milestone Forks	H A Turner Sr et al C	011	089343
Robert W. Harvey	Milestone Forks	H A Turner Sr et al B	016	124814
Robert W. Harvey	Milestone Forks	H A Turner Sr et al B	006	172121
Honor Oil Co., Inc.	Caddo Pine Island	W M Phillips et al	001	045179
R.B. Hurlbutt et al	Caddo Pine Island	Brown-Couch	001	040975
L.H. Kaltenberger & M.M. Machon	Caddo Pine Island	Mary T Vaughn	001	033235
Kay Production	Caddo Pine Island	Greer Fee	001	023411
J.B. Lankford	Monroe	J B Lankford	001	019264
J. Howard Lovett	Tullos Urania	W L & Mary Rambo	002	178968
J. Howard Lovett	Tullos Urania	Rambo-Thacker	001	182819
J. Howard Lovett	Tullos Urania	W L & Mary Rambo	001	182820
J. Howard Lovett	Tullos Urania	W L & Mary Rambo	003	191049
Homer Luttrell	Caddo Pine Island	Homestead Oil Co	001	034787
M-P Petroleum, Inc.	Gum Cove	9450 RA SUA; E W Brown	001-ALT	171951
M-P Petroleum, Inc.	Gum Cove	9450 RA SUA; B Odom	001	172949
M-P Petroleum, Inc.	Gum Cove	Odom	001-D	174674
Majo Oil Co.	Zwolle	Bessie Porter	001	067890
Marion Oil Co., Inc.	Caddo Pine Island	Whatley	001	190684

Marion Oil Co., Inc.	Caddo Pine Island	Whatley	002	190685
Marion Oil Co., Inc.	Caddo Pine Island	Whatley	003	190686
Marion Oil Co., Inc.	Caddo Pine Island	Whatley	004	192880
Markham & Russ	Longwood	Dick Lindsey	001	082524
Adrin O. Moore	Caddo Pine Island	Thomas H Merrill	003	176237
Moore's Gas Well Service Co.	Monroe	H SU510; Anderson et al	B-5	109649
Moore's Gas Well Service Co.	Monroe	Anderson-Moore	A-6	115865
Moore's Gas Well Service Co.	Monroe	Harrell SU509; Anderson et al A	001	198561
Mor-Co Investments, Inc.	Monroe	GT Madison	001	128534
Mor-Co Investments, Inc.	Monroe	GT Madison	002	128535
Mor-Co Investments, Inc.	Monroe	Harrell SU512; Higginbotham	002	136876
Mor-Co Investments, Inc.	Monroe	Higginbotham	003	136877
Mor-Co Investments, Inc.	Monroe	Higginbotham	004	136878
Mor-Co Investments, Inc.	Monroe	Kinney	001	166407
Mor-Co Investments, Inc.	Monroe	J2 Ranch B	002	177668
Mor-Co Investments, Inc.	Monroe	J2 Ranch B	004	178229
Mor-Co Investments, Inc.	Monroe	Harrell SU426; GP	84-6	195250
Mor-Co Investments, Inc.	Monroe	McCarty	85-1	199579

Mor-Co Investments, Inc.	Monroe	Harrell SU462; McCarty	86-2	204122
Myers & Jenkins	Converse	Koppers Co Inc	001	034968
National Oil Co.	Elm Grove	Jack Killen	001	062107
National Oil Co.	Elm Grove	Killen	002	062767
John C. Newsham	Donner	P R Melancon SWD	001	970068
R.L. O'Neal	Monroe	Fannie Farmer	001	007471
Paramount Oil & Gas Co.	Zwolle.	R G Greer	001	065833
H.I. Patterson et al	Longwood	J H Bayliss	002	084069
Lawrence Potter	Caddo Pine Island	W M Phillips et al	001	043748
Edward Rosenberg	Caddo Pine Island	Parker	001	051987
G.P. Saulsbury	Ora	Compton	001-A	086010
Shallow Oil Co., Inc.	Greenwood Waskom	Frost Lumber Ind	001	063892
Sinclair Oil & Gas Co.	Southwest Lake Boeuf	Segretto SWD	001	970103
S.A. Sipes	Converse	Bernice Bazemore	001	099847
Star Falcon Oil Co.	Caddo Pine Island	H C Baldrige	001	034919
Star Falcon Oil Co.	Caddo Pine Island	H C Baldrige	002	034920
Stenco	Bayou Castor	QT Hardtner et al	001	159291
Stenco	Bayou Castor	QT Hardtner et al	002	159994
Stenco	Standard	Est of William Cross	001	155465
Stenco	Olla	WX G1 RA SU489; CZ	001	150865
Stenco	Olla	WX F RA SU30; Walsh	001	155189
Stenco	Olla	Flowers	001	155469
Stenco	Olla	WX F RA SU45; T A Hopkins	001	157537
Stenco	Olla	WX E RA SU64; J E Harris	001	157642

Stenco	Olla	J E Harris	002	157675
Stenco	Olla	Randall Est	001	157827
Stenco	Olla	Randall Est	002	157828
Stenco	Olla	Randall	001	158409
Stenco	Olla	Randall	002	158810
Stenco	Olla	Louisiana-Central 13	001	159282
Stenco	Olla	WX B1 RA SU27; Y Flowers	002	173444
Stenco	Olla	McCartney	001	175999
Stenco	Olla	WX B1 RA SU62; Randall	006	178689
Stenco	Olla	Louisiana-Central 13	003	182887
Stenco	Olla	Mills	001	184696
Stenco	Olla	Y Flowers	003	196269
Stenco	Olla	Randall	006	198074
Sutherland Energy Corp.	Caddo Pine Island	Hawkins	001	214313
Sutherland Energy Corp.	Caddo Pine Island	Hawkins	002	214808
Texas Gulf Producing, Inc.	Ragley	Herpin Sand Unit 8	001	067882
J.C. Trahan Drlg. Contr., Inc.	Monroe	Bailey Heirs	002	093124
H.C. Trahan Drlg. Contr., Inc.	Monroe	Clarkson-Ouchley Unit	001	092799
Unifid Oil & Gas Corp.	W. Lk. Pontchartrain Blk. 37	SL 2914	001	061199
Unifid Oil & Gas Corp.	W. Lk. Pontchartrain Blk. 37	SL 2914	003	064629
Unifid Oil & Gas Corp.	W. Lk. Pontchartrain Blk. 37	SL 2915	001	062849
Unifid Oil & Gas Corp.	W. Lk. Pontchartrain Blk. 37	SL 2914	006	163239

Unifid Oil & Gas Corp.	W. Lk. Pontchartrain Blk.37	VUA; SL 2914	004	070719
Unifid Oil & Gas Corp.	W. Lk. Pontchartrain blk.37	CIB OP1 SUA; SL 2914	006-D	166234
Durl Ward & L.C. Anglin	Starks	Industrial Lumber Co	007	027566
Eugene P. Webb	Bayou Bleu	Schwing L & S	001	049199
E.C. Wentworth	Moro	Fisher Lbr Corp	E-1	078542
E.C. Wentworth	Moro	Fisher Lbr Corp	E-3	088976

H.W. Thompson
Assistant Secretary

POTPOURRI

**Department of Natural Resources
Office of the Secretary**

Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 34 claims in the amount of \$108,434.70 were received in the month of March 1994. Fifty-four claims in the amount of \$155,392.36 were paid and five claims were denied.

Loran coordinates of reported underwater obstructions are:

28911	47054	Lake Borgne
28924	46779	Plaquemines
28546	46864	Jefferson
28783	47049	Lake Pontchartrain
27295	46945	Vermilion
28669	46870	Plaquemines
28640	46869	Plaquemines
27705	46885	Terrebonne
26962	46956	Cameron
27726	46885	Terrebonne
28774	46773	Plaquemine
26962	46956	Cameron
27473	46912	Iberia
29105	46969	St. Bernard
27845	46853	Terrebonne

A list of claimants, and amounts paid, may be obtained from Martha A. Swan, Administrator, Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

John F. Ales
Secretary

POTPOURRI

**Department of Revenue and Taxation
Severance Tax Division**

Natural Gas Severance Tax Rate

The Department of Natural Resources has determined [under the authority of R.S. 47:633 (9) (d) (ii)] the "gas base rate adjustment" for the 12-month period ending March 31, 1994, to be 1.2402. Accordingly, the Department of Revenue and Taxation has determined the severance tax rate on natural gas and related products described in R.S. 47:633 (9) (a) to be \$.087 per thousand cubic feet measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of 60°F. This change in the tax rate is effective July 1, 1994.

The reduced gas tax rates provided for in R.S. 47:633 (9) (b) and (c) remain the same.

The determination of this "gas base rate adjustment" and corresponding tax rate and their publication in the *Louisiana Register* shall not be considered rule making within the intendment of the Administrative Procedure Act, R.S. 49:950 et seq., and particularly R.S. 49:953. Thus, neither a fiscal impact statement nor a notice of intent is required.

Questions concerning the change in tax rate should be directed to Linda Denney, Director of the Severance Tax Division, at (504) 925-7497.

Ralph Slaughter, CPA
Secretary

POTPOURRI

**Department of Revenue and Taxation
Tax Commission**

1993 Ratio Study

Pursuant to R.S. 47:1837 the following is the result of the Tax Commission's measurement of the level of appraisal and/or assessment and the degree of uniformity for Commercial Ratio Study for the year 1993 (1994 Orleans Parish). This data shall constitute prima facie evidence of the uniformity or lack of uniformity with constitutional and/or statutory requirements of each parish in the state.

PARISH	MEAN (%)	MEDIAN (%)	COEFFICIENT OF DISPERSION (%)
ACADIA	12.2	13.6	19.22
ALLEN	14.4	14.7	4.0
ASCENSION	14.1	14.7	8.4
ASSUMPTION	14.5	16.0	9.6
AVOUELLES	14.0	14.3	6.4
BEAUREGARD	13.8	13.9	9.8
BIENVILLE	14.1	14.6	16.5
BOSSIER	14.4	14.5	12.4
CADDO	14.9	14.8	18.0
CALCASIEU	14.1	14.0	4.6
CALDWELL	13.8	14.5	7.2
CAMERON	13.6	13.9	7.2
CATAHOULA	13.9	13.7	4.1

CLAIBORNE	14.7	14.8	11.2
CONCORDIA	14.3	14.6	4.0
DESOTO	13.6	14.8	12.7
EAST BATON ROUGE	14.7	14.9	18.8
EAST CARROLL	13.9	14.5	8.0
EAST FELICIANA	14.3	14.9	4.1
EVANGELINE	14.4	14.7	4.6
FRANKLIN	14.6	14.7	3.3
GRANT	14.1	14.0	9.6
IBERIA	16.7	15.3	15.1
IBERVILLE	15.4	14.9	12.6
JACKSON	13.5	13.5	12.1
JEFFERSON	12.4	14.5	14.2
JEFFERSON DAVIS	15.0	14.3	11.3
LAFAYETTE	14.4	14.0	9.7
LAFOURCHE	14.1	14.5	7.2
LASALLE	13.8	14.2	14.1
LINCOLN	15.1	15.0	16.0
LIVINGSTON	13.3	14.3	13.0
MADISON	13.7	14.6	10.0
MOREHOUSE	14.1	14.8	8.5
NATCHITOCHE	14.6	14.8	9.5
ORLEANS - 1ST M.D.	13.1	14.9	18.1
2ND M.D.	14.9	15.2	13.1
3RD M.D.	13.0	15.0	15.5
4TH M.D.	13.9	14.7	11.7
5TH M.D.	15.1	14.9	18.4
6TH M.D.	15.4	15.3	9.9
7TH M.D.	14.3	14.7	8.4
OUACHITA	13.9	14.6	5.0
PLAQUEMINES	15.7	15.2	13.3
POINTE COUPEE	14.4	14.6	7.5
RAPIDES	14.6	14.8	15.3
RED RIVER	14.2	14.3	17.9
RICHLAND	14.4	14.5	10.3
SABINE	14.2	14.3	10.3
ST. BERNARD	13.2	14.4	18.1
ST. CHARLES	15.2	15.0	13.0
ST. HELENA	14.5	14.9	5.6
ST. JAMES	15.0	16.4	8.9
ST. JOHN THE BAPTIST	14.5	15.1	7.1
ST. LANDRY	15.1	15.0	11.0
ST. MARTIN	13.9	13.8	17.2
ST. MARY	15.0	15.2	12.9
ST. TAMMANY	12.8	14.3	15.2
TANGIPIAHOA	13.3	14.2	6.4
TENSAS	14.3	14.5	3.0
TERREBONNE	14.4	14.7	6.8
UNION	14.3	14.4	3.3
VERMILION	14.6	14.7	15.9
VERNON	14.5	14.8	8.0
WASHINGTON	14.0	14.6	5.8
WEBSTER	13.5	14.3	13.4
WEST BATON ROUGE	14.6	14.6	8.7
WEST CARROLL	13.8	14.3	7.3
WEST FELICIANA	14.9	15.0	4.3
WINN	12.9	14.2	14.7

Malcolm B. Price, Jr.,
Chairman

POTPOURRI

Department of Social Services Office of Community Services

Social Services Block Grant (SSBG) State Plan

The Louisiana Department of Social Services (DSS) announces opportunities for public review of the state's pre-expenditure report on intended uses of Social Services Block Grant (SSBG) funds for the state fiscal year (FY) beginning July 1, 1994 and ending June 30, 1995. The proposed FY 94-95 SSBG Intended Use Report has been developed in compliance with requirements of Section 2004 of the Social Security Act, as amended, and includes information on the types of activities to be supported and the categories or characteristics of individuals to be served through use of the state's allocation of SSBG funds. Section 2004 of the Social Security Act further requires that the SSBG pre-expenditure report shall be "made public within the state in such manner as to facilitate comment by any person." DSS as the designated state services agency will continue to administer programs funded under the Social Services Block Grant in accordance with applicable statutory requirements and federal regulations. The DSS/Office of Community Services (OCS) will be responsible for provision of social services, by direct delivery and vendor purchase, through use of federal SSBG funds. Estimated SSBG expenditures for FY 1994-95 total \$46,832,961.

Louisiana through the DSS Office of Community Services will utilize its allotted funds to provide comprehensive social services on behalf of children and families in fulfillment of legislative mandates for child protection and child welfare programs. These mandated services, and certain other essential social services, are proposed for provision without regard to income (WRI) to individuals in need. Individuals to be served also include low-income persons as defined in the Intended Use Report who meet eligibility criteria for services provided through SSBG funding.

Services designated for provision through SSBG funding for state fiscal year 1994-95 are:

1. *Adoption* (pre-placement to termination of parental rights);
2. *Child Protection* (investigation of child abuse/neglect reports, assessment, evaluation, social work intervention, shelter care, counseling, referrals, and follow-up);
3. *Day Care for Children* (direct care for portion of the 24-hour day);
4. *Family Services* (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups);
5. *Foster Care/Residential Habilitation Services* (foster, residential care and treatment on a 24-hour basis).

Definitions for the proposed services are set forth in the Intended Use Report.

Persons eligible for SSBG funded services include:

1. persons without regard to income, who are in need of adoption services, child protection, family services, and foster care/residential habilitation services;

2. individuals without regard to income who are recipients of Title IV-E Adoption Assistance;

3. recipients of Supplemental Security Income (SSI) and recipients of Aid to Families with Dependent Children (AFDC) and those persons whose needs were taken into account in determining the needs of AFDC recipients;

4. low-income persons (income eligibles) whose gross monthly income is not more than 125 percent of the poverty level. A family of four with gross monthly income of not more than \$1,542 would qualify as income eligible for services;

5. persons receiving Title XIX (Medicaid) benefits and certain Medicaid applicants identified in the proposed plan as group eligibles.

The proposed SSBG Intended Use Report for FY 1994-95 is available for public review at OCS parish and regional offices Monday through Friday from 8:30 a.m. to 4 p.m. Copies are available without charge by telephone request to (504) 342-2272 or by writing the assistant secretary, Office of Community Services, Box 3318, Baton Rouge, LA 70821. Inquiries and comments on the proposed plan may be submitted until May 31, 1994 to the assistant secretary, OCS, at the above address.

A public hearing on the proposed SSBG Intended Use Report for FY 1994-95 is scheduled for 10 a.m. on Wednesday, May 11, 1994 at the Office of Community Services, Conference Room 806, Commerce Building, 333 Laurel Street, Baton Rouge.

At the public hearing all interested persons will have the opportunity to provide recommendations on the proposed SSBG plan, orally or in writing. Written comments will be accepted through May 31, 1994.

Post-expenditure reports for the SSBG program for state fiscal years 1991-92 and 1992-93 are included in the SSBG Intended Use Report for FY 94-95 and are available for public review at the Office of Community Services, 333 Laurel Street, Room 802, Baton Rouge.

Gloria Bryant-Banks
Secretary

CUMULATIVE INDEX
(Volume 20, Number 4)

1994		
Pages		Issue
4 —	134	January
135 —	244	February
245 —	368	March
369 —	508	April

AGRICULTURE AND FORESTRY

Agricultural and Environmental Sciences, Office of

- Commercial applicators, 8ER
- Organic certification, 8ER, 59N, 393R
- Pesticides, 200N
- Plant pest quarantine, 495P
- Seed certification, 201N

Agro-Consumer Services, Office of

- Dairy Stabilization Board revisions, 64N, 398R
- LACC assessments, 154R
- Weights/measures, 28R

Animal Health Services, Office of

- Equine Infectious Anemia, 9ER, 65N, 405R
- Pet turtles, 203N, 324N, 362P
- Poultry, 138ER

Forestry, Office of

- Timber stumpage, 12ER, 65N, 408R

Horticulture Commission

- Examination performance, 153R
- Floristry exam, 237P, 361P
- Landscape architect exam, 237P

Marketing, Office of

- Tomatoes, 376ER, 464N

Structural Pest Control Commission

- Meetings, 208N
- Recertification, 324N
- Termiticides, 208N

CIVIL SERVICE

Civil Service Commission

- Demotion pay, 326N
- Layoff, 325N
- New grades pay, 326N
- Overtime, 325N
- Red circle rates, 326N

CULTURE, RECREATION AND TOURISM

Cultural Development, Office of

- Antiquities Commission, 409R
- Archaeologist, 409R
- Archaeological survey, 409R

Museum, Office of

- Building rental, 465N
- Museum admission, 467N

ECONOMIC DEVELOPMENT

Certified Shorthand Reporters, Board of Examiners of

- Continuing education, 412R

Commerce and Industry, Office of

- Ad valorem tax, 467N

Economic Development and Gaming Corporation

- President's absence, 12ER

Financial Institutions, Office of

- Capital Companies Tax Credit Program, 154R, 280R
- Deed escrow, 13ER, 66N, 412R
- Loan production, 67N

Motor Vehicle Commission

- Broker, 139ER

Racing Commission

- Equipment, 69N
- Medication, 70N, 70N
- Weapons/firearms, 160R

Used Motor Vehicles and Parts Commission

- Identification cards, 415R
- Brokers, 378ER
- Used parts, 209N

EDUCATION

Elementary and Secondary Education, Board of

- Bulletin 741
 - Business education, 328N
 - Health education, 282R
 - Honors curriculum, 251ER
 - Math requirements, 378ER
 - Vocational education, 16ER, 140ER, 161R, 161R,
- Bulletin 746
 - Special education, 282R
 - Temporary employment, 141ER, 282R
 - Temporary teaching, 142ER, 283R
- Bulletin 921
 - 8(g) Policy Manual, 252ER, 326N
 - Teacher tuition, 162R
- Bulletin 1525
 - Personnel evaluation, 28R
 - Principal evaluation, 378ER
- Bulletin 1706
 - Exceptional children, 16ER, 140ER, 161R
- Bulletin 1794
 - Textbook, 252ER, 383ER
- Bulletin 1822
 - Postsecondary curriculum, 161R
- Bulletin 1868
 - Personnel Manual, 16ER, 284R
- Bulletin 1903
 - Dyslexia, 140ER, 284R
- Bulletin 1938
 - Church-based tutorial, 71N, 416R

CR—Committee Report

ER—Emergency Rule

N—Notice of Intent

PPM—Policy and Procedure Memorandum

EO—Executive Order

L—Legislation

P—Potpourri

R—Rule

Education specialist, 71N, 416R
MFP student membership, 328N
Noncertified personnel, 141ER, 285R
VTIE certification, 162R
Vocational education, 329N

Student Financial Assistance, Office of

Due diligence, 330N
Electronic funds, 285R
Employment opportunity, 330N
Honors scholarship, 72N, 417R
Louisiana Employment Opportunity (LEO), 17ER, 76N, 420R
Scholarship/grant application, 331N

ENVIRONMENTAL QUALITY

Air Quality and Radiation Protection

Air toxins (AQ87), 78N, 430R
Asbestos (AQ75), 77N
Chemical accident (AQ310), 421R
Clean fuel fleet, 105P
Emission reduction (AQ85), 496P
Emission reduction (AQ85E), 252ER
Fugitive emission (AQ84E), 259ER
Mobile sources (AQ78E), 264ER
Mobile sources (AQ91), 471N
New stationary sources (AQ69), 289R
Nitrogen Oxides emissions (AQ81), 162R, 288R
Organic compounds (AQ72), 289R
Radiation protection (NE11), 210N
Radiation protection (NE11E), 17ER
Radiation protection (NE13), 331N
Radioactive material licensing (NE09), 178R
Radiographers (NE12F), 474N
Radiographers (NE12L), 475N
SIP hearing, 498P
Unauthorized discharges notification (OS17), 181R
VOC reduction (AQ86E), 272ER

Legal Affairs and Enforcement, Office of

Semiannual regulatory agenda, 498P

Secretary, Office of

Environmental equity, 237P, 362P, 499P
Foreign hazardous waste (HW38E), 386ER
Groundwater contamination (OS17E), 143ER
Radiation (NE13E), 273ER

Solid and Hazardous Waste, Office of

Louisiana Resource Recovery and Development Authority (LRRDA) (SW10), 80N
Operator (SW09), 210N
HSWA I and II (HW39F), 478N
HSWA I and II (HW39L), 478N
Type II facility (SW12), 332N
UST registration, 294R
Waste tires, 211N

Water Resources, Office of

Numerical criteria (WP15), 83N, 431R

EXECUTIVE ORDERS

EWE 93-46—Bond Allocation by the Parish of St. Charles for the Louisiana Power & Light Company, 4
EWE 93-47—Bond Allocation by Industrial District No. 3 of the Parish of West Baton Rouge for The Dow Chemical

Corporation, 4
EWE 93-48—Creates the Serve Commission, 5
EWE 94-01—Creates the Grambling Economic Development Task Force, 7
EWE 94-02—Establishes the Task Force on the Sexual Abuse of Minors, 138
EWE 94-03—Establishes the Rehabilitative Advisory Council, 248
EWE 94-04—Creates the National Medical and Research Center for the Treatment of AIDS and Infectious Disease Task Force, 248
EWE 94-05—Creates the Task Force on Indigent Defense, 249
EWE 94-06—Establishes the Statewide Wetlands Advisory Task Force, 250
EWE 94-07—Establishes Higher Education Commission for the Twenty-first Century, 372
EWE 94-08—Amends Executive Order No. EWE 94-2, 373
EWE 94-09—Rescinds Executive Order No. EWE 93-30, 373
EWE 94-10—Bond Allocation by Louisiana Public Facilities Authority for Belmont Water System, Inc., 373
EWE 94-11—Bond Allocation by the Industrial Development Board of Parish of Jefferson, LA, Inc., 374

FIREFIGHTERS' PENSION AND RELIEF FUND

City of New Orleans and Vicinity

Death benefits, 183R, 333N

GOVERNOR'S OFFICE

Administration, Division of

Commissioner, Office of
Taxable employee compensation, 374PPM
Community Development, Office of
LCDBG Program, 29R
Supplemental Appropriations Disaster Recovery, 46R
Contractual Review, Office of
Claims recovery, 144ER, 217N
Facility Planning and Control, Office of
Capital outlay budget, 185R
State-owned buildings, 47R
State Register, Office of
Official text, 335N

Architects Selection Board

Selection procedure, 29R

Commission on Law Enforcement and Administration of Criminal Justice

Felony sentencing, 479N
Victim compensation, 212N

Elderly Affairs, Office of

Adult protective services, 218N
Frail elderly, 48R

Oil Spill Coordinator, Office of

Meeting schedule, 362P

CR—Committee Report

ER—Emergency Rule

N—Notice of Intent

PPM—Policy and Procedure Memorandum

EO—Executive Order

L—Legislation

P—Potpourri

R—Rule

Patient's Compensation Fund Oversight Board

Surcharges, 432R

Veterans' Affairs, Office of

Members, 48R

Merchant Marine, 294R

Travel, 48R

HEALTH AND HOSPITALS

Chiropractic Examiners, Board of

Accident solicitation, 433R

Dentistry, Board of

Advertising, 336N

Anesthesia/analgesia, 337N

Continuing education, 340N

Dental assistant, 342N

Embalmers and Funeral Directors, Board of

Exam, 238P, 362P

Funeral establishments, 191R

Management and Finance, Office of

Health service provider fee, 51R

Medical Examiners, Board of

Clinical laboratory, 482N

Financial disclosure, 483N

Illegal payments, 483N

Licensure, certification, 482N

Occupational therapist, 219N

Nursing Facility Administrators, Board of Examiners

Administrator-in-training, 344N

Continuing education, 343N

Examination, 344N

Meetings, 345N

Powers/duties, 345N

Practical Nurse Examiners, Board of

Adjudication, 223N

Financial interest/disclosure, 223N

License, 223N

Patient referral, 223N

Public Health, Office of

Disinfection, 106P

Sanitary Code

Rabies, 227N

Zoonotic disease, 227N

Prairie dog, 277ER, 347N

Safe drinking water, 229N

Seafood, 84N

Shellfish, 84N, 230N

Swimming/bathing, 347N

Tuberculosis, 295R

Tanning equipment, 106P

Secretary, Office of

Advance directives, 486N

Assets transfer, 151ER, 433R

Case management, 18ER, 48R, 488N

Controlled substance, 238P

Disproportionate share, 144ER, 234N, 388ER

Drug screening, 303R

Facility need review, 147ER, 304R

Informed consent, 193R, 307R, 348N

Inpatient hospital service, 362N, 499P

Inpatient psychiatric service, 49R, 193R,

LHCA Annual Service Agreement, 302R

Medicaid, 148ER, 149ER, 305R

Narcotics, 238P

Nursing facility, 306R

Referral and investigation, 434R

Residents' funds, 150ER, 192R

Rural Health Care Authority, 18ER, 88N, 433R

Veterinary Medicine, Board of

Practice, 346N

INSURANCE

Commissioner of Insurance

Accreditation standards (Reg 50), 196R

Actuarial memoranda (Reg 47), 194R

Billing audit (Reg 49), 311R

Claim form (Reg 48), 195R

Group health benefits coordination (Reg 32), 52R

Individual health insurance (Reg 51), 314R

Small group health insurance (Reg 52), 315R

JUSTICE

Attorney General, Office of

Open housing, 438R

Riverboat Gaming Commission

Alcohol, 350N

Passenger, 350N

LABOR

Labor, Office of

Community Services Block Grant (CSBG), 19ER

Minor labor, 391ER

Subgrant, 21ER

LOUISIANA ADMINISTRATIVE CODE UPDATE

Cumulative

January, 1993 - December, 1993, 103

January, 1994 - March, 1994, 494

LOUISIANA HEALTH CARE AUTHORITY

Emergency room, 351N

Outpatient clinic, 351N

NATURAL RESOURCES

Coastal Restoration Management, Office of

Coastal management, 352N

Orphaned oilfield, 499P

Conservation, Office of

Hazardous liquid, 89N, 439R

Natural gas, 92N, 442R

Orphaned oilfields, 106P

Statewide Order 29-O-1, 447R

CR—Committee Report

ER—Emergency Rule

N—Notice of Intent

PPM—Policy and Procedure Memorandum

EO—Executive Order

L—Legislation

P—Potpourri

R—Rule

TRANSPORTATION AND DEVELOPMENT

Statewide Order 29-Q-2, 353N
Secretary, Office of
Fishermen's gear claims, 238P, 239P, 363P, 502P

PUBLIC SAFETY AND CORRECTIONS

Alcoholic Beverage Control, Office of

Beverage sampling, 98N

Corrections Services

Juvenile offender, 58R

Motor Vehicles, Office of

Driver's license, 277ER, 490N

State Police, Office of

Charitable gaming, 22ER, 448R

Motor carrier/hazardous materials safety, 58R

Riverboat gaming, 278ER

REVENUE AND TAXATION

Sales Tax Division

Automobile rentals, 316R

Use tax, 316R

Secretary, Office of

Electronic funds transfer, 356N

Severance Tax Division

Natural gas, 503P

Oil/condensate tax, 357N

Oilfield site, 197R

Transportation cost, 357N

Tax Commission

1993 Ratio Study, 503P

Ad valorem tax, 198R

Timber stumpage, 12ER, 65N, 408R

SOCIAL SERVICES

Community Services, Office of

Child abuse/neglect, 198R

Homeless shelter, 239P

SSBG State Plan, 504P

Weatherization assistance, 132P

Family Support, Office of

Child support, 99N, 449R

Food stamps, 391ER

Flood insurance, 100N, 449R

Individual and family grant, 100N, 449R

Job Opportunities and Basic Skills (JOBS), 24ER, 199R, 490N

Rehabilitation Services

Independent living, 24ER, 235N

Policy Manual, 278ER, 317R

Public hearing, 363P

Secretary, Office of

Child care, 450R, 459R

Fee scales, 491N

Sanctions, 491N

STATE

Uniform Commercial Code, Office of

Central Registry, 199R

General Counsel, Office of

Ferry toll, 358N

Utility and Permit Section

Right-of-way, 317R

Utility operator, 318R

Weights and Standards, Office of

Overweight violation, 318R

Truck curfews, 101N, 463R

Truck permits, 101N, 463R

TREASURY

Bond Commission

Disclosure of agreements, 25ER, 320R

Lines of credit, 26ER

Housing Finance Agency

HOME Investment Partnership, 152ER

HOME Small Cities, 26ER

State Employees Group Benefits Program, Board of

Trustees of the

Ambulance, 392ER, 493N

IV medication, 278ER

Plan document, 392ER, 493N

Preferred Provider Organization (PPO), 102N, 319R

Rate adjustment, 320R

State Employees' Retirement System, Board of

Trustees of the

Deferred Retirement Options Plan

(DROP), 464R

WILDLIFE AND FISHERIES

Wildlife and Fisheries Commission

Alligator, 321R

Bass, 236N

Crabs, 393ER

Commercial fisherman, 323R, 323R

Hardwater Lake, 359N

Oyster, 27ER

Red snapper, 360N

Resident hunting, 360N

Seatrout, 279ER

Shrimp, 153ER, 153ER

Trapping, 279ER

CR—Committee Report

ER—Emergency Rule

N—Notice of Intent

PPM—Policy and Procedure Memorandum

EO—Executive Order

L—Legislation

P—Potpourri

R—Rule







