

# CONTENTS

## I. EXECUTIVE ORDERS

EWE-77-13—Louisiana Task Force for a Talent Bank of Women (amended) . . . . .	432
EWE-77-77—Uniform population projections . . . . .	432
EWE-77-18—Office of Science, Technology, and Environmental Policy . . . . .	433
EWE-77-19—State Occupational Information Coordination Committee . . . . .	433

## II. POLICY AND PROCEDURE MEMORANDA

PPM 63—State-owned vehicles and mileage reimbursement . . . . .	434
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## III. EMERGENCY RULES

Agriculture Department:	
Office of Agricultural and Environmental Sciences—New areas for sweet-potato weevil quarantine . . . . .	435
Commerce Department:	
Racing Commission—Naming of riders; training tracks; exacta racing; deposit upon appeal; lasix; workmen’s compensation insurance . . . . .	436
Education:	
Board of Elementary and Secondary Education—Teacher education and certification . . . . .	436
Board of Regents—Capital projects . . . . .	437
Health and Human Resources Department:	
Office of Family Services—Rate adjustments for SNF and ICF I and II facilities . . . . .	438

## IV. RULES

Agriculture Department:	
Office of Agricultural and Environmental Sciences:	
Horticulture Commission—Application manual for landscape architecture examination . . . . .	438
Licensed personnel in places of business . . . . .	441
Pesticide Commission—Definition of “label” and “labeling” . . . . .	441
Dairy Stabilization Board—Rule-making procedure . . . . .	441
Civil Service Department:	
Compensatory leave . . . . .	441
Corrections Department:	
Board of Pardons—Review of applications . . . . .	441
Education:	
Board of Elementary and Secondary Education—Policy statements from the State Plan for Special Education; function of the Textbook and Media Advisory Council; Bulletin 996, Louisiana Standards for Accrediting Teacher Education Institutions . . . . .	442
Health and Human Resources Department:	
Office of Family Services—Maximum Fee Schedule for the EPSDT Program . . . . .	445
New rates of payment to SNF and ICF I and II facilities . . . . .	446
Labor Department:	
Office of Employment Security—Regulation 11, separation notices; Regulation 15, registration for work and claims for benefits for partial unemployment . . . . .	446
Public Safety Department:	
Commission on Law Enforcement and Administration of Criminal Justice—Privacy and Security Regulations . . . . .	447
Urban and Community Affairs Department:	
Office of Consumer Protection—Revised rules, Title I and Title II. . . . .	455
Wildlife and Fisheries Department:	
Calcasieu Lake oyster season . . . . .	459

**V. NOTICES OF INTENT**

**Agriculture Department:**

**Office of Agricultural and Environmental Sciences:**

- Fertilizer Commission—Fertilizer sampling and analysis and conformity with the official publication of the Association of American Plant Food Central Officials . . . . . 460
- Structural Pest Control Commission—Definition of label and labeling . . . . . 460
- Licensed operators and routemen . . . . . 460

**Commerce Department:**

- Office of Financial Institutions—Direct lease-financing transactions . . . . . 461
- Racing Commission—Naming of riders; training tracks; exacta racing; deposit upon appeal; lasix; workmen’s compensation insurance . . . . . 461

**Education:**

- Board of Elementary and Secondary Education—Bulletin 1196, Louisiana Food and Nutrition Programs Policies of Operation; credit for vocational-technical courses; credit for cosmetology; children’s magazines; teacher certification; amendments to Bulletin 746 . . . . . 461
- Board of Regents—Master Plan for Higher Education in Louisiana; capital projects; dedicated revenues . . . . . 462

**Governor’s Office:**

- Tax Commission—Taxable situs of major movable property and assessment of shallow oil and gas wells . . . . . 462
- Tax Commission and Office of Forestry (joint notice)—Stumpage market value of timber and pulpwood . . . . . 464

**Health and Human Resources Department:**

- Office of Family Services—Minimum Standards for Licensure of Child Caring Agencies Offering Emergency Shelter Care . . . . . 462
- Foster care reimbursement procedures . . . . . 462
- Standards for Psychiatric Facilities Providing Clinic Services under Title XIX . . . . . 463
- Income Standards and Basis of Issuance in the Food Stamp Program . . . . . 463
- Board of Nursing—Administration of medications via the intravenous route . . . . . 464

**Labor Department:**

- Office of Employment Security—Value of board and lodging . . . . . 464
- Workmen’s Compensation Second Injury Board—Registration of employee’s pre-existing condition . . . . . 464

**Natural Resources Department:**

- Office of Forestry and Tax Commission (joint notice)—Stumpage market value of timber and pulpwood . . . . . 464
- Office of Mineral Resources—Geophysical permits and conduct of operations . . . . . 464

**Public Safety Department:**

- Office of Fire Protection—Building inspection during construction . . . . . 467

**Revenue and Taxation Department:**

- Severance and sales taxes . . . . . 467

**Transportation and Development Department:**

- Size, weight and load of vehicles . . . . . 470

**Wildlife and Fisheries Department:**

- End of oyster season, oyster leasing, and fill material changes . . . . . 470

**VI. POTPOURRI**

**Governor’s Office:**

- Regional boundaries for solid waste planning . . . . . 470
- State Planning Office—Official population projections . . . . . 471

**Natural Resources Department:**

- Office of Conservation—Crude oil storage in Clovelly Salt Dome . . . . . 471

# Executive Orders

## EXECUTIVE ORDER EWE-77-13

*Editors Note: Executive Order EWE-77-13 was issued on September 9, 1977, and published in the Louisiana Register, Volume 3, Number 10. The Governor subsequently amended Parts 4 and 6. EWE-77-13 is reprinted here as amended, minus Document No. 1, the list of Task Force members.)*

WHEREAS, this administration has done more to increase the representation and participation of women than any previous administration and has set a precedent for appointing talented women in responsible positions, not only as Cabinet members, but also as members of numerous boards and commissions, the Constitutional Convention, and as Director of the Department of Corrections; and

WHEREAS, I support the strong belief that women do make invaluable contributions when they are entrusted with responsible positions, both in the public and private sector; and

WHEREAS, under the Edwards Administration, Louisiana should be foremost among the states in providing opportunities for women; and

WHEREAS, there is a need for a method to provide opportunities for increasing the number of women in responsible positions, and the establishment of a Louisiana Task Force for a Talent Bank of Women will fill that need; and

WHEREAS, the staff of the Bureau for Women is capable of maintaining and administering the files of the Talent Bank of Women; and

WHEREAS, coordination and leadership, combining both public and private interests on State and local levels, is essential to assist the Bureau for Women in planning an effective program for the benefit of the citizens of this State; and

WHEREAS, the responsibility for developing these advantages should be drawn from many areas; and

WHEREAS, it is required that these responsibilities be coordinated in a concentrated planning program to insure the formulation of a single policy including all interested agencies and groups, providing optimum benefit to the citizens of the State; and

WHEREAS, it is essential that cooperation and input to the planning program be secured from the private sector whose contributions are vital to the success of the resulting program; and

WHEREAS, Federal funds should be requested as deemed appropriate and desirable to assist this effort,

NOW, THEREFORE, in order to promote and assist in the development of a program to encourage more utilization of women in responsible positions and in the coordination of all levels of government and all private interests in this venture, I, Edwin Edwards, by virtue of the authority vested in me as Governor of the State of Louisiana, pursuant to the Constitution and applicable statutes of the State of Louisiana, do order as follows:

1. The establishment of the Louisiana Task Force for the purpose of assisting in the development of a comprehensive

policy for identifying qualified women for responsible positions.

2. The Task Force shall assist the Bureau for Women in the accumulation of a Talent Bank of Women.

3. The Task Force shall establish guidelines to follow in establishing a talent bank.

4. The Task Force shall consist of membership as shown in Document No. 1, attached hereto, which is made a part hereof and such other person as may be appointed by me.

5. The Task Force shall secure information concerning needs and opportunities and shall organize meetings for the purpose of informing interested groups and individuals of the purposes of this program. The information gathered will be submitted in report form, and shall form the basis of the Task Force's preliminary and final reports.

6. The Task Force shall be headed by a chairperson, as Coordinator and members appointed by the Governor, and who will serve without pay or other compensation. The Coordinator shall select a working staff to assist the Task Force in the performance of these duties.

7. The Task Force shall establish bylaws and rules of procedure for its operation.

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 the 9th day of September, A.D. 1977.

Edwin Edwards  
Governor of Louisiana

## EXECUTIVE ORDER EWE-77-17

WHEREAS, sound population projections are necessary for efficient planning in Louisiana at the State and local level; and

WHEREAS, there is a need to eliminate possible discrepancies in planning activities resulting from the use of different sets of population projections; and

WHEREAS, adoption of one set of official projections would eliminate these discrepancies and would ensure uniform projections for use in all State and local planning activities.

NOW, THEREFORE, I, EDWIN EDWARDS, Governor of the State of Louisiana, by virtue of the power vested in me pursuant to the Constitution and applicable statutes of the State of Louisiana, do hereby order and direct the following:

1. The Louisiana State Planning Office is hereby authorized to identify and promulgate the official population projections to be utilized in State and local planning, in consultation with the College of Business, Division of Business and Economic Research for the University of New Orleans; the College of Business and Economic Research of the Louisiana Tech University; and the College of Business, Division of Research of the Louisiana State University, Baton Rouge.

2. The Louisiana State Planning Office must approve utilization of any other projections for planning purposes and any such use shall require substantive justification by the requesting department.

3. Notice of selection of the official planning projections shall be published in the Louisiana Register, and otherwise furnished to all affected State and local agencies. The projections shall be on deposit with the Louisiana State Planning Office which shall promulgate timely updates as necessary.

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 the 6th day of October, A.D. 1977.

Edwin Edwards  
Governor of Louisiana

#### EXECUTIVE ORDER EWE-77-18

WHEREAS, there is an ever-present concern over the scientific, technological, and environmental quality policies of this State; and

WHEREAS, it is the policy of this Administration to provide by all means possible for the positive utilization of scientific development, for technological transfer, and for the enhancement, protection, and improvement of environmental quality throughout the State of Louisiana; and

WHEREAS, Public Law 94-580, the Resource Conservation and Recovery Act of 1976, has mandated certain responsibilities to the individual states to respond to and participate in the full planning and implementation of this Act; and

WHEREAS, Louisiana has taken a leadership role in the planning and implementation of this Act; and

WHEREAS, technological resources are playing an increasing role in the day-to-day operation of State government through such activities as the proposed satellite monitoring of the Louisiana Superport; and

WHEREAS, it is essential for the State to engage in desirable programs to maximize the transfer and application of science and technology to Louisiana's problems; and

WHEREAS, diversification of industrial and governmental resources can be achieved through economic and scientific research to determine more and better ways to utilize the State's human and natural resources.

NOW, THEREFORE, I, EDWIN EDWARDS, Governor of the State of Louisiana, by virtue of the power vested in me, pursuant to the Constitution and applicable statutes of the State of Louisiana, do hereby create and establish the Office of Science, Technology, and Environmental Policy (OSTEP) within the Office of the Governor, whose purpose shall be to undertake matters dealing with scientific and technological research, the proper transfer of technology and coordination of the protection and improvement of environmental quality within the State of Louisiana.

FURTHERMORE, the Office of Science, Technology, and Environmental Policy shall be responsible for further coordination of planning and development of scientific programs and projects between Federal and State agencies; the transfer of technology from Federal sources in an efficient manner; the fostering of mutual cooperation among scientists, lay citizens, and governmental officials; and the maximizing of public and private participation in assessing and solving the many scientific, technological, and environmental problems facing the State of Louisiana.

FURTHERMORE, the Office of Science, Technology, and Environmental Policy shall be responsible for functioning as staff for the Governor's Advisory Committee on Waste Disposal Practices; shall be responsible for the full planning and coordination of the State's effort with respect to the Resource Conservation and Recovery Act of 1976 (P.L. 94-580); and shall coordinate, at least through the planning stages, the efforts of all other State agencies which have authority and responsibility for actual implementation and/or enforcement stages under any Federal laws, rules, regulations, or guidelines which pertain to areas addressed within the Resource Conservation and Recovery Act of 1976 (P.L. 94-580).

FURTHERMORE, the Office of Science, Technology, and Environmental Policy, at the direction of the Governor, shall maintain a close working relationship with the National Governors' Conference, and such other organizations, in an attempt to foster the States' interests, aims, and objectives as they relate to areas of scientific, technological, and environmental policy.

FURTHERMORE, the Office of Science, Technology, and Environmental Policy shall be directed by an Executive Director who shall be appointed by the Governor, and who shall advise the Governor on all matters pertaining to this office. The Executive Director shall further enlist and direct a competent and capable staff; shall have the authority to promote, procure, foster, and stimulate scientific, technological, and environmental research and development in the interest of the public; shall serve as an environmental advisor to the Governor; shall serve as official liaison in the transfer of technology from the Federal government to the State of Louisiana; and shall review the technical and managerial aspects of those research projects which may affect policy decisions of this Administration and report to the Governor.

FURTHERMORE, it is hereby ordered that all executive orders or parts of executive orders in conflict herewith are hereby rescinded and for all intents and purposes shall be considered null, void, and with no effect.

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 the 11th day of October, A.D. 1977.

Edwin Edwards  
Governor of Louisiana

#### EXECUTIVE ORDER EWE-77-19

WHEREAS, by Public Law 94-482 Congress established the National Occupational Information Coordination Committee for the purposes of improving coordination among vocational education, vocational rehabilitation, and manpower training programs, and to develop a source of information which will facilitate the accurate analysis and prediction of occupational supply and demand; and

WHEREAS, the Congressional Act mandates each state receiving funds under the Comprehensive Employment and Training Act of 1973 (CETA) to participate in this occupational information program, and to form a State Occupational Information Coordination Committee, and to create a coordinated system of employment information; and

WHEREAS, in order to provide more realistic employment opportunities and to generate information necessary to achieve the related but distinct objectives of vocational, educational, and rehabilitative programs, there should be developed uniform definitions of employment terminology, standards for estimating jobs, standards for estimating the labor force, and standard occupational classifications; and

WHEREAS, all of the above are national goals which can best be accomplished by full cooperation and coordination of efforts between the Federal government and the governments of the participating states; and

WHEREAS, this Administration is aware of the urgent need to manage public vocational programs in the most efficient manner and to provide a system of common information so as to contribute to the development of our state's economy; and

WHEREAS, the Congress has appropriated funds to initiate a coordinated occupational information system; and

WHEREAS, by participation in this program the State of Louisiana will realize many benefits, including improved governmental response to the needs of employers and job seekers, more effective management, more reliable occupational information for the use and benefit of public entities and private enterprise alike, more clearly identified employment opportunities, and improved reporting on the labor market.

NOW, THEREFORE, I, EDWIN EDWARDS, Governor of the State of Louisiana, by the power and authority vested in me by the Constitution and the laws of the State, do hereby create and establish in the Department of Labor the State Occupational Information Coordination Committee. Fiscal responsibility shall be vested in the State Department of Labor which embraces the Office of Employment Security. The Committee shall be an interagency public body composed of the Assistant Secretary of the Office of Employment Security, Department of Labor; the Assistant Secretary of the Office of Rehabilitation Services, Department of Health and Human Resources; the Director of the Governor's State Manpower Service Council; and a representative of the Vocational-Technical Education Committee of the State Board of Elementary and Secondary Education (the State Board of Vocational Education).

The Committee shall:

1. Create an occupational information system for the State of Louisiana. This system shall be housed in the Department of Labor, and shall serve the State's programs in vocational education, vocational rehabilitation, manpower training, and economic development.

2. Execute an interagency agreement for the purpose of coordinating a program of occupational information.

3. Develop information on labor demand and supply, using uniform employment definitions, standard estimation and projection procedures, and standard occupational classifications.

4. Upon request, provide State agencies, members of the Legislature, or private citizens with accurate, pertinent information.

5. Submit an annual plan of operation to the Louisiana Department of Labor and the National Occupational Information Coordination Committee.

6. Supply other information and reports, upon request, to the Federal government, particularly to the National Occupational Information Coordination Committee.

BE IT FURTHER PROVIDED that only the four statutory members as established by the Congressional Act, who

are the administrators of the State Manpower Services, Vocational Education, Vocational Rehabilitation, and Employment Security Programs, or their delegated representatives, may decide any matter concerning the expenditure of funds.

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 the 25th day of October, A.D. 1977.

Edwin Edwards  
Governor of Louisiana

## Policy and Procedure Memoranda

Office of the Governor  
Division of Administration  
Policy and Procedure Memorandum No. 63

**Subject: Policy for the Use of State-Owned Vehicles and Mileage Reimbursement**

**Effective Date: October 1, 1977**

**Authorization: Title 39, R.S. 1950, Part VI, Section 231;  
Title 39, R.S. 1950, Part XIII, Section 361**

### 1. General Information.

1.1 A uniform policy for the use of State-owned vehicles is herein set forth to provide for the inclusion of more energy efficient vehicles in the State transportation program, the adoption of energy concerning transportation methods, and to require that these measures be promulgated as official policy and procedure effective October 1, 1977.

### 2. Purpose and Scope.

2.1 The purpose of this Policy and Procedure Memorandum is to require the implementation of a uniform policy for the use of State-owned vehicles, to provide for the purchase of motor vehicles, and to establish intradepartment motor pools where feasible. The policies and procedures contained herein shall apply to all departments of State government as required by Act 142 of the 1976 Louisiana Legislature.

### 3. Policy and Procedures.

#### 3.1 Policy.

3.1.1 State-owned vehicles shall be made available on a top priority basis to State employees who travel in excess of fifteen thousand miles annually in the performance of State business. The State-owned vehicle may be stored at the employee's residence when it is determined to be in the best interest of the department. Use of State-owned vehicles for other than official State business is strictly prohibited.

3.1.2 Conditions requiring mileage reimbursement must receive written authorization from the Cabinet secretaries or their designees. Authorization records should be maintained in the appropriate files for reim-

bursement records or must be submitted by the employee with his or her expense form.

3.1.3 Where the vehicle is to be used primarily for city-to-city travel, a standard size car may be purchased. Where travel is primarily within a small geographical area, a compact car or economy class vehicle shall be purchased.

3.1.4 Cases of special need where the performance of official State business requires deviation from stated policy must receive prior written approval from the Commissioner of Administration. Such cases include:

(1) State-owned vehicles used by employees traveling less than fifteen thousand miles annually.

(2) Privately owned vehicles used by employees traveling in excess of fifteen thousand miles annually.

3.1.5 Cabinet secretaries shall establish intradepartment motor pools for use in the performance of official State business by department personnel who are not assigned a State-owned vehicle nor authorized for travel reimbursement. Motor Pool Vehicles shall be designated as such by the use of appropriate lettering and/or decals. Motor pool overnight storage cities shall be designated by the Cabinet secretaries.

### 3.2 Procedures.

3.2.1 An assessment shall be made by all Cabinet secretaries of the travel requirements for the performance of their departmental business.

3.2.2 An assessment shall be made by all Cabinet secretaries of the conditions influencing the types of vehicles required. Assignments of vehicle types shall correlate to any special transportation requirements (e.g., the use of Cushman carts for transportation within the confines of an institutional complex). Transportation type vehicles for assignment to individual employees or to motor pools shall include all automobiles, station wagons, carryalls, trucks and any other vehicle assigned for the purpose of transporting employees. Purchase release orders shall include a detailed explanation of the purpose and use of each vehicle. The explanation shall include such detail as intended use in motor pool, intercity travel, city-to-city travel, etc.

3.2.3 An assessment shall be made of employee travel requirements and assignment of State-owned vehicles will be made to those employees who travel in excess of fifteen thousand miles annually on State business. Necessary exceptions must be defined, justified and submitted to the Commissioner of Administration for approval.

3.2.4 State-owned vehicles anticipated to be operated less than fifteen thousand miles annually which will not be incorporated into intradepartment motor pools shall be turned over to the Division of Administration, Property Control Section.

3.2.5 An assessment shall be made of the feasibility of operating intradepartmental motor pools. Where a significant number of State employees could benefit from such a pool one shall be established.

3.2.6 An annual report shall be submitted to the Commissioner of Administration by January 1, 1978, and each succeeding year to include the following:

(1) Total number of State-owned vehicles used by the department by type and year.

(2) Number of State-owned vehicles driven less than fifteen thousand miles annually.

(3) Number of State-owned vehicles driven in excess of fifteen thousand miles annually.

(4) Total number of employees receiving mileage reimbursement and that dollar amount.

(5) Number of employees receiving mileage reimbursement for traveling more than fifteen thousand miles annually and that dollar amount.

(6) Approved exceptions to uniform policy.

(7) Intradepartmental motor pool status.

(8) Number of cars turned over to Division of Administration, Property Control Section.

Charles E. Roemer, II  
Commissioner of Administration and  
Executive Assistant to the Governor

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture Office of Agricultural and Environmental Sciences

The Louisiana Department of Agriculture, Office of Agricultural and Environmental Sciences does hereby exercise the emergency provisions of the Administrative Procedures Act (R.S. 49:953B) to adopt, effective November 20, 1977, the following amendment to the Supplement to the Quarantine and Regulation to Prevent the Spread of, Control and Eradicate the Sweet Potato Weevil, under authority of Parts 2 and 3 of Chapter 12 of Title 3 of the Revised Statutes of 1950.

#### III. Quarantined Areas, 2.a., add:

Ouachita Parish—Ward 4; that portion consisting of a one mile radius of and including the property of H. K. Wimberly, Section 4, R2E, T17N; and

Ward 5; that portion consisting of a one mile radius of and including the property of J. W. Lea, Section 8, R2E, T18N; and that portion consisting of a one mile radius of and including the property of O. W. Hattaway, Section 18, R2E, T18N.

West Carroll Parish—Ward 4; that portion consisting of a one mile radius of and including the property of Leon Hill, Section 28, R23N, T23N; that portion consisting of a one mile radius of and including the property of Lonnie Reese, Section 21, R11E, T21N; that portion consisting of a one mile radius of and including the property of Aaron Freeman, Section 21, R11E, T21N; and that portion consisting of a one mile radius of and including the property of Christina Blackman, Section 21, R11E, T21N.

The purpose of the amendment is to list revised quarantined areas in a major sweet potato growing area of the state.

Richard Carlton, State Entomologist  
Office of Agricultural and Environmental Sciences

## DECLARATION OF EMERGENCY

### Department of Commerce Racing Commission

The Louisiana State Racing Commission finds that an imminent peril to the public health, safety, or welfare requires the adoption of the following rules and such are declared emergency rules and effective November 2, 1977. The Governor, Attorney General, and the Division of Administration are being notified this date of the action pursuant to law.

The Commission's reasons for the finding are that if said rules are not adopted right away, the betting public may not be afforded the proper supervision of racing by the Commission to protect it by insuring that every race run will represent a true competitive effort by every participating horse and rider; that every horse is physically fit to race; that no horse shall be administered any prohibited substance; and that the funds appropriated for the Commission shall not be depleted or expended unless completely necessary and fully justified; and benefits for certain participants in racing.

#### Naming of Riders

All riders will have to be named at the time of entry, or no later than the time the entries are drawn.

If a rider has a first or second call, and the first call is on a horse who is listed as a likely starter, that one must be honored.

The jockey agents and trainers will be held responsible.

A rider may be named on no more than two horses entered in any given race and his first and second calls therein, shall be declared no later than the time entries are drawn.

#### Training Tracks

For the purpose of this rule a "Training Track" is defined as follows: An auxiliary race track on the grounds of any person, or persons, associations, or corporations used for workouts, schooling, starts and the likes of race horses that may start or be racing during a current meeting at a track of an association conducting racing with pari-mutuel wagering thereon, duly licensed by the Commission.

Anyone desiring to operate a "Training Track" must apply to the Commission for a license to conduct such a business.

An application seeking such a license shall set forth the following:

A. The full name of the person, and if a corporation the name of the state under which it is incorporated, and the names of the corporation's agents for the service of process within Louisiana.

B. If an association or corporation, the names of the stock holders and directors of the corporation or the names of the members of the association.

C. The exact location where it is desired to conduct a training track.

D. Whether or not the racing plant is owned or leased, and if leased the name and address of the owner, or if the owner is a corporation, the names of its directors and shareholders.

E. A statement of the assets and liabilities of the person applying for a license.

F. Such other information as the Commission may require.

The Commission, its stewards, agents and employees shall have full authority and jurisdiction over a licensed training track as may be appropriately exercised pursuant to R.S.

4:141 et seq. and the Rules of Racing as such apply to an association or licensee, or permittee and consistent therewith.

#### Exacta Racing

Any race carded for exacta wagering must have not less than eight betting interests at post time for the second race, otherwise exacta wagering will be suspended for that particular race.

#### Deposit Upon Appeal

A deposit of not less than fifty dollars nor more than five hundred dollars may be required by the Commission to defray the necessary expenses of witnesses called and necessary equipment required by the Commission upon appeal to the Commission of judges' or stewards' final rulings. If the Commission upholds the stewards' or judges' ruling, the necessary expenses of the Commission shall be deducted from the deposit and the balance, if any, shall be returned. If the Commission finds in favor of the appellant, the deposit will be returned.

#### Lasix

Lasix will not be administered to any horse racing in the State of Louisiana, except under the following conditions:

A. The subject horse must be known to bleed by either the Louisiana State Veterinarian or one of the association veterinarians, and will be considered a known bleeder.

B. When the subject horse is observed bleeding, it will not be accepted in the entries for a period of fourteen days, and then, only with the written consent of the Louisiana State Veterinarian. A known bleeder must remain on the lasix list for a minimum of ninety days.

C. The Louisiana State Veterinarian at each track will keep an up to date list of horses placed on the lasix or bleeders list and shall notify the other tracks that are racing in Louisiana.

D. Horses shipping in from other states, that intend to race in Louisiana, in order to qualify under this rule as known bleeders, must have filed in its behalf a statement of this effect from either the State Veterinarian or a licensed racing association veterinarian of that respective state. This statement must be filed with the Louisiana State Racing Commission Veterinarian at the appropriate Louisiana track.

#### Workman's Compensation Insurance

In addition to all other requirements for a trainer's license, each applicant therefor must furnish a certificate of insurance, or a binder therefor, of an insurance company licensed and/or authorized to do business in the State of Louisiana, showing he or she has workman's compensation insurance covering his or her employees during the entire period for which the license shall be valid, if issued. This rule does not apply to trainers racing horses at a current meeting which is in progress, however, after November 15, 1977, this rule shall apply to all trainers.

Albert M. Stall, Chairman  
Racing Commission

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

The Board of Elementary and Secondary Education amended Bulletin 746 by adopting the following emergency

policies, on October 27, 1977, to include legislative acts of the 1977 session regarding teacher certification.

Rule 3.01.70v(11)—The Board amended page 2 by adding the following:

Act 756 of 1977 requires that (1) the applicant, prior to entry into a teacher education program, shall have completed three hours of counseling related to the suitability and aptitude of the student for teaching and the availability of jobs both geographically and by subject area; this counseling shall be conducted by university counseling services outside the teacher education program; (2) the applicant shall have attained a 2.20 average on a 4.00 scale in all course work as a condition for entrance into a teacher education program; (3) the applicant shall have achieved a 2.50 average on a 4.00 scale at graduation from an approved program. (Effective September 9, 1977, all students formally enrolled and admitted to teacher education programs must be in compliance with Act 756 and Act 757 of the 1977 Legislature.)

Act 645 of 1977 requires that on and after April 1, 1978, certification shall be a reliable indicator of minimum current ability and proficiency of the teacher to educate at the grade level and in the subject(s) to which the teacher is assigned.

Act 16 of 1977 requires that applicants for certification on and after September 15, 1978, must pass an examination which includes English proficiency, pedagogical knowledge, and knowledge in the areas of specialization of the applicant as a prerequisite to the granting of such certificate.

Rule 3.01.70v(12)—The Board amended Page 13, paragraph 3 to read:

The application for certification shall indicate that the applicant has earned credit in student teaching. The applicant shall have spent a minimum of 270 clock hours in student teaching with at least 180 of such hours spent in actual teaching. A substantial portion of the 180 hours of actual student teaching shall be on an all-day basis (Act 756 of 1977). The teacher education program shall include: 1) practical experience in actual classroom situations during a student's sophomore year; 2) field experience in schools of varied socioeconomic and cultural characteristics (Act 757 of 1977).

The Board amended page 13, item d to read:

d. At least twelve semester hours of professional teacher education courses appropriate to the elementary level, including three semester hours in child psychology and nine semester hours in the teaching of reading including at least three semester hours of credit for a practicum or laboratory situation involving work with children and materials of instruction. (Act 756 of 1977).

Rule 3.01.70v(13)—The Board amended page 17, item c by adding:

In compliance with Act 756 of 1977, a minimum of 270 clock hours shall be spent in student teaching with at least 180 of such hours spent in actual teaching. A substantial portion of the 180 hours of actual teaching shall be on an all-day basis. Act 757 of 1977 states that the student teaching shall include: 1) practical experience in actual classroom situations during a student's sophomore year; 2) field experience in schools of varied socioeconomic and cultural characteristics.

The Board amended page 17, item 3a by increasing semester hours required from 21 to 27.

Rule 3.01.70v(14)—The Board amended page 18 by increasing the semester hours required in Principles of teaching reading from three to nine.

Rule 3.01.70v(15)—The Board amended page 20, second paragraph to read:

The application for certification shall indicate that the applicant has earned credit in student teaching. The applicant shall have spent a minimum of 270 clock hours in student teaching with at least 180 of such hours spent in actual teaching. A substantial portion of the 180 hours of actual student teaching shall be on an all-day basis (Act 756 of 1977). The teacher education program shall include: 1) practical experience in actual classroom situations during a student's sophomore year; 2) field experiences in schools of varied socioeconomic and cultural characteristics (Act 757 of 1977).

The Board amended page 20, item 3 to read:

e. Six semester hours of credit in the teaching of reading for all persons seeking secondary certification (Act 756 of 1977).

Rule 3.01.70v(16)—The Board amended page 27, second paragraph to read:

The application for certification shall indicate that the applicant has earned credit in student teaching. The applicant shall have spent a minimum of 270 clock hours in student teaching with at least 180 of such hours spent in actual teaching. A substantial portion of the 180 hours of actual student teaching shall be on an all-day basis (Act 756 of 1977). The teacher education program shall include: 1) practical experience in actual classroom situations during a student's sophomore year; 2) field experiences in schools of varied socioeconomic and cultural characteristics (Act 757 of 1977).

The Board amended page 27 by adding the following:

e. Six semester hours in the teaching of reading (Act 756 of 1977).

Bro. Felician Fourrier, S.C., Acting Director  
Board of Elementary and Secondary Education

## **DECLARATION OF EMERGENCY**

### **Board of Regents**

At its meeting on October 27, 1977, the Board of Regents exercised the emergency provisions of the Administrative Procedures Act to revise policy 3.4 in order to coincide with Act 439 of the 1977 Regular Session of the Legislature as follows:

### **Section II—Finance 3.4 Capital Projects**

All changes to any institution or system's physical facilities that add to, improve, change the utilization of or that remove from use such facilities will first be submitted to this Board for review, comment, and approval prior to beginning any such project. Provided, however, that exception(s) will be made for certified emergency projects of a nonrecurring nature requiring immediate attention. Any such emergency project certified to by the appropriate management board's chief administrative officer may be approved by the Commissioner of Higher Education if concurred in by the Chairman of the Board and the Chairman of the Finance Committee. Any such action(s) taken will be reported to the full Board at its next meeting. Funding limits for emergency projects of this type are as established by State statute. Minor



repairs and minor construction costing less than \$25,000 will not be subject to individual approval by the Board of Regents provided adequate funds are available, all existing emergencies are being satisfied, and these projects are approved by the appropriate management board.

William Arceneaux, Commissioner  
of Higher Education  
Board of Regents



## DECLARATION OF EMERGENCY

### Department of Health and Human Resources Office of Family Services

The Department of Health and Human Resources, Office of Family Services, exercised the emergency provision of the Administrative Procedures Act (R.S. 49:953B) to adopt effective July 1, 1977, rate adjustments for Skilled Nursing Facilities (SNF), Intermediate Care Facilities I (ICF I), and Intermediate Care Facilities II (ICF II). The new rates are as follows:

New Rates	SNF	ICF-I	ICF-II
Monthly	\$672.82	\$542.63	\$441.65
Daily	\$ 22.12	\$ 17.84	\$ 14.52

This rate increase has been approved based on cost reports from nursing home facilities that have been reviewed this current fiscal year. Notice of this change has been mailed to the nursing home administrators.

William A. Cherry, M.D., Secretary  
Department of Health and Human Resources

# Rules

## RULES

### Department of Agriculture Office of Agricultural and Environmental Sciences Horticulture Commission

The text which follows is the application manual for persons who wish to take the test for licensure as landscape architects.

#### Purpose of Examination

In order to safeguard public welfare, health, and property and to promote public good, any person practicing or offering to practice landscape architecture, privately or in public service, in the State of Louisiana, is required to submit evidence verifying qualifications for application for examination for license. The successful passage of this examination is part of the evidence required of each person seeking registration by license. The examination covers technical, professional, and practical subjects related to the practice of landscape architecture. The examination also covers the basic arts and sciences, a knowledge of which is material and necessary to the proper understanding, application, and qualifications for practice.

The function of the examination is to permit evaluation of a candidate's ability to apply theoretical training and practical experience to the performance of landscape architecture, and provide a basis for the Louisiana Horticulture Commission to license the candidate to practice professional landscape architecture.

#### History of Louisiana Horticulture Law and Landscape Architecture Professional Licensure

The licensing of landscape architects was first discussed in the early 1900's by an American Society of Landscape Architecture Committee concerned with professional registration. The first state to require licensing of landscape architects was Louisiana, when the State Legislature revised existing statutes to include the licensing of landscape architects. By the early 1960's five states required registration of landscape architects and by 1973, twenty years after the first registration law, twenty-seven states had passed licensing laws.

There are eleven members on the Louisiana Horticulture Commission. The law requires that this commission meet regularly four times a year: January, April, July, and October. A copy of the law and regulations may be obtained by requesting this from the Louisiana Horticulture Commission.

In 1961, with the number of states requiring registration growing and the potential of all states eventually passing registration laws, there was a recognized need for a group to coordinate the overall approach to registration in the United States, thus the Council of Landscape Architectural Registration Boards (CLARB) was founded. The stated purpose of the Board was, ". . . to facilitate exchange of information among the several State boards for licensing landscape architects; to formulate and implement reciprocal licensing arrangements and to study and advise regarding related matters."

While many of the aspects of CLARB's purpose were carried out to the benefit of the member states and the profession, it was not until 1970 that the problem of reciprocity was dealt with in a significant manner. In 1970, the first critical step towards reciprocity was taken with the adoption of the Uniform National Examination (UNE).

The objectives of CLARB are to promote high standards of landscape architectural practice; to foster the enactment of uniform laws pertaining to the practice of landscape architecture; to equalize and improve the standards for examination of applicants for State registration; to compile, maintain, and transmit professional records to member boards for registered landscape architects desiring this service; and to certify records and recommend registration for landscape architects who meet the standards of the Council for interstate and/or foreign registration.

As a member of CLARB, the Louisiana Horticulture Commission subscribes to its stated purpose and objectives. Since becoming a member, the Louisiana Horticulture Commission has used the Uniform National Examination prepared by CLARB as the examination for landscape architectural registration in the state.

#### Areas Covered by the Examination

The Uniform National Examination is divided into four major sections: history, design, design implementation, and professional practice.

These four sections are offered over a four-day period comprising the total written examination. A certain minimum score must be achieved in each section to pass. It should be noted that successfully passing the Uniform Na-

tional Examination (with a raw score in each section above the minimum) does not constitute national licensing. The granting of a license to practice landscape architecture is the responsibility of each state. CLARB can provide certification that an individual has successfully passed the UNE, which can assist a state in determining whether an applicant is qualified for licensure in that state. If further information is desired concerning CLARB's services, inquiries should be directed to the Council of Landscape Architectural Registration Boards, 1750 Old Meadow Road, McLean, Virginia 22101.

In addition to passing all sections of the UNE, the Board of Examiners may request the candidate to take one or more additional parts relating to plants and planting native to Louisiana.

#### **Recommendations for Examination Preparation**

The best preparation for the licensing examination is an objective and purposeful engagement with the required formal educational and professional experience aspects of landscape architecture development. Depending on the quality of these two aspects of development and the purpose with which they have been engaged, an applicant's preparation for this examination may vary.

The most complete and comprehensive single document available for help in preparation is *Landscape Architecture Review Workbook for Candidate Preparation for Professional Registration Examination* by D. Rodney Tapp. This document is available for twenty dollars through the American Society of Landscape Architects Foundation, and can be procured by writing them at 1750 Old Meadow Road, McLean, Virginia 22101. The book contains detailed commentary and notes on each subject area of the examination, examples of past examinations and extensive reference lists.

While no list of reference materials is ever complete and right for every individual preparing for an examination, the following is suggested as a point of beginning.

#### **Landscape Architectural History**

Newton, Norman T. *Design on the Land*. Cambridge: Harvard, 1971.

Tobey, George B. *A History of Landscape Architecture: The Relationship of People to Environment*. New York: American Elsevier, 1972.

#### **Landscape Architectural Design**

Alexander, Christopher. *Notes on the Synthesis of Form*. Cambridge: Harvard, 1964.

Eckbo, Garrett. *The Landscape We See*. New York: McGraw-Hill Book Co., 1969.

Eckbo, Garrett. *Urban Landscape Design*. New York: McGraw-Hill Book Co., 1964.

Halprin, Lawrence. *RSVP Cycles*. New York: George Braziller, 1970.

Lynch, Kevin. *Site Planning*. Second Edition. Cambridge, Massachusetts: The M.I.T. Press, 1971.

McHarg, Ian. *Design with Nature*. New York: National History Press, 1969.

Simonds, John Ormsbee. *Landscape Architecture: The Shaping of Man's Natural Environment*. New York: F. W. Dodge Corporation, 1961.

#### **Landscape Architectural Design Implementation**

*Handbook of Landscape Architectural Construction*. McLean Virginia: American Society of Landscape Architects Foundation, 1973.

Parker, Harry, Charles Gay, and John MacGuire. *Materials And Methods of Architectural Construction*. New York: John Wiley and Sons, 1958.

Parker, Harry and John MacGuire. *Simplified Site Engineering*. Fourth Edition. New York: John Wiley and Sons, 1967.

Robinette, Gary O. *Off the Board /Into the Ground Techniques of Planting Design Implementation*. Dubuque, Iowa: William C. Brown Book Co., 1968.

Ramsey, Charles G., and Harold R. Sleeper. *Architectural Graphic Standards*. Fifth Edition, revised. New York: John Wiley and Sons, 1956.

Seelye, Elwin E. *Data Book for Civil Engineers: Volume I, Design*. Third Edition, revised. New York: John Wiley and Sons, 1960.

Untermann, Richard K. *Grade Easy*. McLean, Virginia: American Society of Landscape Architects, 1973.

#### **Landscape Architectural Professional Practice**

Abbett, Robert W. *Engineering Contracts & Specifications*. Fourth Edition. New York: John Wiley and Sons, 1963.

*Landscape Architect's Handbook of Professional Practice*. McLean, Virginia: American Society of Landscape Architects, 1972.

#### **Prerequisites for Eligibility to Take Examination**

To apply for the licensing examination in Louisiana, the applicant must submit evidence of the following:

1. A degree from a college or university, with a degree in landscape architecture.
2. A notarized application with the verification, or a copy of college transcript.
3. Payment of the required application fee.

#### **Reciprocity**

The Louisiana Horticulture Commission provides for waiver of the written examination requirements upon submission of evidence satisfactory to the Commission that the applicant has qualified for registration in another state or territory where the requirements are equal to those required in Louisiana and payment of the current fee has been made. Each state with a landscape architecture registration law has slightly different requirements. For those who are interested in reciprocity, a chart which compares these differences is presented in the *Landscape Architecture Review Workbook* by Tapp and is also available through CLARB's Office in McLean, Virginia. For reciprocity in Louisiana, the applicant will be required to pass such additional examination sections as, in the opinion of the Commission, may be necessary to bring the applicant's record up to the existing requirement of Louisiana.

The applicant seeking registration by reciprocity must submit satisfactory proof of registration in good standing in the state or territory of prior registration.

#### **Application Procedure**

Application for admittance to the examination is to be submitted on the form provided by the Commission. The application must be filed with the Commission no later than the fifteenth of the month immediately preceding a Commission meeting. The application fee of twenty-five dollars must accompany the application; this fee is not refundable. With the formal application, each applicant must submit proof of statements made in the application by attaching documentary evidence that the application is clearly eligible under the section of the law upon which the application is based.

The UNE is given once a year during the month of June. Application Preparation:

1. In filling out the application, use a typewriter or plain block lettering.

2. Every item on the application must be answered. If the question does not apply, simply state, "not applicable".

3. Sign and execute the application before a notary public.

4. If registered in other states, list the state or states and indicate if registration was obtained by written examination.

5. Education: Education is defined as time spent as a matriculated student in a college or school of landscape architecture approved by the Commission. Applicant should state in chronological order the name and location of each college or university attended, giving the dates of attendance, major area of study, and if a graduate, the degree received. A diploma or a copy of official transcripts from each of the institutions attended must accompany the application.

6. Experience: Experience is defined as full-time employment in landscape architectural work under the direct supervision of a registered landscape architect or a landscape architect qualified for registration in Louisiana. All experience and training must meet the approval of the Commission. A notarized affidavit signed by the licensed landscape architect under whom the candidate trained should give a complete account of his/her entire experience from the time professional practice was actively engaged to the present time. The account should state concisely the title of position, the name, address and character of the business, the kind of work done, and the degree of personal responsibility, indicating time spent in the various levels of responsibility.

Also included must be the name and address of the licensee and company to which the applicant was responsible or associated.

9. All documents submitted to the Commission with the formal application must be clearly and properly marked for identification and ownership.

At the discretion of the Commission, other evidence may be requested. The Commission reserves the right to retain, as a permanent part of the application, any or all documents submitted.

All applicants will be considered individually by the Commission and approved or rejected on a roll call vote. If after reviewing the application, the Commission requires additional information or a personal appearance, the applicant is responsible to supply such information or appear at the time and place designated by the Commission.

Failure to supply additional evidence of information within sixty days from the date of a written request from the Commission or to appear before the Commission when such an appearance is deemed necessary, may be considered just and sufficient cause for disapproval of the application.

#### **Information Available Before Examination**

Each applicant will be notified by mail as to whether the Commission has certified him/her as being eligible to take the examination. After being designated by the Commission as a candidate for the examination, a copy of the instructions by which the examination will be conducted will be furnished to each candidate. This material will include:

1. The schedule for the examination and its various sections; specific times and places will be indicated.

2. A list of equipment and other materials that will be allowed and necessary to bring to the examination.

3. Notes regarding the administration of the examination.

4. A booklet prepared by CLARB entitled Uniform National Examination—Section Outlines. The booklet describes what will be covered in each section and in what format each will be offered.

#### **Outlines of the Subject Areas Covered by the Examination**

Uniform National Examination—Section Outlines as indicated above, will be sent to each candidate once certified. These outlines have been developed as a framework for the preparation of the examination by the Examination Committee of CLARB. They outline in detail the subject areas which will be included in each section of the examination and serve as a means of classifying and distributing questions.

These outlines are broad in scope and reflect the wide-ranging activities and responsibilities of contemporary landscape architectural practice. They have been developed in light of the basic purpose of the examination as it reflects the general functions and responsibility of licensure. The general and specific details of the outlines were developed from the State laws and/or Board requirements and a consensus opinion expressed by a randomly selected group of leaders within the profession.

The form of the examination and its questions have been developed by an appointed group of registered landscape architects, to be appropriate to a candidate after his or her academic education has been supplemented by the required period of practical experience.

#### **Evaluation Procedures**

Successful performance on the examination for licensure is based on the concept of mastery of the relevant subject matter and skills. Thus, candidates must obtain a "pass" evaluation in all sections of the examination. The candidate will not be evaluated in competition with others taking the examination, nor will there be "normal" distribution curves, "standard" scores or passing criteria established after the examination has been administered.

Objective items—All "objective" portions of the examination will be sent to CLARB for processing. This processing will identify and eliminate any faulty test items prior to determining individual section scores. After the processing by CLARB, each candidate's test performance will be sent back to the State Board for distribution.

Design/graphic items—The design/graphic solutions will be evaluated by an appointed group of professionals using carefully controlled scoring procedures provided by CLARB. The purpose of these procedures is to protect the candidate from any idiosyncratic biases among the evaluators, and to assure the professional quality of the examination.

#### **Notification of Results**

Results will be mailed within three months following the written examination. No results will be available by telephone.

#### **Retaking Examination**

A candidate receiving a passing grade on a section included in the examination will be given credit for that section. A candidate who fails to receive a passing grade on all sections can retake those sections not passed. Candidates desiring to retake certain sections of the examination may be required to appear before the Commission and furnish evidence of satisfactory study and preparation before readmittance.

Richard Carlton, Secretary  
Horticulture Commission

## RULE

### Department of Agriculture Office of Agricultural and Environmental Sciences Horticulture Commission

The Louisiana Department of Agriculture, Office of Agricultural and Environmental Sciences, Horticulture Commission, has adopted a policy, pursuant to R.S. 37:1969, which would require that each place of business, as defined in R.S. 37:1963, have present during the hours that business is being conducted a person or persons licensed in each phase of horticulture being offered to the public.

Richard Carlton, Secretary  
Horticulture Commission

## RULES

### Department of Agriculture Office of Agricultural and Environmental Sciences Pesticide Commission

Under authority of Part 1 of Chapter 12 of Title 3 of the Louisiana Revised Statutes of 1950, the following addition is made to the Rules and Regulations on Mixing and Application of Pesticides:

#### 1. Definitions

f. "Label"—The term 'label' means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

g. "Labeling"—The term 'labeling' means all labels and all other written, printed, or graphic matter accompanying the pesticide or device at any time; or to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental Protection Agency, the United States Department of Health, Education, and Welfare, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

E. A. Cancienne, Director  
Pesticide Commission

## RULES

### Department of Agriculture Dairy Stabilization Board

The Dairy Stabilization Board at its meeting on October 25, 1977, amended Rule 3.2(2) to read as follows:

3.2(2) Prior to the adoption, amendment or repeal of any rule, the Board shall afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. In case of substantive rules, opportunity for oral presentation or argument must be granted if requested by twenty-five persons, by a governmental subdivision or agency, by an association having not less than twenty-five members, or by a committee of either house of the Legislature to which the proposed rule change has been referred

under the provisions of the Administrative Procedures Act. The Board shall consider fully all written and oral submissions respecting the proposed rule. Upon adoption of a rule, the Board, if requested to do so by an interested person either prior to adoption or within thirty days thereafter, shall issue a concise statement of the principal reasons for and against its adoption.

C. James Gelpi, Director-Attorney  
Dairy Stabilization Board

## RULE

### Department of State Civil Service

The Louisiana Civil Service Commission at its meeting on November 8, 1977, amended Rule 11.29(b) to read as follows:

(b) Subject to the provisions of Rules 6.25(b) (3), 11.28(b), 11.29(d), 11.29(i), and 11.29(j), an employee serving in a position for which the current minimum of the pay range is less than \$971 per month who is required to perform overtime duty shall, at the option of his appointing authority, but in conformity with the provisions of the Federal rules, statutes, regulations, and judicial decisions . . .

George Hamner, Director  
Department of State Civil Service

## RULE

### Department of Corrections Board of Pardons

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*(Editor's Note: The following was adopted by the Board of Pardons on October 11, 1977 to become effective January 1, 1978.)*

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Rule 9 of the Rules and Regulations of the Board of Pardons is amended to read as follows:

Rule 9: The Board, upon denying an application, shall within twenty-one working days, inform the applicant of the denial and the fact that the Board shall review applicant's petition automatically at least once again, at a time established at the Board's discretion. Prior to the time of the review, which shall consist only of reviewing written documents with no legal representation or witnesses present, the applicant will be allowed to decide whether or not to proceed with said review or to elect to have a new hearing, with benefit of legal representation and/or other witnesses present.

The review and/or new hearing of the case of an applicant previously denied by this Board, who was subsequently granted parole, will be conducted, upon request by the parolee and approval by the Board.

In no event shall an applicant be reheard within one year from date of any denial without prior approval of the Board.

John D. Hunter, Chairman  
Board of Pardons

## RULES

### Board of Elementary and Secondary Education

The following rules were adopted by the Board of Elementary and Secondary Education on October 27, 1977.

#### Rule 4.02.03

The Board adopted for inclusion in the Policy and Procedure Manual the following policy statements from the State Plan for Special Education:

#### Policy Statements Contained in Fiscal Year 1978

##### Amended Annual Program Plan

#### II. Right to Education Policy Statement (612(1)).

Section 612(1) of the Act states that in order to qualify for Part B assistance the State must have "in effect a policy that assures all handicapped children the right to a free appropriate public education."

A. Policy to insure all handicapped children a free appropriate public education.

The Board of Elementary and Secondary Education (BESE) reaffirms its policy that all handicapped children have the right to a free appropriate public education.

This policy is consistent with the State's mandatory legislation enacted in 1972, and applicable to all state agencies which provides in part as follows:

" . . . that suitable special education and training facilities, services, classes, and opportunities be provided for all physically and/or mentally handicapped and other exceptional children of public school age, or within the broader age limits hereinafter provided."

The age limits set forth in the legislation are:

"Children who have been identified and are eligible for services in the categories described in the preceding paragraph shall be not less than three years of age nor more than twenty-one years of age, subject to the rules and regulations of the State Board of (Elementary and Secondary) Education concerning the age groups of children who may be reasonably taught or trained together."

Further, the first priority shall be handicapped children who are not receiving educational services, and second, handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education.

#### III. Full Educational Opportunities Goal and Timeliness (612(2) (A)).

Section 612(2) (A) requires that each Annual Program Plan set forth detailed policies and procedures to assure that "there is established (i) a goal of providing full educational opportunity to all handicapped children, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel and services necessary throughout the State to meet such a goal. . . ."

A. Goal statement—BESE establishes a goal of providing full educational opportunity to all handicapped children, ages birth through twenty-one in the State.

#### IV. Policy on Priorities (612(3)).

Section 612(3) states that in order for a State to qualify for assistance under Part B, the State must demonstrate that it "has established priorities for providing a free ap-

propriate public education to all handicapped children . . . first with respect to handicapped children who are not receiving an education, and second with respect to handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education and has made adequate progress in meeting the timetables set forth in (Sec. 612(2) (B))."

A. BESE establishes priorities for providing a free appropriate education to all handicapped children . . . first with respect to handicapped children who are not receiving an education, and second, with respect to handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education.

#### V. Child Identification (612(2) (C)).

Section 612(2) (C) of EHA-B, as amended by P. L. 94-142, states that each plan shall set forth in detail the policies and procedures which the State has undertaken in order to assure that "all children residing in the State who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located and evaluated, and that a practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services."

A. Policies and procedures undertaken to insure that all handicapped children are identified, located and evaluated.

It is the policy of BESE that all children residing in the State who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located and evaluated, and that a practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services."

#### VI. Individualized Education Program (612(4)).

Section 612(4) of the Act states that in order to qualify for assistance under Part B, the State must demonstrate that "each local education agency in the State will maintain records of the individualized education program for each handicapped child, and such program shall be established, reviewed, and revised as provided in Section 614(a) (5)."

Section 614(a) (5) states that a local education agency or an intermediate education unit must submit an application for funds to the State education agency. The application shall "provide assurances that the local education agency or intermediate educational unit will establish, or revise, whichever is appropriate, an individualized education program for each handicapped child at the beginning of each school year and will then review and, if appropriate revise, its provisions periodically but not less than annually."

A. BESE establishes policies that all local educational agencies (LEA's) or intermediate educational units (IEU's) be required to establish and maintain individualized education programs for all children receiving special educational services. The development, review, and revision of the individualized education programs (IEP's) must include:

1. IEP's will be developed and/or revised at the beginning of each school year and reviewed and revised at least annually.

2. The LEA or IEU is responsible for initiating and conducting planning conferences.

3. Parents will be afforded an opportunity to participate in the planning conference at a mutually agreed upon time and place and will be afforded alternative solutions should they be unable to attend. Procedures for providing sufficient documentation of attempts to arrange a mutual setting to allow the conference to occur without parents should be included. Provision for interpreters or other facilitators for parental participation in the case of a communication barrier on the part of the parent shall be documented.

4. Planning conferences will be conducted within the first thirty days of the child's attendance or within thirty days of determination of the child's eligibility for special education. To meet this provision, a local education agency could conduct the meeting for the child at the end of the school year or during the summer.

5. The planning conference will include but not be limited to:

- a. A representative of the education agency.
- b. The child's teacher(s).
- c. One or both parents.
- d. Child (when appropriate).
- e. Other individuals, at the discretion of the parent or agency.

6. The individualized education program will include:

- a. A statement of the child's present level of educational performance.
- b. A statement of the annual goals describing anticipated behavior to be achieved and based on the child's unique needs.
- c. A statement of the short-term instructional objectives.
- d. A statement of the special education services and instructional materials to be provided including special education and related services required to meet the child's unique needs.
- e. A description of the extent to which the child will participate in regular education programs.
- f. Projected date for the initiation and anticipated duration of service.
- g. Appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the instructional objectives are being achieved.
- h. List of individuals responsible for implementing the IEP.

7. Policies will be established by the LEA's for the development, maintenance, and evaluation of individualized education programs for children placed in private schools by the LEA's which must include:

- a. Provisions for presence of teacher or private school representative at planning conference or alternative for physical presence.
- b. Provisions for the LEA to have final responsibility for the development of the individualized education program with option to delegate to the private school.

## VII. Procedural Safeguards (612(5) (A), 615).

Section 612(5) (A) states that in order to receive assistance under Part B, a State must demonstrate that it "has established procedural safeguards as required by Section 615 of the Act."

A. Policy statement—BESE has established policies relating to procedural safeguards for handicapped children and their parents with respect to the provision of a free, appropriate, public education.

## VIII. Least Restrictive Environment (612(5) (B)).

Section 612(5) (B) states that in order to qualify for assistance under Part B, a State shall demonstrate that it has established "procedures to assure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."

A. BESE establishes that:

1. To the maximum extent appropriate, handicapped children in public or private institutions or other care facilities are educated with children who are not handicapped, and

2. Special classes, separate schooling or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

## IX. Protection in Evaluation Procedures (Nondiscriminatory Testing) (612(5) (C)).

Section 612(5) (C) states that in order for a State to qualify for Part B assistance, it must demonstrate that it has established "procedures to assure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it is clearly not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate education program for a child."

A. BESE establishes the policy that testing and evaluation materials and procedures used for the purpose of evaluation and placement of handicapped children are selected and administered so as not be racially or culturally discriminatory. Specifically, the requirements shall include but not be limited to the following:

1. No single test shall be used as sole criteria for placement.

2. A formal evaluation must occur prior to any action with respect to:

- a. the initial placement or denial of placement,
- b. the transfer or denial of transfer of a child from a special education program to full-time regular class placement.

3. Evaluation materials are administered in the child's native language, unless it is clearly not feasible to do so.

4. Evaluation materials have been properly validated.

5. Evaluation materials adopted must have been recommended by their producer for a specific purpose, administered in conformance with the instructions provided by their producer and administered by certified personnel.

6. Evaluation materials adopted must be tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.

7. Evaluation materials administered to a child with impaired sensory, manual, or speaking skills must yield results which accurately reflect the child's aptitude or achievement level.

8. Data from sources other than from achievement tests must be gathered and considered.

9. Interpretation of evaluation data and determination of child's educational placement must be made by a team knowledgeable about the child, the meaning of the evaluation results, the placement options, and the personnel available to provide appropriate educational and related services.

10. If evaluation data shows the child does not need instruction in a special setting, the child will not be placed outside the regular instructional setting.

11. The requirements that any changes in the child's special education placement will be based on (a) the child's current individualized education program, (b) any other information relating to the child's current educational performance and (c) existing formal evaluation data on the child which is not more than two years old.

12. Reevaluation must include (a) revision of individualized education program periodically, but not less than annually, and (b) that a formal evaluation of the child, based on above procedures, is conducted at least every three years or whenever conditions warrant, including at the request of the child's parents or teachers.

#### XI. Participation of Private School Children.

Section 613(a) (4) (A) requires that the Annual Program Plan "set forth policies and procedures to assure . . . that, to the extent consistent with the number and location of handicapped children in the State who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted or carried out under (Part B) by providing for such children special education and related services."

A. BESE establishes the policy that, to the extent consistent with the number and location of handicapped children in the State who are enrolled in private elementary and secondary schools, provision is made for participation of those children in the programs assisted or carried out under Part B by providing for those children special education and related services. The following specific criteria must be addressed in the policies.

1. Determination of the number and types of children who will participate in these programs and types of services provided must be made on a basis comparable to procedures used in providing for the participation of handicapped children in public schools, after consultation with persons knowledgeable as to the children's needs.

2. Public school personnel and services may be made available to nonpublic schools only to the extent necessary to provide the special education and related services required by handicapped children in private schools when those personnel and services are not provided at the private schools.

3. Each State and local agency providing educational and related services to children enrolled in private schools will maintain administrative control and direction over those services.

4. EHA-B funds used to support the education of handicapped children in private schools will not include the payment of salaries of private school personnel except for services performed outside their hours of duty and under public supervision and control nor must the services include the use of equipment purchased with Part B funds, other than mobile or portable equipment, on private school premises, or the construction of private school facilities. Title to and administrative control over above mentioned portable or mobile equipment must be maintained by the State or local agency, who will also be responsible for monitoring the use, availability, and removal of such equipment.

5. Programs and projects to be carried out in public facilities, and involving joint participation by handicapped children enrolled in private programs and public schools, will not include classes that are separated on the basis of school enrollment children's religious affiliation.

#### XII. Placement in Private Schools (613(a) (4) (B)).

Section 613(a) (4) (B) states that the Annual Program Plan must "set forth policies and procedures to assure . . . that (i) handicapped children in private schools and facilities will be provided special education and related services (in conformance with an individualized education program as required by Part B) at no cost to their parents or guardian, if such children are placed in or referred to such schools or facilities by the State or appropriate local education agency as a means of carrying out the requirements of (Part B) or any other applicable law requiring the provision of special education and related services to all handicapped children within such State, and (II) in all such instances the State Education Agency shall determine whether such schools and facilities meet standards that apply to State and local education agencies and that children so served have all the rights they would have if served by such agencies."

A. BESE established the policy that, if handicapped children are placed in or referred to private schools or facilities by the State or local education agencies as a means of carrying out the statutory requirements, those children will be provided special education and related services: (a) in conformance with an individualized education program, (b) at no cost to parents, and (c) which meet State education standards. The following conditions are included:

1. When a handicapped child is offered a free appropriate public education in a public education agency that is readily accessible to his/her home community and the parents waive that opportunity in favor of private school placement, the parents shall assume full financial responsibility for the child's education.

2. If a parent contends that he/she has been forced, at the parent's own expense, to seek private schooling for the child because an appropriate program does not exist, and the responsible agency disagrees, that disagreement and the question of who remains financially responsible is a matter to which the due process procedures apply.

3. Whenever handicapped children are placed in private schools or facilities by public education agencies, the State education agency shall take steps to assure that the children have all the rights they would have if educated in a public school.

4. Provision must be made for private schools to receive a copy of State standards, and revisions as they occur.

**XIII. Recovery of Funds for Misclassified Child.**

Section 613(a) (5) of the Act states that the State plan must "set forth policies and procedures which assure that the State shall seek to recover any funds made available under (Part B) for services to any child who is determined to be erroneously classified as eligible to be counted (under the Act)."

A. BESE establishes the policy to seek to recover any funds made available under Part B of the Act for services to any child who is determined to be erroneously classified as eligible to be counted.

**Rule 3.01.85**

The Board adopted the official function of the Textbook and Media Advisory Council as follows:

A. To review constantly the process followed in the adoption of textbooks and materials of the instruction and to strive to improve that process;

B. To make recommendations to the State Board of Elementary and Secondary Education for State adoptions;

C. To review data on a state by state basis on the expenditures for textbooks and to make recommendations for appropriation legislation in line with that data;

D. To review and evaluate the five year cycle for adoption of textbooks in basic skills and disciplines;

E. To help speed up the adoption process whereby they would handle any controversial material brought up by the general public before requesting approval from the Board.

**Rule 3.01.70w(1)**

The Board adopted Bulletin 996, Louisiana Standards for Accrediting Teacher Education Institutions as amended. The Department of the State Register, in accordance with R.S. 49:954.1C, has exercised its privilege to omit from the Louisiana Register the text of Bulletin 996. The public may inspect these rules at the Board's office, Room 104, Education Building, 646 North Fourth Street, Baton Rouge, Louisiana.

Bro. Felician Fourrier, S.C., Acting Director  
Board of Elementary and Secondary Education

**RULE**

**Department of Health and Human Resources  
Office of Family Services**

The Department of Health and Human Resources, Office of Family Services has adopted the following Maximum Fee Schedule of Authorized Services under the Early and

Periodic Screening, Diagnosis and Treatment (EPSDT) Dental Program. This new fee schedule was developed in an attempt to have the EPSDT fees compare more favorably with those of the private sector.

**EPSDT Dental Program  
Maximum Fee Schedule of Authorized Services**

**Category A**

Services contained in this category are the services generally allowable under the program and require no justification when listed in the claim for payment or treatment plan submitted for prior authorization.

Occlusal x-ray .....	\$ 5.00
Amalgam restoration—two surfaces .....	15.00
Amalgam restoration—three or more surfaces .....	20.00
Esthetic restoration—Class III or V (silicate, plastic composite) not to exceed three individual restorations on a single tooth .....	13.00
Acid etch restoration of fractured anterior restoring entire incisal edge (with report) .....	40.00
Stainless steel crown .....	30.00
Polycarbonate crown (limited to permanent anterior and deciduous cuspids) .....	30.00
Biopsy (including pathology report) .....	25.00
Routine extraction (permanent or deciduous) to include routine postoperative care .....	12.00
Incision and drainage of abscess .....	10.00
Nitrous oxide analgesia, per visit .....	3.00

**Category B**

Services in this category require special and individual consideration before preauthorization can be granted. Requests for these services must be accompanied by a brief report of circumstances including appropriate x-rays and clinical findings that justify the requested treatment.

Apicoectomy .....	45.00
Pulpotomy .....	40.00
Surgical removal of impacted tooth ✓ (soft tissue impaction) .....	30.00
Surgical excision of pericoronal gingiva .....	20.00
Frenulectomy .....	25.00
Alveolectomy/Alveoplasty (surgical preparation of ridge for dentures)— per quadrant .....	40.00
Periodontal prophylaxis (full mouth, subgingival-scaling) .....	25.00
Subgingival curettage, root planing, complete periodontal scaling (per quadrant), incipient bone loss must be evident radiographically .....	30.00
Partial denture (acrylic base—rests—wire clasps) .....	165.00
Partial denture (cast framework— acrylic saddles) .....	300.00
Relining upper or lower denture (laboratory) .....	70.00
Crown buildups—pin retained (pins to be listed individually with appropriate fee) .....	18.00
Post and core .....	35.00
Cast gold crown .....	125.00
Porcelain jacket crown .....	125.00



Porcelain fused to gold crown (per unit) .....	185.00
Removable bilateral space maintainer (lingual arch) .....	70.00
Hospital Fee (total fee, pre and postoperative) Special request for hospitalization required .....	75.00

William A. Cherry, M.D., Secretary  
 Department of Health and Human Resources

**RULE**

**Department of Health and Human Resources  
 Office of Family Services**

The Department of Health and Human Resources, Office of Family Services, has adopted as a permanent regulation the following new rates of payment to Skilled Nursing Facilities (SNF), Intermediate Care Facilities I (ICF I), and Intermediate Care Facilities II (ICF II).

New Rates	SNF	ICF I	ICF II
Monthly	\$672.82	\$542.63	\$441.65
Daily	\$ 22.12	\$ 17.84	\$ 14.52

William A. Cherry, M.D., Secretary  
 Department of Health and Human Resources

**RULES**

**Department of Labor  
 Office of Employment Security**

The Department of Labor, Office of Employment Security has pursuant to R.S. 23:1654 amended Regulations 11 and 15 to read as follows:

**Regulation 11. Separation Notices.**

(a) Individual separation notices.

(1) No disqualification alleged.

Whenever a worker is separated from his employment, permanently or for an indefinite period or for an expected duration of seven or more days, under circumstances which are not expected by his employer to disqualify him for benefits pursuant to Section R.S. 23:1601, his employer shall give him at the time of separation or if such personal delivery is impossible or impracticable shall mail to his last known address within forty-eight hours after such separation, "Worker's Claim Information Booklet," Form LDOL-ES 87.

(2) Under conditions which may disqualify.

Whenever a worker is separated from his employment permanently or for an indefinite period or for an expected duration of seven or more days, under conditions which may disqualify him for benefits pursuant to the provision of R.S. 23:1601, his employer shall within seventy-two hours after such separation give him, or if such delivery is impossible or impracticable, mail to his last known address a "Separation Notice Alleging Disqualification," Form LDOL-ES 77, on which the employer has entered the required information. Within the same period of time, the employer shall send a copy of such separation notice, certified to by himself or his duly authorized agent, to the Administrator.

(3) Upon request of administrator.

Upon request of the Administrator for separation information covering any worker separated by any employing unit from its employ, such employing unit shall within ten days following the mailing of such request, completely fill out such notice and return it to the address specified thereon.

(4) Failure by an employing unit.

Failure by an employing unit to furnish the Administrator, within the time allowed, information which may disqualify for benefits under R.S. 23:1601 shall be deemed an admission that such worker was not separated under disqualifying circumstances, unless the Administrator finds good cause existed for the failure to comply.

(b) Mass separation notices.

In the event of a separation of fifty or more individuals by an employer for the same reason and about the same time, the employer shall notify the Administrator of such separation. Upon receipt of such notice, the Administrator shall make full investigation.

(c) Labor dispute notices.

(1) In case of a separation due to a labor dispute, the employer shall within forty-eight hours after such separation file with the local employment office nearest his place of business a notice setting forth the existence of such dispute and the approximate number of workers affected.

(2) Upon request by the Administrator such employer shall furnish the names and Social Security account numbers of workers ordinarily attached to the department or the establishment where unemployment is alleged to be caused by a labor dispute.

(d) It is not the intent of this regulation to deprive any party of the right to protest or to appeal which is statutorily granted.

**Regulation 15. Registration for Work and Claims for Benefits for Partial Unemployment.**

(a) Employer responsibility in the initiation of a first claim for partial benefits in a benefit year.

(1) Immediately after the termination of any calendar week in which a worker earned less than sixty percent of his customary full time weekly wage due to lack of work, his employer shall give such worker a copy of Form LDES-89, "Low Earnings Report and Claim for Partial Benefits," setting forth therein the information required of the employer. If such worker completes and returns Form LDES-89 to his employer, such employer shall promptly mail or otherwise transmit such form to the local office of the Department of Labor, Office of Employment Security through which the employer has a partial claims agreement.

(2) Upon receipt of Form LDES-89 the Department of Labor, Office of Employment Security shall promptly notify such worker named therein of his potential rights to partial benefits and shall notify his employer of such worker's weekly benefit amount and benefit year ending date. Upon receipt thereof, such employer shall record such weekly benefit amount and benefit year ending date upon his payroll records.

(b) Employer to furnish evidence of subsequent weeks of partial unemployment.

After an employer has been notified of the weekly benefit amount and current benefit year ending date of any worker in his employ, such employer, until otherwise notified, shall immediately after the termination of each

calendar week which begins within such benefit year and for which such worker's earnings fall below such weekly benefit amount because of lack of work in such week, furnish each such worker with a copy of Form LDES-89, "Low Earnings Report and Claim for Partial Benefits," setting forth the information required therein, including the worker's name and Social Security account number, the ending date of such week, the wages earned therein, and a proper certification as to his having worked less than his normal customary full time hours because of lack of work in such week. If such worker completes and returns such form to his employer, such employer shall promptly mail or otherwise transmit such form to the local office of the Department of Labor, Office of Employment Security through which the employer has a partial claims agreement.

(c) Registration and filing of claims for partial unemployment.

A claim for benefits for any individual on Form LDES-89, "Low Earnings Report and Claim for Partial Benefits," or other form designated by the Department of Labor, mailed by him or his employer in his behalf, or delivered to a local office of the Department of Labor, Office of Employment Security shall constitute such individual's notice of unemployment, registration for work, and claim for benefits or waiting period credit, with respect to each such week of partial unemployment covered by the claim provided that such form is executed by such individual and received by the local office of the Department of Labor, Office of Employment Security through which the employer has a partial claims agreement within seven days following the week to which the form pertains.

(d) Extended period for registration and filing of claims for good cause.

Notwithstanding the provisions of Part (c) of this regulation, if the Administrator finds that the failure of any individuals to register and file a claim for partial unemployment benefits within the time set forth in Part (c) was due to failure on the part of the employer to comply with any of the provisions of Parts (a), (b) and (c) of this regulation, or to coercion or intimidation exercised by the employer to prevent the prompt filing of such claim, or to failure by the Department of Labor, Office of Employment Security to discharge its responsibilities promptly in connection with such partial unemployment, the Administrator shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of his potential rights to benefits and his earnings during the period of such partial unemployment, provided, however, that the period during which such claim may be filed shall not be extended beyond the thirteen-week period subsequent to the end of the actual or potential benefit year during which such week of partial unemployment occurred.

(e) Employer records in connection with partial unemployment.

In addition to the requirements set forth in Regulation 6, each employer shall keep his payroll records in such form that it would be possible for an inspection to determine with respect to each worker in his employ who may be eligible for partial benefits:

(1) Wages earned, by weeks, described in Regulation 12(b);

(2) Whether any week was in fact a week of less than full time work;

(3) Time lost, if any, for each such worker, due to his unavailability for work.

(4) This regulation applies only to employers with a Partial Employer Agreement with one or more of the Louisiana Employment Security Area Offices.

Thomas M. Lockwood, Administrator  
Office of Employment Security

## RULES

### Department of Public Safety Commission on Law Enforcement and Administration of Criminal Justice

#### Preface

These regulations governing the privacy and security of criminal history record information in the State of Louisiana are effective after November 30, 1977. Full implementation is required by December 31, 1977.

The regulations were drafted by the Privacy and Security Steering Committee of the Louisiana Criminal Justice Information System (LCJIS) Advisory Board and members of the LCJIS Staff in accordance with a Federal and State executive mandate to the Louisiana Commission on Law Enforcement. The Commission approved the regulations on October 26, 1977.

A separate set of guidelines and implementation instructions has also been published. These should provide significant assistance in understanding and adapting the regulations to local needs and peculiarities. Questions concerning the regulations or guidelines may be addressed to Louisiana Criminal Justice Information System, Office of Management and Planning, 1885 Wooddale Boulevard, Suite 502, Baton Rouge, Louisiana 70802, Telephone: (504) 389-7411.

#### Privacy and Security Regulation LAC 17-3: 1 Purpose and Scope

In keeping with Congressional findings that the privacy of an individual is directly affected by the collection, maintenance, use, and dissemination of personal information;

Recognizing that to the extent that the maintenance of personal information is necessary for the efficient functioning of the government, it is the moral and legal obligation of the government to assure that the personal information maintained is, to the maximum extent feasible, complete and accurate;

Being convinced that it is of utmost importance that the integrity of personal information records be zealously protected;

Recognizing that the increasing use of computers and sophisticated information technology, while essential to the operations of government, has greatly magnified the harm to individual privacy that can occur from any collection, maintenance, use, or dissemination of personal information;

Realizing that opportunities for an individual to secure employment, insurance, credit, and his right to due process, and other legal protections are endangered by the misuse of certain information systems;

Acknowledging that the right to privacy is a personal and fundamental right protected by the Constitution of the United States.

Responding to the authority granted in 42 United States Code 3701, et seq.; 28 United States Code 534; 28 Code of Federal Regulations, Chapter I, Section 20; R.S. 15:575 et seq.; 49:951 et seq.; and Executive Designation dated November 14, 1975; and

Acting with the intent of protecting and furthering the interests of the citizens of the State of Louisiana, the Privacy and Security Committee of the Criminal Justice Information System Division of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice (LCLE) does hereby issue these Privacy and Security Regulations for the following purposes, and with the following scope and limitations:

It is the purpose of these regulations to provide safeguards for an individual against an invasion of his personal privacy, and to promote, to the maximum extent feasible, the adoption of procedures to ensure the completeness, accuracy, and integrity of criminal history record information collected, maintained, and disseminated by criminal justice agencies. This will be accomplished by requiring those agencies affected to permit an individual to determine what criminal history record information pertaining to him is collected, maintained, used, or disseminated by such agencies; permit an individual to gain access to criminal history record information pertaining to him in the records of affected agencies, to have a copy made of all or any portion thereof, and to correct or amend such records; and collect, maintain, use, or disseminate any record of criminal history information in a manner that assures that such action is for a lawful purpose, that the information is current and accurate for its intended use, and that adequate safeguards are provided to prevent the misuse or unauthorized alteration or destruction of such information.

§1.1 These regulations apply to all criminal justice agencies organized under the Constitution or laws of the State of Louisiana which were awarded Law Enforcement Assistance Administration (LEAA) monies after July 1, 1973, for manual or automated systems which collect, store, or disseminate criminal history record information. The regulations do not directly apply to agencies which have received LEAA funds for general purposes other than the collection, storage, or dissemination of criminal history record information. For example, an agency receiving funds to implement and operate automated noncriminal history record information systems (e.g., personnel, resource allocation, performance evaluation) would not by such funding be included under these regulations.

§1.2 These regulations apply to all criminal justice agencies organized under the Constitution or laws of the State of Louisiana which are or become signatories to a user's agreement. In such instances, the user's agreement shall control the extent to which these regulations are applicable.

§1.3 Nothing contained in any of these Privacy and Security Regulations shall be construed to reduce, eliminate, or otherwise adversely affect any rights which individuals may have under any existing Louisiana law, court decision, or administrative rule.

§1.4 These regulations apply to criminal history record information, as defined in regulation LAC 17-3:1.10. The following types of record information that might contain or otherwise be included within the definition of criminal history record information are specifically excluded:

A. Posters, announcements, or lists for identifying or apprehending fugitives or wanted persons.

B. Original records of entry such as police blotters maintained by criminal justice agencies, compiled chronologically and required by law or long-standing custom to be made public, if such records are accessed solely on a chronological basis.

C. Court records of public judicial proceedings.

D. Published court or administrative opinions.

E. Public judicial, administrative, or legislative proceedings.

F. Records of traffic offenses maintained by State departments of transportation, motor vehicles or the equivalent thereof for the purposes of regulating the issuance, suspension, revocation, or renewal of driver's, pilot's or other operator's licenses.

G. Announcements of executive clemency.

H. Juvenile records.

I. Any other specific exemptions as may from time to time be provided by Federal regulations, State statute or which may be particularly specified in any of these regulations.

§1.5 These regulations shall be effective after November 30, 1977.

§1.6 Under Federal law, an affected agency which willfully and knowingly violates these regulations may be subject to termination of funds made available by the Law Enforcement Assistance Administration, and a ten thousand dollar fine. Additionally, future eligibility for receipt of Law Enforcement Assistance Administration funds may be suspended until the violating agency furnishes proof of compliance with these regulations.

§1.7 Under Louisiana law (R.S. 15:575 et seq.), an officer or official of a criminal justice agency may be subject to a fine between fifty dollars and five hundred dollars for violating any rules or regulations issued by the Louisiana Criminal Justice Information System.

§1.8 A violating agency may be barred from receiving information from the Central State Repository until such agency furnishes proof of compliance with these regulations.

§1.9 "Criminal history record information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information.

§1.10 "Criminal history record information" means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release. The term does not include identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system.

§1.11 "Criminal justice agency" means only those public agencies at all levels of government which perform as their primary function activities relating to:

A. The apprehension, prosecution, adjudication, or rehabilitation of criminal offenders.

B. The collection and analysis of crime statistics pursuant to statutory authority.

C. The collection, storage, processing, dissemination, or usage of information originating from agencies described in LAC 17-3:1 of this regulation.

§1.12 The “administration of criminal justice” means performance of any of the following activities: detention, detection, apprehension, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information.

§1.13 “Affected agency” means:

A. Any criminal justice agency which was awarded Law Enforcement Assistance Administration monies after July 1, 1973, for manual or automated systems which collect, store, or disseminate criminal history record information.

B. Any criminal justice agency which is or becomes a signatory to a user’s agreement.

C. Any noncriminal justice agency which is or becomes a signatory to a user’s agreement.

§1.14 “Primarily affected agency” means any criminal justice agency organized under the Constitution or laws of the State of Louisiana which was awarded Law Enforcement Assistance Administration monies after July 1, 1973, for manual or automated systems which collect, store, or disseminate criminal history record information.

§1.15 “Secondarily affected agency” means:

A. Any criminal justice agency organized under the Constitution or laws of the State of Louisiana which is or becomes a signatory to a user’s agreement.

B. Any noncriminal agency which is or becomes a signatory to a user’s agreement.

§1.16 “User’s agreement” means a written agreement entered into by a certified criminal justice agency and/or a requesting noncriminal justice agency and/or a criminal justice agency that has not received LEAA funds for system support since July 1, 1973. The agreement shall specify the basis of eligibility for receipt of criminal history records, and an acknowledgement by the recipient agency that it is subject to the terms and conditions of the Louisiana Commission on Law Enforcement Privacy and Security Regulations.

§1.17 “Disposition” means information disclosing that criminal proceedings have been concluded, including information disclosing that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings and also disclosing the nature of the termination in the proceedings; or information disclosing that proceedings have been indefinitely postponed. Dispositions shall include, but not be limited to: acquittal, acquittal by reason of mental incompetence, case continued without finding, charge dismissed, charge dismissed due to insanity, charge dismissed due to mental incompetency, charge still pending due to insanity, charge still pending due to mental incompetence, guilty plea, nolle prosequi, no paper, nolo contendere plea, convicted, youthful offender determination, deceased, deferred disposition, dismissed—civil action, found insane, found mentally incompetent, pardoned, probation before conviction, sentence commuted, adjudication withheld, mistrial—defendant discharged, placed on probation, paroled, or released from correctional supervision.

§1.18 “Statute” means an Act of Congress or State Legislature or a provision of the Constitution of the United States or of a state.

§1.19 “State” means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

§1.20 An “executive order” means an order of the President of the United States or the Chief Executive of a state which has the force of law and which is published in a manner permitting regular public access thereto.

§1.21 “Direct access” means having the authority to access the criminal history record data base, whether by manual or automated methods.

§1.22 “Dissemination” means the release or transmission of criminal history record information by an agency to another agency or individual by oral, written, or electronic methods.

§1.23 “Dissemination log” means an automated or manual record of information relating to the individual or agency to which criminal history record information has been disseminated. This record should contain the following data elements: a tracking, serial, or identification number, the agency or individual to whom criminal history record information is released, the address of the agency or individual, the date of release or notification, the individual to whom the information relates, the items of information released and how furnished, the original entry or correction, and the name of the releasing official.

§1.24 “Central State Repository” means that collection of criminal history record information within the Louisiana Department of Public Safety, which is jointly collected, stored, and managed pursuant to mutual agreement between the Division of State Police, Bureau of Criminal Identification and the Louisiana Commission on Law Enforcement, Criminal Justice Information System Division.

§1.25 “Direct access” means individual access to personal criminal history record information contained in the manual or automated files of an affected criminal justice agency, excepting the Central State Repository, when such access is sought under the provisions of LAC 17-3:3.3, and the individual requesting access or his personal representative is physically present at the place where the records are kept or at the office of the custodian of the record sought.

§1.26 “Eligible noncriminal justice agency” means a non-criminal justice agency, individual, or individuals having:

A. Official authority, pursuant to a statute, executive order, administrative rule, or court order;

B. Formal authority, pursuant to a written agreement with a criminal justice agency, to perform a service or function within the scope of the legitimate activities of a criminal justice agency.

§1.27 “Personal representative” means any person, including, but not limited to legal counsel, who possesses a sworn authorization empowering him to represent an individual in the viewing or challenging of the authorizing individual’s criminal history record information.

#### **LAC 17-3:2 User’s Agreement**

§2.1 It is the purpose of this regulation to insure statewide compliance with Privacy and Security Regulations by requiring all recipients of criminal history record information from primarily affected agencies to sign user’s agreements, and to provide for the minimum terms and conditions of such user’s agreements.

§2.2 Every primarily affected agency, excluding official custodians of court records, shall, prior to disseminating criminal history record information to any criminal justice agency which is not otherwise bound by the Louisiana Privacy and Security Regulations, require such an agency to sign a user’s agreement, provided that upon presentation of

proof that it is already a signatory to a valid user's agreement, the information requesting agency may not be required to sign an additional user's agreement.

§2.3 Every primarily affected agency, excluding official custodians of court records, shall, prior to disseminating criminal history record information to an eligible noncriminal justice agency which is not otherwise bound by the Louisiana Privacy and Security Regulations, require such an agency to sign a user's agreement.

§2.4 An eligible noncriminal justice agency, for purposes of this part, shall constitute every noncriminal justice agency receiving access to criminal history records on a regular and recurring basis or on any basis other than the established procedures under the Louisiana Public Records Law.

§2.5 Whenever a primarily affected agency, excluding official custodians of court records, signs a user's agreement with an otherwise nonaffected agency, the primarily affected agency shall immediately forward a copy of the signed user's agreement to the Privacy and Security Committee. Copies of all user's agreements shall be kept on file by the signatory agencies, and shall be made available for public inspection upon demand.

§2.6 Every primarily affected agency or secondarily affected agency, excluding courts, which enters into an agreement permitting an eligible agency access to criminal history record information shall employ LCLE—Privacy and Security Form No. 7 for the purpose of fulfilling the obligation imposed by this regulation.

**LAC 17-3: 3 Individual Rights of  
Access to Automated and Manual  
Criminal History Record Information**

§3.1 It is the purpose of this regulation to extend individual rights of access to personal criminal history records beyond the rights currently provided by the Louisiana Public Record Act, as required by Federal regulations, and to provide a mechanism for the implementation of those rights.

§3.2 Each individual shall have the right to view the automated or manual criminal history record information which specifically relates to him, provided that only individual criminal history record information contained in the records of affected criminal justice agencies organized under the Constitution or laws of the State of Louisiana shall be accessible under this regulation.

§3.3 Any individual electing to seek direct access to his automated or manual personal criminal history record under this subpart shall be granted such access upon fulfillment of the following conditions:

A. The request for access must be in writing, and must be presented to an affected criminal justice agency.

B. The request for access must be presented to the official having custody or control of the record sought, or a designated representative of such an official.

C. The request for access must be presented during the regular office or working hours of the agency which has custody or control of the record.

D. The request for access must be specific enough to enable the person charged with the care or custody of the record to reasonably ascertain the identity of the precise record sought. Specificity requirements may include fingerprints and such personal identifiers as may be essential to the location and retrieval of the record sought.

§3.4 Individuals or their personal representatives seeking access under this subpart shall be allowed to view the desired individual criminal history record within a reasonable time,

not to exceed three days, provided that where fingerprint classification is an essential prerequisite to the location and retrieval of the record sought, the time period within which viewing must be made possible may be extended by an additional thirty days.

§3.5 An individual wishing to view automated or manual criminal history record information specifically relating to himself and contained in the records of the Central State Repository shall be granted the right to view such records upon:

A. Submitting a written and signed request for viewing to an affected criminal justice agency, other than the Central State Repository, as outlined in LAC 17-3: 3.8;

B. Submitting to fingerprinting for the purpose of positively establishing the identity of the requesting individual; and

C. Paying a ten dollar fee.

§3.6 An individual wishing to view automated or manual criminal history record information specifically relating to himself and contained in the file of any affected criminal justice agency, other than the Central State Repository or the agency to which the request is submitted, may gain access to such information by:

A. Presenting a written and signed request for viewing to any affected agency, other than the Central State Repository, as outlined in LAC 17-3: 3.8. Such request shall describe with reasonable particularity the records of which viewing is sought, and shall at a minimum state the places where it is believed such records may be kept, and the approximate date of occurrence of the incidents which form the subject of the records requested. Individuals or personal representatives seeking to query criminal justice agencies which maintain criminal history files accessible solely by fingerprint classification numbers must provide the querying agency with a set of fingerprints of the individual seeking access. LCLE-Privacy and Security Form No. 1 shall be used for this purpose;

B. Submitting any required positive identifiers, including fingerprints, for the purposes of establishing both the identity of the requesting individual and correctly locating the records sought;

C. Paying a five dollar fee for each affected criminal justice agency to be queried. An additional five dollar fee may be levied by the querying agency for each query forwarded.

§3.7 When criminal history record information is requested by a personal representative under LAC 17-3:3.3 through LAC 17-3: 3.6, the representative must present positive proof of the identity of the individual actually involved as well as a sworn authorization from the involved individual. Positive proof of identity in this subsection shall be understood to mean fingerprints. Upon presentation of the authorization and positive identifier, the representative shall be permitted to request, examine, and/or challenge the criminal history record information specifically relating to the involved individual.

§3.8 Queries directed to any criminal justice agency shall be launched from any affected sheriff's office or police department. In the parish of Orleans, individuals shall initiate queries through the New Orleans Police Department.

§3.9 If the information requested by the individual must be obtained from the Central State Repository (CSR), the CSR shall forward the information to the requesting agency within

forty-five days of receipt of the request, and the requesting agency shall permit the viewing of the information within a reasonable time after receipt. The viewing individual may make a written summary of the information viewed, and may take with him such a summary. A copy of the record obtained from the Central State Repository shall be furnished to the individual upon request. Such copy should be prominently marked or stamped to indicate that the copy is for review and challenge only and that any other use thereof would be a violation of 42 United States Code Section 3771.

§3.10 Every affected criminal justice agency shall post a public notice informing individuals of their right to access and to administratively challenge the completeness or accuracy of their individual criminal history records. Additionally, every individual seeking to avail himself of the querying procedures set forth in this regulation shall be provided with a list of all affected agencies, and informed of the significance of querying a nonaffected agency.

§3.11 Every affected criminal justice agency which has custody of, control over, or access to automated or manual individual criminal history record information shall make available facilities and personnel necessary for such viewing, and shall in all respects maintain a cooperative attitude toward individuals requesting viewing. Viewing shall occur only within the facilities of a criminal justice agency, and only under the supervision and in the presence of a designated employee or agent of a criminal justice agency.

§3.12 Every affected criminal justice agency shall, in every instance, diligently seek to provide the information requested. Every out-of-parish criminal justice agency listed on the request for viewing shall be contacted by mail, communication device, or personally within seven days of receipt of the request for viewing. Five dollars shall be assessed for each agency queried by the agency to which the individual submits his request, and shall be forwarded to each queried agency along with the request for viewing. An additional five dollar fee may be levied by the querying agency for every query forwarded. Querying agencies shall provide positive identifiers in accordance with LAC 17-3: 3.6.

§3.13 Every affected criminal justice agency which receives a request for information must make every effort to locate the information requested, and shall in any event forward a reply to the requesting agency within seven normal working days of receipt of the request, except as provided for requests to the Central State Repository. In such instances where the responding agency maintains criminal history record files accessible solely by fingerprint classification numbers, the response time may be extended up to a maximum of thirty days to allow for the classification of the fingerprints accompanying the query. Such classification may be performed by the responding agency or by the Central State Repository.

§3.14 Every affected sheriff's office or police department shall fingerprint individuals requesting that the Central State Repository be queried. In such instances where an authorized representative is presenting a query to the Central State Repository on behalf of an individual, the representative shall supply at least two sets of the represented individuals' fingerprints on standard fingerprint cards. The fee charged for querying the Central State Repository and supplying a copy of the results of such query shall be ten dollars. Five dollars of this amount shall be forwarded to the Central State Repository along with the query, and the remaining

five dollars shall be placed in the treasury of the criminal justice agency to which the individual submits the request for viewing.

§3.15 Individual viewing may, at the discretion of each criminal justice agency, be limited to ordinary daylight business hours.

§3.16 A record of each individual viewing shall be maintained by each affected criminal justice agency by the completion and preservation of LCLE—Privacy and Security Form No. 2. Each such form shall be completed and signed by the supervisory employee or agent present at the review. The reviewing individual shall be required to certify by his signature that he has viewed the criminal history record information requested.

**LAC 17-3: 4 Individual Right to Administrative Review of the Content, Completeness or Accuracy of Individual Criminal History Record Information**

§4.1 It is the purpose of this regulation to provide a means for administrative challenge, and ultimate correction of incomplete or inaccurate individual criminal history records.

§4.2 Each viewing individual shall have the right to challenge and request correction of the content, completeness, or accuracy of his individual criminal history record. Each individual shall be informed at the time of viewing of his rights of challenge under this regulation. Individuals shall have a right of administrative appeal under this regulation to seek redress for the denial of rights granted by any of these regulations.

§4.3 This regulation provides the exclusive means for initial challenge of the content, completeness, or accuracy of individual criminal history record information, provided that where the individual criminal history record information under challenge originated from any file, automated or manual, maintained by the judiciary for the purpose of recording process and results of public court proceedings, this regulation shall not be applicable. In the instance last provided for, the sole formal means of challenge or correction shall be a civil suit filed in a State or Federal district court.

§4.4 If after viewing his individual criminal history record, the individual wishes to challenge or request correction of such record, he may do so by submitting to the criminal justice agency which originated the challenged entries LCLE-Privacy and Security Form No. 3, a complaint which shall contain particularized written exceptions to the criminal history record's contents, completeness, or accuracy. The complaint shall include an affirmation, signed by the individual or his legal representative, that the exceptions are made in good faith and are true to the best of the affiant's knowledge, information, and belief. A copy of the complaint shall be forwarded to the LCLE Privacy and Security Committee. If, subsequent to viewing, an individual who was not previously fingerprinted wishes to challenge or correct his record, he must submit to fingerprinting so that it can be absolutely assured that the challenging individual is the subject of the record which he seeks to challenge or correct.

§4.5 Within each affected criminal justice agency, a review officer shall be designated as the person responsible for receiving and processing complaints received under LAC 17-3: 4.4 above. Upon receipt of such complaints, each review officer shall, within forty-five days, conduct an audit of the individual's criminal history record to determine the validity of the exceptions. The Privacy and Security Committee and the challenging individual or his legal representative shall be

informed in writing of the results of the audit within fifteen days after such results are final. LCLE-Privacy and Security Form No. 4 shall be used for this purpose.

§4.6 Should the audit referred to in subsection LAC 17-3:4.5 disclose inaccuracies or omissions in the information, the criminal justice agency shall cause appropriate alterations or additions to be made to the information and shall cause notice of such alterations or additions to be given to LCLE, the individual involved, and to any other criminal justice agencies or private organizations to which that individual's criminal history record information has been disseminated within the previous ninety days, and in every instance the Central State Repository shall be notified of the substance of the alteration or addition.

§4.7 If the criminal justice agency declines to modify or supplement the individual's criminal history record in whole or in part, the individual or his legal representative may require review of the criminal justice agency's decision by perfecting, within thirty days of the mailing of the audit results, an appeal to the LCLE Privacy and Security Committee. The Privacy and Security Committee shall appoint hearing officers to hear such appeals. Failure to timely perfect an appeal shall bar subsequent challenges of that portion of the individual criminal history record in controversy.

§4.8 Appeals shall be perfected upon actual delivery to the Privacy and Security Committee of a petition for review. The petition for review shall be signed and in writing and shall include a concise statement of the alleged deficiencies or inaccuracies of the individual's criminal history record, shall state the date and result of any review by the criminal justice agency, and shall be accompanied by a sworn verification of the facts alleged in the petition for review. LCLE-Privacy and Security Form No. 5 may be used for perfecting the appeal.

§4.9 Upon receipt of the petition for review, the hearing officer shall docket the case and notify the criminal justice agency and the individual or his legal representative of the time, place, and nature of the hearing; the legal authority and jurisdiction under which the hearing is to be held; the particular statutes, rules, and regulations involved; the nature of the matters asserted in the petition for appeal. Both the individual and the criminal justice agency shall have adequate opportunity to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

§4.10 Rules of evidence, oaths and affirmations, subpoenas, depositions and discovery, confidential privileged information, examination of evidence by agency, decisions and order, rehearings, ex parte consultations and recusations, judicial review and other such matters shall be governed by the provisions of the Louisiana Administrative Procedures Act, R.S. 49:951 et seq.

§4.11 A record of all proceedings shall be preserved and provided as required by R.S. 49:955(E) and (F).

§4.12 Parties shall be entitled to notice of the final decision of the hearing officer, LCLE-Privacy and Security Form No. 6 may be used by the hearing officer to direct such notice to the parties.

§4.13 If, after receiving notice of the decision or order of the hearing officer, the individual or the involved criminal justice agency is reasonably convinced that grounds exist in the record for reversal or modification of the hearing officer's decision or order, a petition for review accompanied

by a bond (set by the hearing officer) sufficient to pay the cost of transcribing the record, may be submitted within thirty days to the Privacy and Security Committee. Failure to so petition shall bar subsequent challenges of that portion of the individual criminal history record contested.

§4.14 If the petition for review, accompanied by adequate bond for transcription costs, is timely submitted to the Privacy and Security Committee, copies of the petition for review shall be sent to three members of the Privacy and Security Committee, such members being selected on a rotating basis. Within fourteen days of submission of the petition for review, the same three members shall decide by personal or telephonic vote whether full review by the Privacy and Security Committee will be granted. If full review is denied, the petitioning party may pursue rights of judicial review granted under R.S. 49:964. If full review is granted, the record shall be transcribed and circulated among at least seven members of the Privacy and Security Committee. A time and a date, within thirty days of transcription of the record, shall be set for the presentation of written or oral argument to a quorum of at least five of the seven Privacy and Security members who have read the transcribed record.

§4.15 Decisions, orders, rehearings, and appeals from decisions or orders of the Privacy and Security Committee shall be in accordance with subsections LAC 17-3:4.10 and LAC 17-3:4.12.

§4.16 The Privacy and Security Committee is hereby authorized to seek writs of mandamus or injunction to enforce final, nonappealable orders and decisions of the Committee and the hearing officers.

§4.17 Individual criminal history records challenged under the provisions of this regulation shall be deemed to be accurate, complete, and valid until otherwise ordered.

§4.18 Upon final determination that the content of an individual criminal history record is inaccurate or incomplete, the affected agency which originated the inaccurate or incomplete entry shall provide the individual or his legal representative with a list of the noncriminal justice agencies to which the inaccurate or incomplete criminal history record information has been disseminated within a ninety day period immediately preceding the final disposition of the challenge.

#### **LAC 17-3: 5 Completeness and Accuracy**

§5.1 It is the purpose of this regulation to establish minimum standards for reporting criminal dispositions and updating criminal history records to include such dispositions. It is intended that this regulation supplement and reinforce the LCJIS Complete Disposition Reporting System. Because inaccurate or incomplete criminal history record information presents a serious danger to individual rights of privacy and due process, every criminal justice agency should strive to maintain accurate, up-to-date criminal history records.

§5.2 Every affected agency shall report dispositions (as defined in LAC 17-3:1.17) which occur as a result of a transaction initiated by such agency within ninety days of the occurrence of the disposition. Dispositions shall be reported as required by the Louisiana Criminal Justice Information System.

§5.3 Every affected agency shall establish procedures for updating criminal history records using disposition data which shall be distributed by the Louisiana Criminal Justice Information System.

§5.4 Every affected agency shall establish procedures providing for a minimal external search for a disposition prior to disseminating criminal history record information relative to a specific arrest or charge when it appears from the nature of the arrest or charge that a disposition should have occurred, and none is noted in the record.

**LAC 17-3: 6 Dissemination and Corrections  
Records and the Maintenance of Logs**

§6.1 It is the purpose of this regulation to provide direction and guidance concerning the control of dissemination and correction of criminal history record information (CHRI) to individuals or agencies as required by the Federal regulations (Title 28), through the maintenance of certain logs, and to provide a vehicle for correcting erroneous information. Since dissemination records are viewed by the regulations as a key restraint on erroneous dissemination, a deterrent to the illegal use of information disseminated and a supporting document to quality assurance audit trails (LAC 17-3: 7), the maintenance of logs is mandatory.

§6.2 In order to maintain accountability over the full scale of collection, storage and dissemination of CHRI, dissemination transactions records in the form of a log shall be kept by each criminal justice agency. The logging is required both to support the audit process and as a means of correcting erroneous dissemination. Logs will be kept as shown on LCLE Privacy and Security Form No. 8 and must, as a minimum, contain the following data elements:

- A. A tracking, serial, or identification number in order to provide positive identification linkage between CHRI disseminated and the record from which extracted.
- B. Agency or individual to which or whom CHRI released.
- C. Address of agency or individual.
- D. Date of release or notification.
- E. Individual to whom information relates.
- F. Items of information released and how furnished (i.e., copy provided, written out by hand, mailed, teletyped or computer terminal printout).
- G. Original entry or correction (indicate "O" or "C" as appropriate).
- H. Releasing official.

§6.3 Since identification of agencies or individuals receiving erroneous CHRI is possible from the dissemination log and since Federal regulations require notification of each recipient of inaccurate or erroneous CHRI (unless it falls outside of the ninety day limit specified in LAC 17-3: 4.6) a corrections record will also be kept using the dissemination log. The minimum data elements for a corrections entry are essentially similar to those specified for a dissemination entry. The tracking or serial number will be identical to the identification number provided for the original information on the dissemination log. The log page number of the original entry will be placed next to the "C" in the "Original or Correction" column of the log in order to maintain audit trail continuity.

§6.4 All logs are to be preserved for a period of not less than one year from the earliest date of release of information or notification or correction. Logs will be made available for audit and verification of compliance with the regulations by the Commission, the Privacy and Security Committee or their designated staff members at such time as they may require.

§6.5 When a response to an inquiry is "No Record" or essentially negative, no logging of the response is required.

§6.6 Corrections to records shall be forwarded in hardcopy form such as letter, teletype, or computer terminal printout within fourteen days after determining erroneous information has been disseminated. If the original dissemination is older than ninety days and a correction is indicated, the correction should be made but need not be transmitted.

**LAC 17-3: 7 Audits and Quality Control**

§7.1 It is the purpose of this regulation to interpret the requirements of the Federal regulations as they pertain to: (a) the quality of the information the criminal justice agencies collect, store, and disseminate; and, (b) the systematic and annual audits to be performed in order to verify adherence to the Privacy and Security Regulations.

§7.2 The quality of information which the criminal justice agencies collect and use is an important privacy consideration. Quality information issues usually fall into one or both of two categories; namely, completeness and/or accuracy. Achieving high quality record information is largely a matter of good procedures; it requires a rigorous, systematic approach to record-keeping and a high degree of cooperation among the participating agencies. Agencies shall therefore, institute procedures which implement these requirements.

§7.3 Agencies shall likewise develop written procedures which comply with the basic provisions of LAC 17-3: 5.

§7.4 There are basically two types of quality assurance audits required periodically. The systematic audit is required of an agency which collects, maintains and disseminates CHRI as a means of minimizing errors or omissions in the completeness and accuracy of the records. This audit is actually a quality control mechanism and will usually be performed on a periodic and regular basis by the agency itself. In contrast, the annual audit is an examination by an outside agency of the extent to which an agency is complying with the regulations.

§7.5 The systematic audit refers to a combination of systems and procedures employed both to ensure, to the extent possible, completeness and to verify accuracy. The systematic audit is also an internal procedure which basically provides for a comparison between CHRI and source documents or reporting forms, as appropriate, in order to check accuracy and completeness. In addition, this audit provides for an inspection of an agency's systematic record keeping practices. Accordingly, agencies shall implement a systematic audit procedure in accordance with the guidelines furnished by the Louisiana Criminal Justice Information System (LCJIS) staff and utilizing LCLE-Privacy and Security Form No. 9 (Agency Systematic Audit Checkoff List).

§7.6 The annual audit will be performed on a random sample of all affected agencies in the state. All affected agencies must fully cooperate in the conduct of the annual audit.

§7.7 LCJIS shall audit, on a periodic basis, a random sampling of agencies to provide statistically significant examinations of the accuracy and completeness of data maintained and to verify adherence to the regulations. Sampling and detailed audit procedures will be as indicated in LCJIS furnished guidelines and implementing directives.

§7.8 The annual audit will be performed by members of the LCJIS staff who are familiar with the agencies and the requirements of the regulations. Agencies to be audited will be given a minimum of thirty days written notice prior to an annual audit being conducted. On conclusion of the annual audit, the staff will give the agency an oral debriefing and



subsequently, within thirty days, a written, formal critique highlighting deficiencies and recommending corrective action. Field agents making regular, subsequent visits will verify corrective action taken.

§7.9 At the time of the audit, the audited agency will have ready to present to the audit team such documentation as may be required by LCJIS, including but not limited to:

- A. Evidence of procedural compliance including security.
- B. Copies of systematic audits performed.
- C. Source records as may be requested.
- D. Dissemination logs.
- E. Right of access, appeals, and certification forms.

§7.10 Audited agencies with serious deficiencies as indicated in the formal critique must correct these deficiencies and will render written, corrective action reports to LCJIS monthly until the deficiency is eliminated.

### **LAC 17-3: 8 Security of Criminal History Information**

§8.1 It is the purpose of this regulation to establish minimum standards governing the achievement and maintenance of physical security, personnel security and programming security within agencies maintaining criminal history records.

§8.2 Affected agencies shall institute procedures for the protection of criminal history records from environmental hazards including fire, flood, and power failure. Appropriate measures may include: adequate fire detection and quenching systems, protection against water and smoke damage, fire resistant materials on walls and floors, air conditioning systems, emergency power sources, and backup files.

§8.3 Affected agencies shall adopt security procedures which limit access to criminal history files. These procedures may include use of guards, badges, keys, passwords, sign-in logs or similar controls. Facilities housing criminal history records shall be so designed and constructed as to reduce the possibility of physical damage to the records. Appropriate measures may include physical limitations on access, security storage for information media, adequate lighting, detection and warning devices, perimeter barriers, heavy-duty, nonexposed walls and closed circuit television.

§8.4 Applicants for employment and those presently employed in the maintenance of criminal history records shall consent to an investigation of their character, habits, previous employment, and other matters necessary to establish their good moral character, reputation, and honesty. Giving false information shall disqualify an applicant from employment and subject a present employee to dismissal.

§8.5 Investigations should be conducted in such a manner as to provide sufficient information to enable the appropriate officials to determine employability and fitness of persons entering sensitive positions. Investigations of applicants should be conducted on a preemployment basis and the resulting reports used as a personnel selection device.

§8.6 Systems personnel including terminal operators in remote locations, as well as programmers, computer operators, and others working at or near the central processor, shall be assigned appropriate security clearances and should have those clearances renewed periodically after investigation and review.

§8.7 Each affected agency should prepare a security manual which delineates procedures for granting clearances for access to criminal history information as well as areas where criminal history data is maintained. Each person working

with or having access to this information should know the contents of the manual.

§8.8 The management of each affected agency should establish sanctions for accidental or intentional violation of system security standards. Supervisory personnel should be delegated adequate authority and responsibility to enforce these standards.

§8.9 Any violation of the provisions of these standards by any employee or officer of any public agency, in addition to any applicable criminal or civil penalties, shall be punished by the imposition of appropriate disciplinary measures.

§8.10 Where any affected agency is found by the Louisiana Privacy and Security Committee to have willfully or repeatedly violated the requirements of this standard, the Committee may prohibit the dissemination of criminal history record information to that agency, for such periods and such conditions as the Committee deems appropriate.

§8.11 There shall be a terminal identification code number for each remote terminal as a precondition for entering the files. Within each agency, terminal use shall be assigned to a limited and identified group of individuals. Each individual terminal user shall identify himself by a personal identification number or authorization code. The computer shall be programmed to log the identity of all users, the files accessed, and the date of access. This information shall be maintained for twelve months. (See LAC 17-3:6.) Each remote terminal user shall establish a computerized or written log of terminal use, which shall be audited periodically.

§8.12 Where a computer file may be accessed by more than one agency, system software shall ensure that each agency shall obtain only the data to which it is entitled. System hardware and software shall contain controls to ensure that each user with on-line direct terminal access can obtain only reports authorized for its use. System software shall be implemented to erase and clear core, buffers, mass storage, and peripheral equipment of data automatically whenever purging is required by these regulations. Duplicate computer files shall be created as a countermeasure for destruction of original files and all computer tapes or discs shall be locked in a safe storage area under the control of senior personnel. Secondary storage should be used for backup.

§8.13 Where criminal justice data is transmitted to a data center on reporting forms, the center shall establish procedures for destroying these forms after the data is entered in the computer. System software shall contain controls to ensure that each terminal is limited to the information it can input, modify, or cancel.

§8.14 A monitor program shall be developed to report attempts to violate the system security software or files. Edit programs shall be created to periodically audit record alteration transactions.

### **LAC 17-3: 9 Segregation of Computerized Files and Their Linkage to Intelligence Files**

§9.1 It is the purpose of this regulation to establish minimum standards governing the maintenance of the security and integrity of computerized criminal history record information.

§9.2 Data files and programs used by the criminal justice system for the collection, maintenance, or dissemination of criminal history record information shall be under the management control of a criminal justice agency and shall be supervised and maintained in the following manner.

- A. Files shall be stored on the computer in such a manner that they cannot be modified, destroyed, accessed,

changed, or overlaid in any fashion by noncriminal justice terminals.

B. The agency employee in charge of computer operations shall write and install, or cause to have written and installed, a program that will prohibit inquiry, file updates or destruction from any terminal other than criminal justice system terminals which are so designated. The destruction of files shall be limited to specifically designated terminals under the management control of the criminal justice agency responsible for maintaining the files.

C. The agency employee in charge of computer operations shall write and install, or cause to have written and installed, a classified program to detect and store for classified output all accesses and all attempts to penetrate and all accesses of any criminal offender record information system, program, or file. This program shall be available only to the agency control employee and his immediate assistant and the records of such program shall be kept continuously under maximum security conditions. No other persons, including staff and repair personnel, shall be permitted to know this program.

D. Nonterminal access to criminal offender record information such as requests for tapes, file dumps, printouts, etc., shall be permitted only with approval of the criminal justice agency having management control of the data. The employee in charge of computer operations shall forward all such requests to the criminal justice agency employee responsible for maintaining systems and data security.

§9.3 Criminal history record files may be linked to intelligence files in such a manner that an intelligence inquiry from a criminal justice terminal can trigger a printout of the subject's criminal offender record information.

§9.4 A criminal history record inquiry response shall not include information which indicates that an intelligence file exists.

#### **LAC 17-3: 10 Training of System Personnel**

§10.1 It is the purpose of this regulation to establish a training program whereby all personnel working with or having access to criminal history record information are made familiar with the substance and intent of the Louisiana Privacy and Security Regulations.

§10.2 The Louisiana Criminal Justice Information System shall be primarily responsible for planning, coordinating, presenting, and approving the privacy and security training programs. The objective of the training program shall be to instruct key employees of affected agencies as to the substance and intent of the Louisiana Privacy and Security Regulations. Every affected agency shall, to the maximum extent possible, avail itself of such training as may be provided by LCJIS.

§10.3 Every affected agency shall institute an internal training program to familiarize personnel with the proper use and control of criminal history record information. Each such program must contain provisions for specific instructional sessions on Louisiana Privacy and Security Regulation LAC 17-3:8 which establishes minimum security standards for criminal history record information. This training program would be primarily directed to employees who work with or have access to criminal history record information.

§10.4 Each affected agency shall maintain a written record describing the training procedures employed by the

agency and indicating the number of training meetings per year. This record shall be made available to LCJIS staff audit personnel during scheduled annual audits.

Bailey Grant, Chairman  
Louisiana Commission on Law Enforcement  
and Administration of Criminal Justice

## **RULES**

### **Department of Urban and Community Affairs Office of Consumer Protection**

#### **Rules and Regulations**

##### **Title 1: General Provisions**

Section 1. Citation and abbreviation— These rules and regulations may be cited in abbreviated fashion as follows: "CPR 1:1" designates "Consumer Protection Rules, Title 1, Section 1." Chapters need not be cited.

Section 2. Definitions—As used in these rules and regulations:

(1) "Assistant Secretary" means the head of the Office of Consumer Protection, who is also the Assistant Secretary, Department of Urban and Community Affairs, Office of Consumer Protection.

(2) "Board" means the permanent consumer advisory board created by Act 759 of 1972.

(3) "Consumer" means any person who uses, purchases, or leases goods or services.

(4) "Consumer interest" means those acts, practices, or methods that affect the economic welfare of a consumer.

(5) "Consumer transaction" means any transaction involving trade or commerce to a natural person, the subject of which transaction is primarily intended for persons, families, or household use.

(6) "Documentary material" means the original or a copy of any book, record, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription or other tangible document or recording wherever situated.

(7) "Examination" of documentary material includes the inspection, study or copying of any such material and the taking of testimony under oath or acknowledgment in respect to any such documentary material or copy thereof.

(8) "Knowingly" means that the method, act, or practice used was such that a reasonably prudent businessman knew or should have known that the act or practice was a violation of Act 759 of 1972.

(9) "Office" means the Office of Consumer Protection as set forth in Act 83 of 1977 and created by Act 759 of 1972.

(10) "Person" means a natural person, any individual, corporation, trust, partnership, incorporated or unincorporated association, governmental agency or subdivision, any public or private organization of any character, and any other legal entity.

(11) "Rule" means each Office statement of general applicability and future effect that implements, interprets, or prescribes substantive law or policy, or prescribes the procedure or practice requirements of the Office. A rule may be of general applicability even though it may not apply to the entire State and even though it may be of

immediate concern to only a single person, corporation, or industry, provided the form is general and others who may qualify in the future will fall within its provisions. The term includes the amendment or repeal of a prior rule but does not include: (a) statements concerning only the internal management of the Office or the Board and not affecting private rights or procedures available to the public; (b) declaratory rulings or orders; or (c) intraagency memoranda.

(12) "Rule-making" means the process employed by the Office for the formulation of a rule. The fact that a statement of policy or an interpretation of a statute is made in the decision of a case or in an Office decision upon disposition of a particular matter as applied to a specific set of facts involved does not render the same a rule within this definition or constitute specific adoption thereof by the Office so as to be required to be issued and filed as provided in R.S. 49:951 et seq.

(13) "Trade" or "commerce" means the advertising, offering for sale, sale, or distribution of any services and any property, corporeal or incorporeal, immovable or movable, and any other article, commodity, or thing of value wherever situated, and includes any trade or commerce directly or indirectly affecting the people of the State.

Section 3. Consistency of rules and regulations—In accordance with R.S. 51:1405 (B), these rules and regulations interpreting Act 759 of 1972 (R.S. 51:1401 through 1418 inclusive) shall not conflict with the Constitution of this State and shall be interpreted giving due consideration to the intent of the Legislature as evidenced by all of the statutes of the State. More particularly, the rules and regulations interpreting "unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce" (R.S. 51:1405 (A)) shall be consistent with R.S. 51:1 through 461.1 inclusive, which contain the Louisiana version of the Sherman Antitrust Act (R.S. 51:121 et seq.), the Price Discrimination Law (R.S. 51:331 et seq.), and the False Advertising Law (R.S. 51:411), and in order not to violate R.S. 51:1406 (4), these rules and regulations shall be consistent with Section 5 (a) (1) of the Federal Trade Commission Act (15 U.S.C. § 45 (a) (1)), as from time to time amended, any rule or regulation promulgated thereunder, and any finally adjudicated court decision interpreting the provisions of said Act, rules and regulations. This consistency shall be, therefore, the same as the Federal Trade Commission's responsibility over both (1) antitrust or other restraint of trade types of activities and (2) unfair or deceptive types of activities relating to trade and commerce as it affects consumer and business interests. Thus done, compliance with the consistency provision of R.S. 51:1405(B) shall be deemed satisfied.

Section 4. Unfair Trade Practices and Consumer Protection Law and the Administrative Procedures Law incorporated—R.S. 51:1401 through 1418, inclusive, known as the Unfair Trade Practices and Consumer Protection Law, and R.S. 49:951 through 968, inclusive, known as the Administrative Procedures Law, are hereby incorporated herein. All remedies and procedures available to the public under these laws, as they pertain to this Office, are hereby made available herein as rules.

Section 5. Computation of time—In computing a period of time allowed or prescribed by these rules, by law or by order of the Office or of a court, the date of the act, event, or default after which the period begins to run is not to be in-

cluded. The last day of the period is to be included, unless it is a legal holiday or a day of the weekend, in which event the period runs until the end of the next day, which is not a legal holiday or a day of the weekend.

A half-holiday is considered as a legal holiday. A legal holiday or day of the weekend is to be included in the computation of a period of time allowed or prescribed, except when: (1) it is expressly excluded; (2) it would otherwise be the last day of the period; or (3) the period is less than seven days.

## **Title 2: Procedures**

### **Chapter I—General Procedural Rules**

Section 1. Initiation of proceedings—Proceedings for the adoption, amendment, or repeal of a rule may be commenced by the Office upon its own initiative or pursuant to petition filed with the Office by any interested person stating reasonable grounds therefor. The Assistant Secretary, however, shall initiate procedures to adopt, amend, or repeal a rule whenever the Board or the Attorney General requests same. Any person whose petition is not deemed by the Assistant Secretary sufficient to warrant the holding of a rule-making proceeding will be promptly notified of that determination and given an opportunity to submit additional data. This ruling by the Assistant Secretary shall be appealable to the District Court as any other preliminary, intermediate, or final agency action or ruling.

Section 2. Process of initiation—Any interested person may petition the Office requesting the adoption, amendment, or repeal of a rule. The petition shall be filed in the Office located at 1885 Wooddale Boulevard, Suite 1218, Baton Rouge, Louisiana 70806, or such other address as from time to time the Office may be moved, at any time during normal office hours, from 8:30 a.m. to 5:00 p.m., except for legal holidays and the days of the weekend. Within ninety days after submission of a petition, the Office shall either deny the petition in writing, stating reasons for the denial, or shall initiate rule-making proceedings in accordance with these rules.

Section 3. Investigations and conferences—In connection with any rule-making proceeding, the Office at any time may conduct such investigations, make such studies, and hold such conferences as it may deem necessary.

Section 4. Notice—Prior to the adoption, amendment, or repeal of any rule, the Office shall give at least fifteen days notice of its intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon. The notice shall be mailed to all persons who have made timely request of the Office for advance notice of its rule-making proceedings and shall be published at least once in the Official State Journal and the Louisiana Register. At the same time notice is given, a report relative to such rule shall be submitted to the House Committee on Municipal and Parochial Affairs and the Senate Committee on Municipal and Parochial Affairs. For the purpose of timely notice, the date of notice shall be deemed to be the date of publication of the issue of the Louisiana Register in which the notice appears, such publication date to be the publication date as stated on the first page of said issue.

Section 5. Opportunity to be heard—Prior to the adoption, amendment, or repeal of any rule, the Office shall afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. In case of

substantive rules, opportunity for oral presentation or argument shall be granted if requested by any person, by a governmental subdivision or agency, by any association or organization, or by the House Committee on Municipal and Parochial Affairs or the Senate Committee on Municipal and Parochial Affairs. The Office shall consider fully all written and oral submissions respecting the proposed rule. Upon adoption of a rule, the Office, if requested to do so by an interested person either prior to adoption or within thirty days thereafter, shall issue a concise statement of the principal reasons for and against its adoption.

Section 6. Emergency rules—If the Office finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon fewer than fifteen days notice, it shall so state in writing to the Governor of the State of Louisiana, the Attorney General of Louisiana, and the Division of Administration its reasons for that finding and may proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable to adopt an emergency rule.

Section 7. Filing of certified copy of rule—The Office shall file in the office of the Division of Administration a certified copy of each rule as adopted, amended, or repealed by it.

Section 8. Effective date of rule—Each rule hereafter adopted is effective upon its publication in the Louisiana Register, said publication to be subsequent to the act of adoption, except that:

(1) If a later date is required by statute or specified in the rule, the later day is the effective date; or

(2) Subject to applicable constitutional or statutory provisions, an emergency rule shall become effective on the date of its adoption, or on a date specified by the Office to be not more than sixty days future from the date of its adoption, provided written notice is given within three days of the date of adoption to the Governor of Louisiana, the Attorney General of Louisiana and the Division of Administration as provided in CPR 2:6. Such emergency rule shall not remain in effect beyond the publication date of the Louisiana Register published in the month following the month in which the emergency rule is adopted, unless such rule and the reasons for adoption thereof are published in said issue; provided, however, that any emergency rule so published shall not be effective for a period longer than 120 days, but the adoption of an identical rule under CPR 2:4 and CPR 2:5 is not precluded. The Office shall take appropriate measures to make emergency rules known to the persons who may be affected by them.

Section 9. Substantial compliance—No rule adopted shall be valid unless adopted in substantial compliance with these rules, provided, however, that the inadvertent failure to mail notice to any person or agency as provided herein shall not invalidate any rule adopted hereunder. A proceeding under R.S. 49:963 to contest any rule on the ground of noncompliance with the procedural requirements of law must be commenced within two years from the effective date of the rule.

Section 10. Compliance with Federal regulations—When a rule is adopted, amended, or repealed in compliance with Federal regulations, the Office's notice of intent, if such is necessary, and the actual text of the rule as published in the Louisiana Register, shall be accompanied by a citation of the Federal Register issue in which the determining Federal regulation is published. Such citation shall be by volume, number, date, and page number.

Section 11. Legislative report—Each year, thirty days prior to the beginning of the regular session of the legislature, the Office shall submit a report to the House Committee on Municipal and Parochial Affairs and the Senate Committee on Municipal and Parochial Affairs relative to any rules proposed for adoption, any rules amended, or repealed during the previous year.

### Chapter II—Pleadings

Section 20. Petition to adopt, amend, or repeal a rule.

A. A petition to adopt, amend, or repeal a rule shall be typed or printed on either standard letter size bond paper or on standard legal size bond paper.

B. The petition shall be dated and shall contain the following:

(1) The title of the pleading (i.e., "Petition");  
(2) The names of the petitioners;  
(3) The names of representatives and legal counselors of such petitioners;

(4) All pertinent allegations of fact, data, views, arguments, and reasons supporting the action sought by the petition;

(5) A statement or prayer expressing the exact action sought by the petition; and

(6) The signature of all petitioners, if individual, natural persons, or the signatures of duly qualified representatives of petitioner, if a governmental agency or subdivision or an association of persons.

C. The petition in setting forth all pertinent allegations of fact, data, views, arguments, and reasons supporting the action sought by the petition, shall contain separate, numbered paragraphs, one for each fact, datum, view, argument, and reason set forth.

D. The petition, in expressing the exact action sought by it, shall cite and quote the rule to be adopted, amended, or repealed; and if a rule is sought to be amended, the petition shall quote the rule as it would read after amendment, if it were in fact amended.

E. Only substantial compliance is necessary to meet the requirements of form, and to that end, the provisions of this Section shall be liberally construed in favor of accepting the petition. The Assistant Secretary may dispense any petition from the requirements of this Section.

Section 21. Other pleadings—Pleadings of any type may be submitted to the Office. They shall be similar in form to that of petitions, except that they may exclude those things peculiar to petitions and shall include those things to which they pertain.

### Chapter III—Citation and Production of Evidence

Section 30. Voluntary submission of evidence—Any interested person may voluntarily submit evidence, testimonial or real, to the Office, such evidence being relevant and material to any issue involved in the adoption, amendment, or repeal of any rule, to the corroboration of or to the unreliability or inaccuracy of any other evidence submitted, or to the credibility or noncredibility of any witness or other source of evidence submitted, in the same form and manner as otherwise provided herein or by law.

Section 31. Subpoenas and depositions generally—Subpoenas, subpoenas duces tecum, depositions, and interrogatories may be issued and may be required by the Assistant Secretary in accordance with the rules and laws by which they are governed, as applicable to their purposes, such as public hearings, investigations, discovery devices, or any other purpose.

Section 32. Subpoenas for public hearings—The power to compel evidence being a basic due process right with respect to ascertaining the whole truth at public hearings, the Assistant Secretary may sign and issue subpoenas in the name of the Office requiring attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with the Office a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the Office only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witness as may be fixed by the Office with reference to the value of the time employed and the degree of learning or skill required. Whenever any person summoned hereunder neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the Assistant Secretary may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt. It shall be the duty of the judge to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him, to proceed to a hearing of the case; and upon such hearing, the judge shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

Section 33. Service of process—Service of process, including subpoenas issued hereunder, may be made by those otherwise empowered by law to do so, by any member of the Office, by any employee of the Department of Justice, or by any person of eighteen years of age who has taken an oath, has thereunder promised to do so, and has filed a copy of such oath and promise with the Office. Service shall be otherwise made in the same form and manner as required by law. A return certifying the results of a service of process or of an attempt thereof shall be filed with the Office within ten days after the issuance of the process or subpoena.

#### **Chapter IV—Public Hearings**

Section 40. Power to call—The Assistant Secretary may convene a public hearing to investigate, to conduct studies, to research, and to ascertain the whole truth concerning the adoption, formulation, amendment, or repeal of any rule, concerning any act, method, or practice which may be the proper object of Act 759 of 1972, or concerning any matter affecting trade or commerce.

Section 41. Notice—The Assistant Secretary shall give notice of his intentions to convene a public hearing in the same form and manner as the notice provided for at CPR 2:4, herein above, except that this notice shall include:

- (1) A statement of the time, place, and nature of the hearings;
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) A reference to the particular sections of the statutes and rules involved; and

(4) A short and plain statement of the matters asserted.

If the Assistant Secretary is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

Section 42. Opportunity for full hearing—Opportunity shall be afforded all interested persons to respond and present evidence on all issues of fact involved and arguments on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

Section 43. Presiding officer—The Assistant Secretary shall preside at all public hearings, and in his absence his designated deputy shall act as presiding officer. The presiding officer conducting a proceeding subject to this Chapter shall have the power to administer oaths and affirmations, regulate the course of the hearings, set the time and place for continued hearings, fix the time for filing of briefs and other documents, and direct interested persons to appear and confer to consider the simplification of the issues.

Section 44. Advisory Board.

A. The Assistant Secretary shall invite the members of the Board to attend public hearings convened by him and actively participate therein.

B. The Advisory Board may convene its own public hearings under its own president, in the same form and manner as provided in this Chapter relative to the Assistant Secretary, to conduct routine or special business, pursuant to Act 759 of 1972, including, but not limited to, consideration and approbation of rules proposed by the Assistant Secretary, by the Attorney General, or by its own motion.

C. Whenever the Board deems a hearing of its own necessary, in order that it may advise and make recommendations to the Assistant Secretary for the administration of the provisions of Act 759 of 1972, by a simple majority vote of its members in attendance at a meeting called specifically for the purpose of determining same, the President of the Board shall give notice and convene such a hearing in the form and manner and within the time limits prescribed by the Board.

D. For purposes of prescribing procedures to be used by the Board at its own hearings, whatever rules herein apply to the Assistant Secretary shall also apply to the President of the Board, including, but not limited to, the issuance of subpoenas, subpoenas duces tecum, subpoenas and testificandum, citation, and other legal process and the administration of oaths to witnesses, per R.S. 49:956.

E. Whenever the Board shall have arrived at any recommendation, advice, or action, the President and the Secretary of the Board shall cause to be delivered to both the Assistant Secretary and the Attorney General each a concise statement of the Board's recommendation, advice, or action.

Section 45. Legal counsel and hearing examination officer.

A. The Attorney General or his representative shall act as legal counsel for the Office at the public hearing. He shall direct questions to witnesses and cross-examine same; he shall give his advice to the presiding officer at the hearing as to the legality of any evidence and any procedure. Nothing contained herein shall impair the rights of all other interested parties, the presiding officer, and the

members of the Board also to direct questions to and cross-examine witnesses.

B. The Assistant Secretary may refer the receiving of evidence and the taking of testimony of any one or more witnesses to the Attorney General or his representative who shall proceed in accordance with and who shall have all the procedures and authority vested in the Assistant Secretary by these rules and regulations, R.S. 51:1401 et seq., R.S. 49:951 et seq., and the Constitution and laws of the State, for the purpose of conducting and presiding over such hearing examinations, ruling on and receiving evidence, determining findings of fact, and making recommendations to the Assistant Secretary and to the Board.

Section 46. Record and transcript.

A. The record of a public hearing shall include:

- (1) All pleadings, motions, intermediate rulings;
- (2) Evidence received or considered or a resume thereof if not transcribed;
- (3) A statement of matters officially noticed except matters so obvious that a statement of them would serve no useful purpose;
- (4) Offers of proof, objections, and rulings thereof;
- (5) Proposed findings and exceptions;
- (6) Findings of fact; and
- (7) Any decision, opinion, or report by the officer presiding at the hearing.

B. The Office shall make a full transcript of all proceedings before it when the statute governing it requires it, and, in the absence of such requirements, shall, at the request of any interested person, have prepared and furnish him with a copy of the transcript or any part thereof upon payment of the cost thereof unless the governing statute or Constitution provides that it shall be furnished without cost.

Section 47. Findings of fact—Findings of fact shall be based exclusively on the evidence and on matters officially noticed and shall be in writing and filed in the record.

Section 48. Rules of evidence.

A. The Office may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. It shall give effect to the rules of privilege recognized by law. It may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

B. All evidence, including records and documents in the possession of the Office of which it desires to avail itself, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by all interested persons before being received in evidence.

C. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the Office's specialized knowledge. All persons who have shown an interest therein shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material notice, including any staff memoranda or

data, and they shall be afforded an opportunity to contest the material so noticed. The Office's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

Section 49. Admission of depositions—The presiding officer or any person interested in a proceeding before it may take the depositions of witnesses, within or without the State, in the same manner as provided by law for the taking of depositions. Depositions so taken shall be admissible in any proceeding affected by this Chapter. The admission of such depositions may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by the presiding officer in accordance with the rules of evidence provided in this Chapter above.

Section 50. Reopening hearings and rehearings—The Assistant Secretary may reopen any hearing or grant a rehearing for good cause shown.

#### **Chapter V—Final Formulation**

Section 70. Preparation for approval—The Assistant Secretary, after giving notice and opportunity to be heard as herein provided, shall, in writing, formulate the rule to be adopted, express the rule before and after change if it is to be amended, or state the repeal of a rule, and submit it to the Board and to the Attorney General for their respective approval.

Section 71. Nonapproval—In the event that either the Board or the Attorney General or both reject approval of the adoption, amendment, or repeal of a rule as prepared and submitted by the Assistant Secretary, the Assistant Secretary shall take note of the objections, making those changes he deems appropriate, and shall resubmit the rule for approval of adoption, amendment, or repeal thereof, until agreement is effected.

Section 72. Approval by the Board—Approval by the Board shall be effected by the concurrence of a simple majority of those members of the Board present and voting at a meeting thereof properly convened in accordance with Act 759 of 1972.

Section 73. Final form—The adoption, amendment, or repeal of a rule shall be expressed in writing, shall clearly describe the action taken and approved, shall quote the rule as adopted, amended, or repealed, and shall contain the signatures of the Assistant Secretary, the President and Secretary of the Board, and the Attorney General.

Section 74. Filing by Assistant Secretary—The Assistant Secretary shall file the final form of the adoption, amendment, or repeal of a rule with the Division of Administration within three days after such has been returned to him in final form bearing all necessary approval signatures.

Charles W. Tapp, Assistant Secretary  
Office of Consumer Protection

#### **RULE**

#### **Department of Wildlife and Fisheries**

#### **Calcasieu Lake Oyster Season**

Whereas, the Commission biologists and the Chief of the Seafood Division have recommended the fishing of the oysters in Calcasieu Lake with the exception of the Calcasieu River and Ship Channel, East Fork, West Fork, and Oyster Bayou, and

Whereas, the State Department of Health will examine the growing oysters of this aforementioned area and approve the waters for fishing oysters if the health standards are met.

Now, therefore, be it resolved by the Louisiana Wildlife and Fisheries Commission that the Calcasieu Lake Oyster Season for 1977-78 be set in accordance with the following rules and regulations:

1. That the oyster season in Calcasieu Lake be fixed to extend from one-half hour before sunrise on Monday, November 21, 1977, through one-half hour after sunset on Friday, March 31, 1978, with the right being reserved to extend said season or close it sooner if biologically justifiable.

2. That oyster fishing be limited only to the use of tongs and to daylight hours.

3. The open areas shall be confined to the area of Calcasieu Lake, with the exception of Calcasieu River and Ship Channel, East Fork, West Fork and Oyster Bayou which shall be closed.

4. The three-inch culling law shall be observed by all fishermen fishing the area and the culls shall be returned to the fishing area reefs to provide for future harvesting.

5. All oysters shall be put into sacks before leaving the oyster fishing area in Calcasieu Lake. Oysters not in sacks leaving the fishing area in Calcasieu Lake shall be confiscated and violator subject to penalty set forth in Title 56, Section 115.

6. The taking of oysters for commercial purposes shall be limited to fifteen sacks per boat per day.

7. The taking of oysters for home consumption shall be limited to three bushels (two sacks per boat per day).

8. All commercial fishing of oysters shall be done only with proper licenses, and the sacks of oysters be properly tagged before leaving fishing vessel.

Be it further resolved, that the Secretary be and is hereby authorized and empowered to extend or close said season and increase or decrease limit, if biologically sound.

J. Burton Angelle, Secretary  
Department of Wildlife and Fisheries

## Notices of Intent

### NOTICE OF INTENT

**Department of Agriculture  
Office of Agricultural and Environmental Sciences  
Fertilizer Commission**

The Louisiana Fertilizer Commission proposes to adopt:

1. Rules and regulations, statements of uniform interpretation and policy, and official terms and definitions as set forth in the Official Publication of the Association of American Plant Food Central Officials, Number 30, 1977.

2. Procedures for sampling and analysis of fertilizers as set forth in Official Methods of Analysis of the Association of Official Analytical Chemists, Twelfth Edition, 1975.

The above documents may be seen in Room 118 Wilson Laboratories, LSU, Baton Rouge.

Interested persons may submit written comments through December 4, 1977, to Louisiana Fertilizer Commission, Box 16,390-A, Baton Rouge, Louisiana 70893.

E. A. Epps, Jr., Secretary  
Fertilizer Commission

### NOTICE OF INTENT

**Department of Agriculture  
Office of Agricultural and Environmental Sciences  
Structural Pest Control Commission**

Notice is hereby given that the Louisiana Department of Agriculture, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, proposes to adopt an amendment to the Structural Pest Control Rules and Regulations made in accordance with Chapter 5, Title 40, Sections 1261-1274 of Revised Statutes of 1950. The proposed amendment will define label and labeling.

For the purpose of adopting this amendment, a hearing has been scheduled for 9:00 a.m., Friday, January 13, 1978, Room 622, Commerce Building, 333 Laurel Street, Baton Rouge, Louisiana.

All interested persons will be afforded reasonable opportunity to submit views and comments at the hearing.

Richard Carlton, Secretary  
Structural Pest Control Commission

### NOTICE OF INTENT

**Department of Agriculture  
Office of Agricultural and Environmental Sciences  
Structural Pest Control Commission**

Notice is hereby given that the Louisiana Department of Agriculture, Structural Pest Control Commission, proposes to adopt a policy, pursuant to Chapter 5, Title 40, Sections 1261-1274 of Revised Statutes of 1950, establishing procedures to be followed by the licensed operator at the branch office and the routeman, who is a registered employee.

1. All supplies shall be distributed through the branch office.

2. All employees shall draw their pay from the main office or branch office and Social Security and withholding taxes shall be deducted and maintained at the main office or branch office.

3. All billing must be through the main office or branch office.

4. All insurance must be paid by the main office or branch office.

5. All records concerning accounts serviced shall be current at the home and/or branch office, and all routes shall originate from the home and/or branch office a minimum of three out of each five working days or weekly.

The purpose of this policy is to assure the public that the professional services offered are by a licensed pest control operator, or by a registered employee, under the direct supervision of the licensed pest control operator.

All interested persons may submit their views and opinions, in writing, on or before December 10, 1977, to the following address: Mr. Richard Carlton, Secretary, Structural Pest Control Commission, Box 44153, Baton Rouge, Louisiana 70804.

Richard Carlton, Secretary  
Structural Pest Control Commission

## NOTICE OF INTENT

### Department of Commerce Office of Financial Institutions

The Commissioner of Financial Institutions, in exercise of his powers specifically enumerated in R.S. 6:237(B), hereby gives notice of his intention to adopt the following rule.

Any interested person may submit, orally, or in writing, his views, arguments, data, or reasons in support of, or in opposition to, the proposed rule by mail or by personally visiting the Commissioner's Office at 5420 Corporate Boulevard, Suite 207, Baton Rouge, Louisiana 70808, during its normal office hours from 8:00 a.m. to 4:30 p.m. on any day, not a legal holiday, or day of the weekend, through December 5, 1977.

#### Proposed Rule

Direct lease-financing transactions are valid and proper activities that Louisiana State banks may engage in, in their course of business under the following:

A. A Louisiana State bank may become the owner and lessor of personal and real property upon the specific request of and for the use of a lessee-customer.

B. The lease is to serve as the functional equivalent of an extension of credit to the lessee of the property.

C. The lease must provide for definite monthly payments, the total of which will return to the lessor bank its full investment into the property, its costs of financing, plus a reasonable profit.

D. The lease must be on a nonoperating basis whereby the lessee assumes all expenses of maintaining the property.

E. The term of the lease shall in no event exceed ten years.

F. The total investment by a bank for the benefit of any customer engaged in a lease-financing transaction shall at no time exceed ten percent of the capital and surplus of such bank.

G. The total investment by a bank in leasing shall not exceed three percent of total assets.

H. The Commissioner may at any time inspect and review any and all lease-financing transactions engaged in by State banks in Louisiana.

Kenneth E. Pickering  
Commissioner of Financial Institutions

## NOTICE OF INTENT

### Department of Commerce Racing Commission

The Louisiana State Racing Commission proposes to adopt as a part of its permanent body of rules those six regu-

lations published elsewhere in this issue of the Louisiana Register as Declarations of Emergency. Interested persons may submit written comments either for or in opposition to any or all of the proposals for fifteen days following publication of this notice. Comments should be mailed or delivered to the Louisiana State Racing Commission, Suite 1020, One Shell Square, 701 Poydras Street, New Orleans, Louisiana 70139.

Albert M. Stall, Chairman  
Racing Commission

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Notice is hereby given that the State Board of Elementary and Secondary Education intends to adopt at its December 15, 1977, meeting, the following policies:

1. Revision to Bulletin 1196, Louisiana Food and Nutrition Programs Policies of Operation, page 11, paragraph 3, second line, by changing item 1 to read: "utilities separately metered or technically estimated."

2. Revision to Bulletin 741, Handbook for School Administrators, Revised 1977, page 25, to add the authority for granting of credit to students who take courses in vocational-technical schools.

3. Revision to Bulletin 741, Handbook for School Administrators, Revised 1977, page 23, to add the granting of credit for cosmetology.

4. Revision to Bulletin 1134, Standards for School Libraries, to read that: "Public schools, grades one through eight or any combination, be allowed to subscribe to a minimum of three children's magazines per one hundred pupils."

5. The following is proposed for allowing teachers and other school personnel a certain period of time in which to acquire added certification: 1) With the exception of the 1977 legislative acts, when certification requirements are changed requiring a program change at the college level, that a period of at least four or five years be given so that catalogs may be changed and all incoming freshmen notified of the changes. 2) Any certification change made by the State Board of Elementary and Secondary Education should include implementation dates and should be specified at the time the Board takes action. 3) Any certification change recommended by the Teacher Certification Advisory Council should include implementation dates and should be specified at the time of recommendation to the Board for action.

6. Board advertised with the intent that this policy be included in Bulletin 746: An individual who met certification requirements prior to their change on September 1, 1975, but did not have the certification added to the certificate, shall be certified by the Department of Education upon presentation of evidence that the error was not of his own making. This does not cover those cases where an individual failed to meet his responsibility by having the certification added himself.

7. Amendments to Bulletin 746 pages 2, 13, 17, 18, 20, and 27 for the purpose of including legislative requirements.

The State Board of Elementary and Secondary Education will accept written comments until 4:30 p.m., December 8,



1977, at the following address: State Board of Elementary and Secondary Education, Box 44064, Capitol Station, Baton Rouge, Louisiana 70804.

The public is made aware of the consideration of the above rule change in compliance with R.S. 49:951, et seq.

All interested parties will be afforded reasonable opportunity to submit data, views, or comments at the regular December meeting.

Bro. Felician Fourrier, S.C., Acting Director  
Board of Elementary and Secondary Education

### NOTICE OF INTENT

#### Board of Regents

Notice is hereby given that the Board of Regents intends to adopt the following at its meeting of December 15, 1977:

1. The Master Plan for Higher Education in Louisiana.
2. A revised Policy 3.4, Capital Projects.
3. A revised Policy 3.5B, Dedicated Revenues.

Interested persons may submit written views and opinions up to fifteen days following publication of this notice to the Louisiana Board of Regents, Suite 1530, One American Place, Baton Rouge, Louisiana 70825. A copy of the proposed Master Plan will be available for public inspection between the hours of 8:00 a.m. and 4:30 p.m. on any working day after November 22, 1977, at the above address.

William Arceneaux, Commissioner  
of Higher Education  
Board of Regents

### NOTICE OF INTENT

#### Office of the Governor Tax Commission

In accordance with the provisions of R.S. 49:953, notice is hereby given that the Louisiana Tax Commission intends to hold a public hearing on December 20, 1977, at 10:00 a.m. in the Conference Room on the 5th Floor of the Louisiana State Library in Baton Rouge, Louisiana.

The purpose is to adopt guidelines on the taxable situs of major movable property of barge lines, towing companies, and private car companies assessed as public service companies.

The Tax Commission will also conduct hearing on proposed changes in the present guidelines for assessment of shallow oil and gas wells (also known as "stripper wells").

Interested persons may inspect a copy of the proposed guidelines on "taxable situs of major property . . ." beginning fifteen days prior to the scheduled hearing at the official domicile of the Louisiana Tax Commission in the Capitol Annex in Baton Rouge, Louisiana, and may present views or arguments relating thereto in writing at any time prior to 4:15 p.m. on December 19, 1977.

Written proposals for the change in assessment procedure of shallow oil and gas wells will be accepted at the Tax Commission until 4:15 p.m. on December 19, 1977. All

written matter should be addressed to the Louisiana Tax Commission, Box 44244, Baton Rouge, Louisiana 70804.

Those desiring to be heard at the hearing will be given reasonable opportunity to make their presentations.

C. Gordon Johnson, Chairman  
Tax Commission

### NOTICE OF INTENT

#### Department of Health and Human Resources Office of Family Services

The Department of Health and Human Resources, Office of Family Services, proposes to adopt Minimum Standards for Licensure of Child Caring Agencies Offering Emergency Shelter Care.

The licensing authority of the Office of Family Services is established by R.S. 46:1401-1411 and charges the Office of Family Services with the responsibility for developing and publishing standards for licensing child caring agencies.

Copies of the proposed standards may be obtained without cost at the following address: Office of Family Services, Planning and Policy Formulation Section, 755 Riverside North, Box 44065, Baton Rouge, Louisiana 70804.

Interested persons may submit written comments on the proposed standards through December 7, 1977, to the following address: Mr. Alvis D. Roberts, Acting Assistant Secretary, Office of Family Services, Department of Health and Human Resources, Box 44065, Baton Rouge, Louisiana 70804.

William A. Cherry, M.D., Secretary  
Department of Health and Human Resources

### NOTICE OF INTENT

#### Department of Health and Human Resources Office of Family Services

The Department of Health and Human Resources, Office of Family Services, proposes to adopt in the Foster Care Program, revised policy changes in the method of reimbursing foster parents for expenditures incurred in the care of foster children. The proposed policy and procedural changes will eliminate considerable paperwork for the agency and the foster parents, eliminate delays in prompt reimbursement to foster parents, and provide the foster parents an opportunity to manage the foster child's finances in a manner more compatible with the total family buying.

The proposed policy is as follows: A monthly flat payment rate will be made to foster parents which will include the regular board payment in addition to a set amount for the child's clothing, personal allowance, personal items, and gift allowance.

The breakdown of the monthly flat payment rates by age group shall be as follows:

Birth through age 5	\$100.00	room and board
	14.00	1/12 clothing budget
	1.50	child's monthly allowance
	1.50	personal items
	3.00	1/12 gift allowance
	<hr/>	
	\$120.00	—monthly flat rate amount

6 years through	\$100.00 room and board
12 years	25.50 1/12 clothing budget
	10.00 child's monthly allowance
	1.50 personal items
	3.00 1/12 gift allowance
	<hr/>
	\$140.00—monthly flat rate amount
13 years through	\$110.00 room and board
21 years	33.00 1/12 clothing budget
	12.00 monthly allowance
	2.00 personal items
	3.00 1/12 gift allowance
	<hr/>
	\$160.00—monthly flat rate amount

For foster children who have approval for a special board rate, the new rate of payment shall be the applicable flat rate amount plus the amount of the special board rate which is in excess of the current usual board rate for that age child.

This proposed payment schedule shall be reflected in the checks issued to foster parents in February, 1978.

The flat rate amounts reflect an increase in the clothing budget, monthly allowance, gift allowance for each age group, and a slight increase in the personal items allowance for the thirteen years through twenty-one years age group. Haircuts will no longer be reimbursable.

With implementation of this proposed payment system, the foster parent Expenditure Affidavit forms and receipts shall no longer be required for purchase of items included in the flat rate amounts.

In addition to the monthly flat payment rate, reimbursement of expenses shall be allowed for the purchase of initial or emergency clothing for a foster child within the limits described below.

#### **Clothing Allowance not Included in Flat Rate**

(a) Initial Clothing Allowance—An initial clothing allowance, not to exceed \$150.00 may be expended for any age child at the time of placement in foster care regardless of the type placement facility. Local office approval shall be required for this expenditure. Receipts for the purchases must be submitted.

(b) Emergency Replacements—An allowance for emergency replacement of clothing, not to exceed \$150.00 may be expended for any age foster child. Types of situations for which an emergency replacement of clothing could be considered includes a foster child being moved from one facility to another without an adequate wardrobe or if the child's clothing is destroyed by fire or other unusual circumstances.

Prior approval from State office shall be required for emergency replacements, and receipts for purchases must be submitted.

Interested persons may submit written comments on the proposed policy through December 7, 1977, to the following address: Mr. Alvis D. Roberts, Acting Assistant Secretary, Office of Family Services, Box 44065, Baton Rouge, Louisiana 70804.

William A. Cherry, Secretary  
Department of Health and Human Resources

## **NOTICE OF INTENT**

### **Department of Health and Human Resources Office of Family Services**

The Department of Health and Human Resources, Office of Family Services, proposes to adopt Standards For Psychiatric Facilities Providing Clinic Services Under Title XIX. The proposed standards are an effort by the Office of Family Services to set forth the minimum standards for participation in the Medicaid Program by psychiatric facilities providing clinic services. The primary objective of the standards is to clarify the standards for participation by psychiatric facilities and to make them compatible with current laws and Federal regulations and to ensure that the application of the standards is uniform statewide.

Copies of the proposed Standards For Psychiatric Facilities Providing Services Under Title XIX may be obtained without cost at the following address: Office of Family Services, Medical Assistance Program, 755 Riverside Mall, Baton Rouge, Louisiana 70804, or by contacting the Public Assistance Line at telephone number 1-800-272-9868.

Interested persons may submit comments orally or in writing until 1:00 p.m., December 6, 1977, to Mr. Alvis D. Roberts, Acting Assistant Secretary, Office of Family Services, Department of Health and Human Resources, Box 44065, Baton Rouge, Louisiana 70804, Phone: (504) 389-6036.

William A. Cherry, M.D., Secretary  
Department of Health and Human Resources

## **NOTICE OF INTENT**

### **Department of Health and Human Resources Office of Family Services**

The Department of Health and Human Resources, Office of Family Services proposes to revise Income Standards and Basis of Issuance in the Food Stamp Program effective January 1, 1978, in accordance with Federal regulations as specified in Federal Register, Volume 42, Number 215, Pages 58152-58158, Tuesday, November 8, 1977. The revisions provide food stamp recipients with a cost of living increase.

Copies of the revised Income Standards and Basis of Issuance may be obtained without cost at the following address: Food Stamp Program, Office of Family Services, 333 Laurel Street, Room 301, Baton Rouge, Louisiana 70804, Telephone: (504) 389-2631.

Interested persons may submit written comments until 1:00 p.m., December 5, 1977, to Mr. Alvis D. Roberts, Acting Assistant Secretary, Office of Family Services, Department of Health and Human Resources, Box 44065, Baton Rouge, Louisiana 70804.

William A. Cherry, M.D., Secretary  
Department of Health and Human Resources

## NOTICE OF INTENT

### Department of Health and Human Resources Board of Nursing

The Louisiana State Board of Nursing hereby gives notice that the Board is contemplating the enactment of rules and regulations regarding the nursing function of administration of medications via the intravenous route.

Written comments or suggestions should be submitted so as to be received not later than 4:30 p.m. on December 5, 1977, in the office of the Board, located at 907 Pere Marquette Building, 150 Baronne Street, New Orleans, Louisiana 70112.

This item of business will be on the agenda for 10:00 a.m., on December 8, 1977. An opportunity for oral comments will be provided.

The Board of Nursing will convene its December meeting at 8:30 a.m., on December 8, 1977, in the St. Maxent Room A of The Downtown Howard Johnson's, 330 Loyola Avenue, New Orleans, Louisiana. The meeting will recess for lunch at 1:00 p.m. and will reconvene at 2:00 p.m. for other matters on the agenda, in the office of the Board, located at 907 Pere Marquette Building, New Orleans, Louisiana.

Merlyn M. Maillian, R.N.,  
Executive Director  
Board of Nursing

## NOTICE OF INTENT

### Department of Labor Office of Employment Security

Notice is hereby given that the Office of Employment Security will hold a public hearing in Room 155 of the Office of Employment Security Building, 2200 Fuqua Street, Baton Rouge, Louisiana, on Monday, December 5, 1977, at 11:00 a.m. to consider amending Rule 1 of the Rules of the Office of Employment Security effective January 1, 1978.

#### Rule 1. Value of Board and Lodging.

Pursuant to R.S. 23:1472(20)(A) the Administrator determines and establishes the cash value of board to be one dollar per meal and lodging to be ten dollars per week unless there is a written agreement between the employer and employee establishing such amount. These values will be assigned in computing the cash value of remuneration in a medium other than cash for tax purposes and in establishing claims and in deductions which may be made from benefit amounts received by claimants.

Interested persons may submit data, views, or arguments relative to the proposed rule amendment orally or in writing at the public hearing or prior to the hearing in writing by submitting them to the Office of Employment Security, Box 44094, Baton Rouge, Louisiana 70804. The Administrator may adopt the proposed rule as presented or amended.

Thomas M. Lockwood, Administrator  
Office of Employment Security

## NOTICE OF INTENT

### Department of Labor Workmen's Compensation Second Injury Board

The Louisiana Workmen's Compensation Second Injury Board proposes to adopt rules and regulations under the authority granted to the Board by R.S. 23:1376(A).

The proposed rules will amend the rules and regulations now in existence by deleting the requirement that an employee's pre-existing condition be registered prior to the subsequent injury and by extending the time limit for filing a claim from one hundred eighty days to fifty-two weeks, both in accordance with the statutory amendment enacted during the 1977 Louisiana Legislature.

Interested persons may submit written comments until 4:30 p.m., December 5, 1977, to the following address: Louisiana Workmen's Compensation Second Injury Board, Box 44187, Baton Rouge, Louisiana 70804. Copies of the proposed amendments may be obtained from the Louisiana Workmen's Compensation Second Injury Board, at the above address, or by calling 389-7563.

James E. Campbell, Executive Director  
Workmen's Compensation Second Injury Board

## NOTICE OF INTENT

### Department of Natural Resources Office of Forestry and Office of the Governor Tax Commission

The Office of Forestry will hold its annual joint meeting with the Tax Commission on December 12, 1977, for the purpose of determining the current average stumpage market value of timber and pulpwood for severance tax computations for 1978.

The meeting will be held in Baton Rouge at the Office of Forestry headquarters, 5150 Florida Boulevard at 10:00 a.m. Interested parties will be afforded reasonable opportunity to present views and comments at the meeting. Written comments may be submitted to Office of Forestry, Box 1628, Baton Rouge, Louisiana 70821.

D. L. McFatter, State Forester  
C. Gordon Johnson, Chairman  
Tax Commission

## NOTICE OF INTENT

### Department of Natural Resources Office of Mineral Resources

Notice is hereby given that the State Mineral Board within the Department of Natural Resources intends to amend its rules and regulations pertaining to the issuance of geophysical permits and the conduct of operations pursuant to such permits as follows:

**Rules and Regulations Applicable to  
Geophysical and Geological Surveys Conducted Upon  
or Relating to  
State-Owned Lands and Waterbottoms**

I. Permits for geophysical and geological surveys under Title 30, Chapter 3, Sections 211 through 216 of the Revised Statutes of 1950 should be obtained from the State Mineral Board through the Office of Mineral Resources, Department of Natural Resources.

II. Application for a permit for such exploration must be filed in quadruplicate with one copy addressed to the Secretary of the Department of Natural Resources and three copies addressed to the Assistant Secretary of the Office of Mineral Resources at least ten days before the requested effective date of the permit and each copy must be accompanied by supporting documents as follows:

A. A detailed map showing the exact area in which the geophysical operations are to be conducted, such area to be outlined in red, and where possible, by reference to an established landmark. It is suggested that the above map be a copy of a portion of the "Oil and Gas Map of Louisiana" as published by the Department of Conservation.

B. A statement of the type work planned such as gravity meter, magnetometer, reflection, refraction, etc. It is required that official permit application forms be used which are available upon request from the Office of Mineral Resources.

All permits shall not be deemed to cover and include any State oil and gas lease either in effect or thereafter to be in effect, so long as such lease or leases remain in effect, covering any portion of the area covered by the permit or permits, but if permittee or permittees shall secure appropriate consent from the lessee or lessees under any such lease or leases to conduct operations thereon of the type permitted by the permit or permits, such permit or permits shall evidence the acquiescence of the State Mineral Board in such consent. Upon the expiration, lapse, or termination of any such State lease or leases, permits shall automatically extend to cover the acreage formerly under lease.

III. Whenever there arises an emergency or other cause which prevents the applicant from filing application as above provided, application for a permit for such exploration may be requested in any manner, and the Assistant Secretary of the Office of Mineral Resources, acting as Secretary of the State Mineral Board, is authorized to grant, in any manner, temporary permission to conduct such geophysical operations after notifying the Secretary of the Department of Natural Resources and the Department of Wildlife and Fisheries of the informal application for this temporary permit. Operations under this paragraph shall be confined to the areas affected by the emergency conditions such as are deemed to exist in the discretion of said Secretary of the State Mineral Board. Within ten days of the date of granting such temporary permission a written application shall be filed in accordance with the provisions of paragraph II.

IV. Permits are limited to a period of one year from date of issuance, unless revoked for cause.

V. All permits shall be limited to a single geographic district of the state as those districts are designated on the attached plat.

VI. In order to accommodate proper administration of permits and orderly operations thereunder, the applicant must submit to the Office of Mineral Resources, thirty days prior to initiating any geophysical and geological work authorized by a permit, a plat acceptable to the Office of Mineral Resources reasonably identifying and locating each particular grid area in which operations are to be conducted and

the date of commencement thereof; and, after completion of field operations, a like plat on each proposed grid, which is to be supplemented with any additional detailed work thereafter conducted, reflecting the locations of all shot points and the date of completion of said work, which latter plat shall be deemed confidential if so requested by permittee. All geophysical and geological information and data obtained by permittee in conducting operations hereunder shall be governed by R.S. 30:213.

VII. A certified check, cashier's check or bank money order in the amount of \$250.00 payable to the Office of Mineral Resources should accompany each application as the fee for issuance of a permit.

VIII. Pursuant to R.S. 30:214 all permits will be issued subject to strict compliance by the permittee with all applicable rules governing the conduct of seismic exploration in water areas as such rules may from time to time be promulgated by the Department of Wildlife and Fisheries for the protection of oysters, fish, and wildlife. Further all wildlife and waterfowl refuges, game and fish preserves, or oyster seed ground reservations or any part thereof, shall not be deemed to be included in the area covered by any permit unless written permission from the agency in charge of such refuge, preserve, or reservation is also secured.

IX. The State Mineral Board hereby declares that all information, maps, and other data of every kind whatsoever that are supplied to the Board pursuant to the requirements of R.S. 30:213, shall be kept confidential and shall be available only to the State Mineral Board and Commissioner of Conservation in the proper administration and development of State-owned lands and waterbottoms. In order to make effective such secrecy, all such maps and other data shall at all times be kept under lock and key, except during the course of actual examination by or on behalf of the Board or the Commissioner. Any violation of these requirements is hereby declared cause for preemptory removal from office or discharge of the offending officer or employee in addition to the penalty provided by R.S. 30:216.

X. In the event a permittee conducts operations through an operator, the name and address of such operator shall be furnished to the Office of Mineral Resources prior to the commencement of any such operations.

XI. The permitting requirements of R.S. 30:212 do not apply to the lessees of State-owned lands and waterbottoms under lease for mineral exploration and development. However, in all cases where geophysical exploration is conducted for the account of a lessee under such a State lease, the name and address of the party conducting such operations shall be furnished to the Office of Mineral Resources prior to the commencement of such operations. In addition, the provisions of Paragraphs VIII, IX and XII shall be applicable to any geophysical exploration conducted by or for the account of such a lessee.

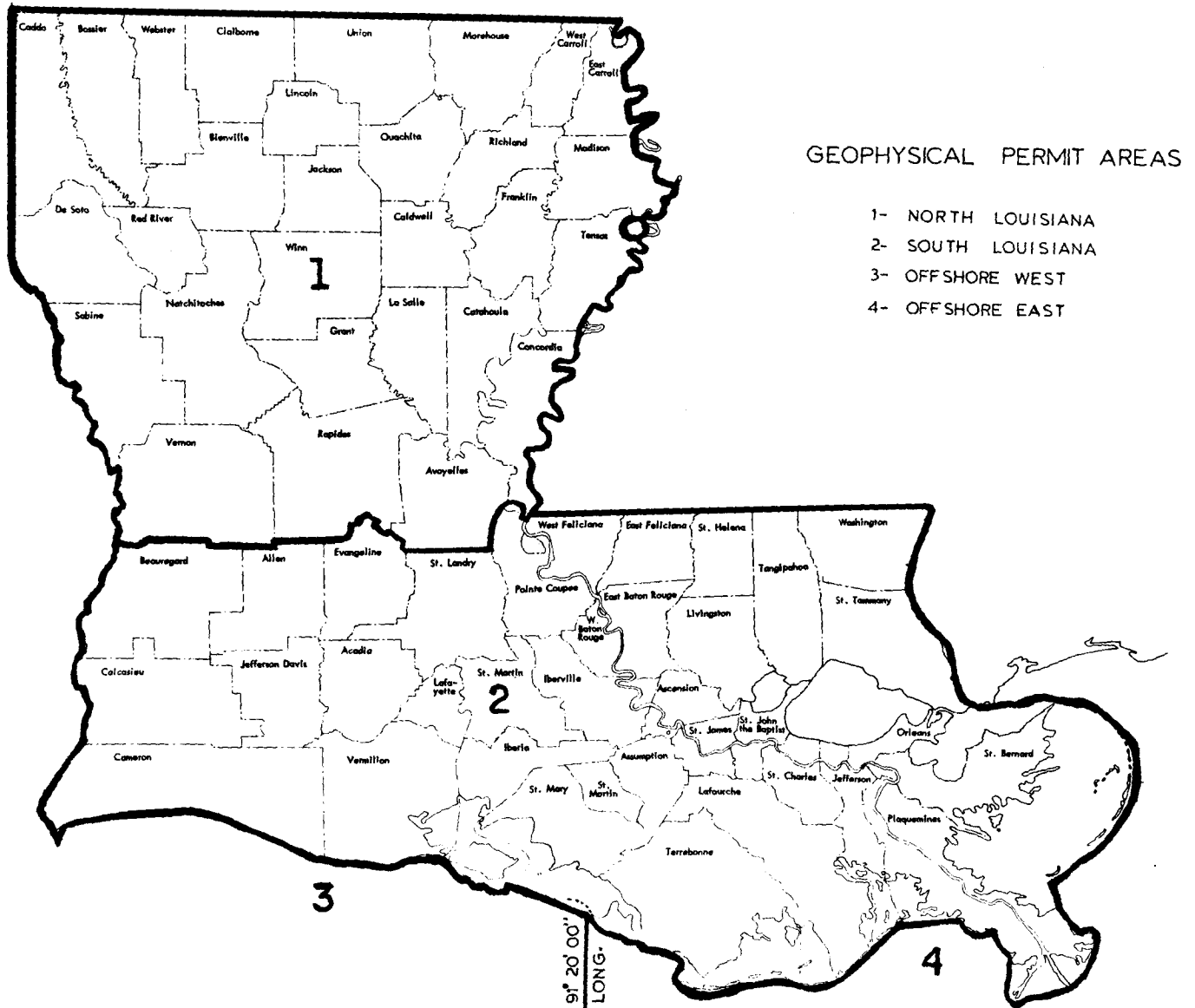
XII. The approval of the State Mineral Board, through its duly authorized officer, of any permit, is granted subject to any future rules and regulations which may be adopted by the State Mineral Board from time to time. The Board hereby declares that in the event any changes in the rules and regulations are effected, thirty days written notice shall be given to all permittees whose permits are still in effect.

Any interested person may submit in writing his views, arguments, data, or reasons in support of or in opposition to the intended adoption of amendments to these rules and regulations by addressing them to the Assistant Secretary, Office of Mineral Resources, Box 2827, Baton Rouge, Louisiana 70821 on or before December 7, 1977, at 1:00 p.m. The proposed amendments to these rules and regulations will be considered by the State Mineral Board at its

meeting in the State Land and Natural Resources Building,  
Baton Rouge, Louisiana at 1:00 p.m. on December 14,

1977. Reasonable opportunity for oral comments on these  
proposed amendments will be provided at this meeting.

C. J. Bonnacarrere, Assistant Secretary  
Office of Mineral Resources



**NOTICE OF INTENT**

**Department of Public Safety  
Office of Fire Protection**

The Department of Public Safety, Office of Fire Protection, hereby gives notice that a public hearing will be held on the following regulations in the State Office Building, 106 Loyola Avenue, New Orleans, Louisiana on December 5, 1977 at 9:00 a.m.

For structures which by law may only be constructed with plans prepared and certified by a licensed architect or civil engineer, it shall be the duty of the owner of such a structure to provide for periodic inspections of the construction of the structure to determine if the work is proceeding in reasonable accordance with the plans and specifications as approved by the Fire Marshal. The inspections shall be performed by a member of the Fire Marshal's staff, a person certified under R.S. 40:1563, or by a registered architect or a registered civil engineer; upon request of the Fire Marshal or his certified local authority, the owner shall be responsible to have the registered architect or engineer familiar with the plans and specifications available to participate and assist in the inspections. Upon completion of such work, the owner shall furnish to the Fire Marshal a certificate signed by any person hereby authorized to perform inspections, stating that the periodic inspections have been made and that, to the best of said inspector's knowledge, the work was completed in reasonable accordance with those fire safety standards and regulations stipulated in the plans and specifications previously approved by the Fire Marshal.

The Fire Marshal is hereby authorized after giving due notice to the owner of the building, to have any structure constructed in violation of this section torn down and to have a lien placed on the owner's assets for the cost of same. This penalty is an addition to any other penalty provided in this part.

Anyone interested in the above regulations should be present at the above hearing or should provide in writing on or before the date and time of the hearing the position of the individual or group with regard to the above stated regulations. Anyone who has any questions with regard to the promulgation of this regulation or the public hearing notice herein should contact this office immediately.

Raymond B. Oliver  
State Fire Marshal

**NOTICE OF INTENT**

**Department of Revenue and Taxation**

The Department of Revenue and Taxation gives notice of its intention to adopt the following new and amended rules relative to the Louisiana severance and sales taxes. Interested persons may submit written comments, through December 5, 1977, to Shirley McNamara, Secretary, Department of Revenue and Taxation, Box 201, Baton Rouge, Louisiana 70821.

**Louisiana Severance Tax  
Article 633:74-1. Rates of tax**

\* \* \* \*

**F. Application of the Tax on Gas:**

\* \* \* \*

7. (a) Carbon black exclusions may be allocated to leases on a contractual basis; provided, however, that such gas is physically capable of being consumed as carbon black. In the absence of contractual limitations, the allocation of plant fuel and carbon black shall be on an equitable and reasonable basis.

(b) Whenever sales and/or deliveries are made for plant fuel and/or carbon black usage the consumer of such plant fuel and the transporter or seller of the gas used for carbon black shall be required to submit a report monthly to the Department of Revenue and Taxation showing one hundred percent entries into its gas streams involved and an allocation of the plant fuel and/or carbon black usage withdrawn from the stream back to the sources entering the commingled mass.

\* \* \*

8. (c) Gas used or consumed as fuel in the operation of a recycling or gasoline plant for any purpose shall not be exempt from the tax.

\* \* \*

**H. Exclusions from the Gas Severance Tax:**

\* \* \*

3. Gas vented or flared from oil and gas wells provided such gas is not otherwise sold. Gas flared at a gasoline plant shall be taxable if the producer receives as much value for the plant volume consumption (plant fuel, plant flare, and an equivalent volume of gas attributable to liquids extracted) as he would receive if the gas were not processed in a gasoline or recycling plant.

\* \* \*

5. Deleted.

\* \* \*

L. Citation: This amendment may be cited as 633:77-1.

**Louisiana Severance Tax**

**Article 646.1:77-1. Severance Tax Exemption**

I. R.S. 47:646.1 provides a limited tax exemption of fifty percent of severance taxes on oil or gas produced from the first well of a newly discovered field and is applicable only on the working interest owners' first two million cubic feet of gas produced per day and the first one hundred barrels of oil produced per day during the first twenty-four months of commercial production from the discovery well.

II. The limited tax exemption does not apply to:

(1) Condensate, distillate, or similar natural resources produced from a well classified as a gas well by the Assistant Secretary of the Office of Conservation, nor does the limited exemption apply to casinghead gas.

(2) A working interest owner(s) who purchases or otherwise acquires an interest in a newly discovered field well after the date of discovery.

(3) The basic royalty owners' interest in a well, or, the overriding royalty interest.

(4) Gas sold under an agreement in existence prior to June 1, 1977, which requires the buyer to reimburse the seller for more than fifty percent of any gas severance tax, nor shall the exemption apply to any gas sold under an agreement entered into after June 1, 1977.

III. The following guidelines shall be used to claim the limited tax exemption provided for in R.S. 47:646.1:

(1) The operator who files the Producer's Monthly Production Report (Forms R-1 and/or R-5P) shall file, on behalf of the working interest owners in a well entitled to the limited tax exemption provided in R.S. 47:646.1, a claim for refund on a monthly basis. Claims must be submitted to the Department of Revenue and Taxation within thirty days after the tax has been paid at rates levied in R.S. 47:633 (7) (a) (b) (c) and R.S. 47:633(9).

(2) The claims shall be filed on forms provided by the Department of Revenue and Taxation. Claims for refund will not be processed until proof of tax payment at regular tax rates has been made by the Department of Revenue and Taxation.

(3) The refund will be issued to the taxpayer who paid taxes at the regular tax rates and it will be his responsibility to disburse the money on the regular division of working interest.

#### IV. Citation:

(1) This regulation may be cited as 646.1:77-1.

**Louisiana Sales Tax**  
**Article 47:301(3). Cost Price**

\* \* \*

#### (Fourth Paragraph)

In arriving at actual cost of tangible personal property for the purpose of the required comparison, any item of cost which would influence the market value of the property at a given location must be included. In the case of property manufactured, fabricated and/or altered to perform a specific function prior to the tax incident, every item of cost must be included. Thus, materials, labor, overhead, transportation to the point of tax incidence, and any other costs of any nature whatsoever must be included. This rule applies whether the work is performed by the owner of the property or by others, and whether it was performed within or outside the State of Louisiana. Freight, delivery, handling, shipping and other such services are to be included in the "cost price" base for use tax purposes to the same extent as such services would be included as part of the "sales price" as the basis for sales tax if the article of tangible personal property were sold in this state rather than sold outside this state and then imported into Louisiana for use, consumption, distribution, or storage for use, or consumption, in this state.

**Louisiana Sales Tax**  
**Article 47:301(13). Sales Price**

\* \* \*

#### (Last Paragraph)

Freight, delivery, handling, shipping and other services of a similar nature are included within the "sales price" base for sales tax purposes when such services are a part of the sale valued in money. In determining when such services are a part of the sale valued in money, resort should be had to the substance of the contract of sale between the seller and the buyer, and the substance of the agreement shall control over the form used by the parties. If the substance of the terms of the contract of sale is such that the seller is obligated to deliver, at his expense, the article of tangible personal property to the buyer, then in those instances it shall be deemed that the "sales price" includes the value of such services, and the sales tax base would include the value of such services. In determining the substance of a contract of sale as to whether the delivery services are the obligation of the seller or that of the buyer, resort may be had to the invoice evidencing the sale. Where the invoice evidencing the sale provides that the terms of the shipment are "F.O.B.

destination," the transportation services shall be deemed to be the obligation of the seller and includable in the "sales price" as the basis for sales tax. Conversely, where the invoice evidencing the sale provides that the terms of sale are "F.O.B. origin," and if the charges for such services are separately stated on the invoice, then the "sales price" shall be deemed not to include the separately stated charges for such services, and the charges for such services shall be excluded from the sales tax base. Whether the sale is one made in intrastate or in interstate commerce is not controlling since in either case the "sales price" shall be deemed to include the charges for such services if such services are rendered by the seller in discharge of his obligation to the buyer to furnish such services as stated hereinabove, and shall be deemed not to include the charges for such services where rendered by the buyer, either personally or through an independent contractor for the buyer's account and at the buyer's expense. In order to facilitate the collection of sales tax on those transactions including such transportation services, the Secretary shall look first to the seller for the collection and remission of such taxes in those cases in which the seller is registered as a dealer for sales tax purposes, or where the seller is required by statute to be so registered. In those instances in which such services are to be included within the sales tax base, but where the seller is not required to, or fails to, collect such sales tax, and in those instances in which the charges for such services are billed directly to the buyer by the person furnishing such services, such as an independent contractor, the Secretary shall look to the buyer for the remission of such sales tax. Nothing herein, however, shall be construed so as to limit the Secretary insofar as the collection of such sales taxes as may be otherwise provided by law, the administrative procedures set forth herein being designed merely to facilitate the collection of such sales tax and not to alter the obligations imposed upon seller and buyer by law.

**Louisiana Sales Tax**  
**Article 47:301(16). Tangible Personal Property**

With the exception of certain provisions of R.S. 47:301(14) relating to the furnishing of services, the question of whether an item constitutes tangible personal property is of utmost importance in determining whether its sale, use, storage, consumption, rental, or lease is subject to tax under the provisions of this Chapter. Under pertinent provisions of the Louisiana Civil Code, tangible personal property must be construed to be tangible movable property. Thus, if property is movable and meets the definition of tangible property contained in this Section, it is tangible personal property. R.S. 47:301(16) defines tangible property to be any property which may be seen, weighed, measured, felt or touched, or is in any manner perceptible to the senses. Stocks, bonds, notes, or other obligations or securities have been specifically excluded from the definition of tangible personal property.

Although not specifically excluded by R.S. 47:301(16), computer software, the codified programs and procedures that direct operations, will be treated as intangible property. When the selling price of software is separately set out on a dealer invoice, and when such property does not constitute an inseparable part of hardware or other tangible personal property, the software shall not be subject to the sales tax. Central programs or basic operational programs which are sold as an inseparable part of computer hardware, will continue to be subject to the tax.

Tapes, discs, punched cards, or other mediums on which software is contained, are considered tangible personal property. Sellers of software, who purchase this tangible personal property for use in transmitting the software to customers, incur a consumer sales or use tax liability on such purchases.

This ruling concerning computer software is promulgated on a prospective basis and will not affect tax liabilities for periods prior to the effective date shown below.

The nature of property may change from movable to immovable or from immovable to movable so that its character at the moment of a transaction or activity must be established in order to determine taxability of that transaction or activity. As an example, a movable piece of machinery may be attached to a building in such manner that it cannot be removed without doing damage to the machinery or to the building. In this case, the character of the property will have changed from movable to immovable. However, if the machinery is attached in such a way that it may be removed from the building without doing damage to either it or the building, its character upon being separated reverts to movable property. This distinction is of particular importance in determining whether repairs to property are taxable. If equipment or machinery have been removed from real property in such way that neither the equipment or machinery nor the real property has been damaged, the item constitutes tangible personal property and repairs made thereto are taxable.

#### **Louisiana Sales Tax**

#### **Article 47:305. Exclusions and Exemptions From the Tax**

\* \* \*

R.S. 47:305(4) provides, in part, an exemption from State sales and use taxes upon the sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in this state for orthotic and prosthetic devices and patient aids prescribed by physicians for personal consumption or use. Orthotic, by definition, means a branch of mechanical and medical science that deals with the support and bracing of weak or ineffective joints or muscles, and such things as orthopedic shoes, braces, crutches, wheelchairs, surgical supports, and traction equipment are exempt from taxation, while such items as prescription eyeglasses and hearing aids are not covered by the exemption. Prosthesis, by definition, means the replacement of a missing part of the body, as a limb, eye, or tooth by an artificial substitute, and such things as artificial eyes, legs, or arms, and the replacement and restoration in whole or in part of the teeth are exempt from taxation. Such dental prosthesis include but are not limited to, full dentures, fixed and removable dental prosthesis and all parts thereof, and in addition all other items associated with replacement and restoration of the teeth which by law also necessitate a prescription from the attending dentist for fabrication, while such items as toupees, braces for teeth or eyeglasses or corrective lenses are not covered by the exemption. Patient aids mean such equipment as sickroom supplies and other tangible personal property used for the convenience and comfort of the patient. In all instances, the orthotic and prosthetic devices and patient aids must be prescribed by a physician for personal use or consumption in order for the sale to be exempt for sales tax purposes. Further, the rental tax and sales tax for repairs to orthotic and prosthetic devices and patient aids are not exempted under R.S. 47:305(4).

#### **Louisiana Sales Tax** **Article 47:315. Sales Returned to Dealer;** **Credit or Refund of Tax**

R.S. 47:315A provides special rules for the handling of taxes which have been charged to the account of a purchaser, consumer, or user in cases where the property sold has been returned to the dealer or where a refund is made of the charges for services upon which a tax was based. In either case, if the tax has been collected or charged to the account of the purchaser or consumer or user and has not yet been remitted to the Collector of Revenue, and a refund or credit is made to the purchaser or consumer, the dealer may delete the sale and the tax due in submitting his return for the current tax period.

If the merchandise is returned to the dealer or if a refund is made to the customer for any charges for services after the tax collected or charged to the customer's account has been remitted to the Collector of Revenue, the dealer may obtain a credit memorandum for the amount of tax remitted to the Collector less any compensation deducted by him at the time of remittance, by submitting a sworn statement to the Collector which lists the amount of any such refunds over the period covered by the sworn statement. In no event should the period covered exceed ninety days. After having obtained the credit memorandum, the dealer may use the memorandum, up to the amount of its face value, in payment of any tax liabilities subsequently accruing.

The sworn statement submitted by the dealer in support of his application for credit must list the date of original sale, the customer's name and address, the full amount of the total sale, the tax collected thereon or charged to the customer's account, and the date the total amount charged to the customer or collected from the customer was refunded, including the taxes in question. Credit memoranda issued under the authority granted by this Section are not negotiable and cannot be used to apply on the tax liability of any taxpayer other than the dealer to whom issued. However, the Collector has the authority at his discretion to issue a refund to any dealer who has retired from or discontinued business and in any other case in which the Collector determines that it would be to the benefit of the State to do so.

Dealers submitting refund claims should be aware of the following restrictions specifically provided in or authorized by R.S. 47:315B:

(1) The sales tax is refundable on debts incurred after January 1, 1976, that ultimately become worthless. The tax will not be refunded on worthless debts incurred prior to January 1, 1976.

(2) Before the Department can issue a sales tax refund on a bad debt, the debt must actually have been deducted on a Federal income tax return in accord with Section 166 of the United States Internal Revenue Code. Since the issuance of refunds is tied to charge-offs on the annual Federal return, the Department will process one refund per year for each dealer.

(3) If after a debt is charged off as worthless and a sales tax refund issued, all or some portion of the debt is collected, the gross amount collected shall be reported as a new sale for the period when the recovery is made.

(4) The act applies to state sales taxes only and not to any local taxes.

(5) The sales tax is refundable only on those bad debts that are the result of credit or deferred payment sales of tangible personal property financed by the dealer making



the sale. No refund is authorized on bad debts arising from sales of services, leases, or rentals, even though tax may have been charged on such transactions, or on sales financed by lending institutions or independent credit card plans, unless the lender has full recourse against the seller for any unpaid amounts. The sales tax is refundable on bad debts which arise because of the issuance of worthless checks only to the extent the check was in payment for taxable tangible personal property.

(6) No refund will be issued in the case where a dealer has repossessed saleable merchandise and cancelled the customer's credit obligation.

(7) Dealers may recover sales tax remitted on bad debts solely through the issuance of refunds by the Department of Revenue and Taxation. Dealers must continue to file sales tax returns reporting their total sales of merchandise during each taxable period, regardless of whether customer obligations have been collected. Deductions for bad debt losses may not be taken on sales tax returns.

Refund claims submitted to the Department must be accompanied by schedules detailing the names of debtors whose obligations were charged off, the uncollectible amounts, the amount of debt written off which was incurred prior to January 1, 1976, nontaxable portion of debt written off, taxable portion of debt written off, and tax claimed.

Refunds will not be issued based solely upon increases in bad debt reserve amounts. Dealers who maintain such reserve accounts must base their claims on the individual bad debts charged against the reserve.

Taxpayers who charge off more than two hundred taxable accounts annually, and for whom the furnishing of detailed information required above would be unreasonably burdensome, may apply for permission to submit the required data in some other form.

All refund claims filed with the Department of Revenue and Taxation are subject to office or field examination and verification, so dealers must maintain auditable records to support their claim. The records must be able to substantiate that the sales tax was charged and remitted to the Department on the original sales and that the dealers made reasonable efforts to collect the debt amounts. Dealers must have good evidence that debts charged off are worthless and will remain so in the future. The debt must actually be charged off as worthless on a Federal income tax return before a refund of sales taxes will be processed by the Department of Revenue and Taxation. In the absence of the required records, a dealer will not be entitled to refund.

Shirley McNamara, Secretary  
Department of Revenue and Taxation

#### NOTICE OF INTENT

##### Department of Transportation and Development

Notice is hereby given that the Louisiana Department of Transportation and Development intends to adopt rules, regulations, and policies to implement legislative Act 113 of 1977, Regular Session, governing the size, weight, and load of vehicles on the State Highway System. The Secretary will accept

written comments and requests for a draft of the rules and regulations until 4:15 p.m. December 9, 1977, at the following address: Mr. Francis A. Becnel, Enforcement and Truck Permits Administrator, Louisiana Department of Transportation and Development, Box 44245, Baton Rouge, Louisiana 70804.

The substance of the intended rule-making action and a description of the subjects and issues involved are as follows:

##### A. Louisiana Regulations for Trucks, Vehicles and Loads:

1. Definitions of terms.
2. Legal limitations governing size, weight and load.
3. Regulations governing the issuance and use of special permits for vehicles in excess of legal limitations.
4. Enforcement and penalty assessment procedures.
5. Regulations enforced by other agencies involving the operation of vehicles on state highways.

B. Weight Enforcement Policy and Procedure Manual. The duties and functions of the Department's weight enforcement section and the policies and procedures governing its operation in enforcing R.S. 32:379-389.

The rules are to be effective January 16, 1978.

All interested persons may submit their views through December 9, 1977, at the above address.

George A. Fischer, Secretary  
Department of Transportation  
and Development

#### NOTICE OF INTENT

##### Department of Wildlife and Fisheries

The Louisiana Wildlife and Fisheries Commission at its regular meeting to be held on December 13, 1977, at 10:00 a.m., Room 102, Wildlife and Fisheries Building, 400 Royal Street, New Orleans, Louisiana, will consider the closing date for the current oyster season.

At its meeting on January 27, 1978, at 10:00 a.m., Room 102, Wildlife and Fisheries Building, 400 Royal Street, New Orleans, the board will consider the following:

1. Proposed policy changes for oyster leasing.
2. Proposed fill material changes.

Written comments may be mailed to the Commission's office at 400 Royal Street, New Orleans, Louisiana 70130. Those wishing to make oral comments will be afforded ample opportunity at the meetings.

J. Burton Angelle, Secretary  
Department of Wildlife and Fisheries

## Potpourri

#### Letter of Intent

November 4, 1977

To: All Parish and Local Elected Officials

Subject: Designation of Regional Boundaries for Solid Waste Planning in Louisiana

As Lead Governor on the National Governors Association's Standing Subcommittee on Waste Management, I have come to understand and appreciate the new Federal statute, the Resource Conservation and Recovery Act of 1976, Public Law 94-580, and its impact on the State of Louisiana. It is imperative that Louisiana continue to lead the nation in planning for the full implementation of this statute in a timely manner.

In connection with this thinking, I, Edwin Edwards, Governor of the State of Louisiana, hereby designate the eight regions as outlined in Executive Order 27, dated February 16, 1973, to be the regional boundaries for solid waste planning, and further, in fulfillment of Section 4006 of Public Law 94-580, hereby designate the State of Louisiana as a whole to be the boundary for hazardous waste planning.

The Office of Science, Technology and Environmental Policy shall continue to be the lead agency in full planning toward the implementation of this Federal statute, and all parish and local elected officials are invited to contact the Office of Science, Technology and Environmental Policy and offer input toward the successful and timely planning for implementation of this statute within Louisiana.

Cordially,  
/s/Edwin Edwards  
Governor of Louisiana



**Office of the Governor  
State Planning Office**

In accordance with Executive Order EWE-77-17, the official population projections to be utilized in state and local planning shall be the ones contained in the publication Projections to the Year 2000 of Louisiana Population and Households by Harris Segal, Gordon Saussy, Fred Wrighton, Don Wilcox, and Roger Burford.

Patrick W. Ryan, Executive Director  
State Planning Office

**Department of Natural Resources  
Office of Conservation  
Notice**

In accordance with the laws of the State of Louisiana, R.S. 30:1, et seq., R.S. 49:951, et seq., and particularly R.S. 30:6B and R.S. 30:23B, a public hearing will be held in the Conservation Auditorium, First Floor, State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana, at 10:00 a.m., December 13, 1977.

At such hearing the Commissioner of Conservation will hear testimony and consider evidence relative to the storage of crude oil in cavities to be located and leached in the Clovelly Salt Dome in Lafourche Parish, Louisiana. LOOP, Inc., the holder of a Federal license for a deepwater port in the Gulf of Mexico offshore from and in Lafourche Parish, Louisiana, and the holder of a State license for offshore terminal facilities, is the applicant. Storage cavities proposed by the applicant are to be located entirely within that part of

the Clovelly Salt Dome on which the applicant owns a lease for such purpose; the property covered by said lease is as follows: NE $\frac{1}{4}$  and E $\frac{1}{2}$  of NW $\frac{1}{2}$  of Section 32-18S-22E to a depth of 3,000 feet below the surface of the ground, Lafourche Parish, Louisiana.

Prior to authorizing the use of cavities and/or caverns for storage, the Commissioner must find:

(1) That the area of the salt dome sought to be used for injection, storage and withdrawal of liquid and/or gaseous hydrocarbons is suitable and feasible for such use.

(2) That the use of the salt dome cavity for the storage of liquid and/or gaseous hydrocarbons will not contaminate other formations containing fresh water, oil, gas, or other commercial mineral deposits, except salt.

(3) That the proposed storage, including all surface pits and surface storage facilities incidental thereto which are used in connection with the salt dome cavity storage operation, will not endanger lives or property and is environmentally compatible with existing uses of the salt dome area.

Applicant proposes that an exception be made to Section IIIB of the standards set forth in Finding No. 4 of Statewide Order No. 29-M. The Commissioner will consider any other matters relative to the construction and operation of crude oil storage in salt cavities in the Clovelly Salt Dome, Lafourche Parish, Louisiana.

Oral and written comments will be received from any interested party at the public hearing.

Written comments which will not be presented at the hearing will need to be received not later than 5:00 p.m., December 12, 1977, at the Baton Rouge Office. A summary of the proposed plan is available for inspection in the Office of Conservation, 625 North 4th Street, Baton Rouge, Louisiana, and in the Houma District Office, 1206 Tunnel Boulevard, Post Office Box 4097, Houma, Louisiana 70360.

R. T. Sutton  
Commissioner of Conservation

**CUMULATIVE INDEX  
(Volume 3, Numbers 1-11)**

- Accountants, certification of, 212(N), 252(N), 308(R)  
Ad valorem taxation, 60(N), 76-81(R), 230(N),  
289-295(R), 304(N), 316(R)  
Administration, Division of (see Governor' Office)  
Advertising, 11(R)  
AFDC (see Aid to Families with Dependent Children)  
Aging Services, Bureau of, 259(N)  
Agriculture Department:  
Agricultural and Environmental Sciences, Office of:  
Entomology and Plant Industry, Bureau of:  
Sweet-potato weevil quarantine and regula-  
tions, 82(N), 90(R), 252(N), 266(R),  
435(ER)  
Fertilizer Commission, 460(N)  
Horticulture Commission, 424(N), 438(R),  
441(R)  
Pesticide applicators, certification, 348(N),  
349(N), 366(R)  
Pesticide Commission, 363-366(R), 425(N),  
441(R)  
Structural Pest Control Commission, 51(N),  
63(R), 166(N), 235(R), 252(N), 349(N),  
366(R), 460(N)  
Dairy Stabilization Board, 11(R), 349(N), 441(R)  
Livestock Sanitary Board, 167(N), 236-241(R),  
252(N), 373(N)  
Aid to Families with Dependent Children Program,  
6(ER), 54(N), 72(R), 89(ER), 100(R), 169(N),  
170(N), 182(R), 286(R), 332(ER), 334(ER),  
351(N), 352(N), 353(N), 369(R), 419(R), 420(R)  
Air Control Commission, Office of Health Services and  
Environmental Quality (see Health and Human  
Resources Department)  
Alcohol, chemical analysis of breath and blood, 258(N),  
271-285(R), 355(N), 369(R)  
Alligator season, 264(N), 347(R)  
Ambulatory surgical centers:  
Licensing of, 85(N), 123-133(R)  
Reimbursement for services under Title XIX Pro-  
gram, 169(N), 182(R)  
Antiquities Code, 425(N)  
Archaeological Survey and Antiquities Commission  
(see Culture, Recreation and Tourism Department)  
Assessment of property, 76-81(R), 230(N), 289-295(R),  
304(N), 316(R)  
Assessors, loan guarantee program, 264(N), 295(R)  
Atchafalaya Delta Wildlife Management Area (see Wild-  
life and Fisheries Department)  
Athletic scholarships, 9(R)  
Bait shrimp, 87(N), 210(R)  
Bayou Choctaw Salt Dome, 264(P), 386(P)  
Bicentennial Commission, Louisiana American Revolu-  
tion (see Urban and Community Affairs Depart-  
ment)  
Birds, hunting seasons, 175(N), 264(N), 323(R), 329(N),  
346(R), 372(R)  
Boeuf Wildlife Management Area (see Wildlife and  
Fisheries Department)  
Business Enterprise, Minority, Louisiana Office of,  
233(EO)  
Capital Area Groundwater Conservation Commission,  
298(N), 307(R), 366(R)  
CASP (see Comprehensive Annual Services Program  
Plan)  
Cattle, health requirements, 236-241(R)  
Certified Public Accountants, Board of (see Commerce  
Department)  
Child care, 7(ER), 54(N), 72(R), 89(ER), 91-99(R),  
169(N), 170(N), 182(R), 286(R), 363(ER), 426(N),  
462(N)  
Civil Service Department:  
Civil Service Rules, 374(N), 395(R), 425(N),  
441(R)  
Classification and Pay Plan, Uniform, 253(N),  
349(N)  
Observance of legal holidays, 51(N)  
Clovell Salt Dome, 471(P)  
Colleges and universities (see Education, higher)  
Colleges and Universities, Board of Trustees for (see  
Education, higher)  
Commerce Department:  
Certified Public Accountants, Board of, 212(N),  
252(N), 308(R)  
Contractors, Licensing Board for, 11(R), 350(N),  
396(R)  
Cosmetology, Board of, 82(N)  
Financial Institutions, Office of, 461(N)  
Plan for Reorganization, 213(N)  
Racing Commission, 16-47(R), 436(ER), 461(N)  
Radio and Television Technicians Board, 253(N),  
267(R)  
Real Estate Commission, 350(N), 396-403(R)  
Community Services, Office of (see Urban and Commu-  
nity Affairs Department)  
Comprehensive Annual Services Program Plan, 170(N),  
286(R)  
Comprehensive Health Planning, Office of (see Health  
and Human Resources Department)  
Conservation, Office of (see Natural Resources Depart-  
ment)  
Consumer Protection, Office of (see Urban and Com-  
munity Affairs Department)

---

*EO—Executive Order ER—Emergency Rule L—Legislation  
N—Notice of Intent P—Potpourri PPM—Policy and Procedure  
Memorandum R—Rule*

Contractors, Licensing Board for (see Commerce Department)

Corrections Department:  
 Pardons, Board of, 376(N), 441(R)

Cosmetologists, licensing of, 82(N)

Cosmetology, Board of (see Commerce Department)

Cosmetology, school credit, 461(N)

Counselors, school, 306(ER), 324(N), 367(R)

Criminal Justice Institute, 1(EO)

Criminal record, 385(N), 447-455(R)

Crude oil, storage of, 167(N), 264(P), 328(N), 386(P), 471(P)

Culture, Recreation, and Tourism Department:  
 Archaeological Survey and Antiquities Commission, 425(N)  
 Museum, State, Office of, 324(N), 335(R)  
 Plan for Reorganization, 214(N)  
 Secretary, Office of, 425(N)

Dairy products:  
 Deceptive pricing, 11(R)  
 Distribution Stabilization Plan No. 1, 11(R)  
 Sale of, 11(R), 349(N)

Dairy Stabilization Board (see Agriculture Department)

Day care services, 8(ER), 54(N), 73(R), 89(ER), 91-99(R), 169(N), 170(N), 182(R), 286(R), 363(ER)

Deceptive practices, 11(R), 215(N), 255(N), 295(R), 456(R)

Dental hygienists, employment of, 215 (N), 270(R)

Dentistry, Board of (see Health and Human Resources Department)

DWI, test for, 258(N), 271-285(R), 355(N), 369(R)

Early and Periodic Screening, Diagnosis and Treatment Program, 393(ER), 427(N), 445(R)

Education:  
 Application for Federal funds, 215(N), 270(R)  
 Adult Education, State Plan for, 308(R)  
 Artists, certification of, 65(R)  
 Bus transportation, nonpublic schools, 179(ER), 254(N)  
 Continuing education, 426(N)  
 Elementary and Secondary, Board of, 13(R), 52(N), 64(R), 83(N), 91(R), 168(N), 179(ER), 181(R), 215(N), 241-245(R), 254(N), 267-270(R), 302(N), 306(ER), 308(R), 324(N), 332(ER), 336(R), 350(N), 367(R), 376(N), 393(ER), 404(R), 426(N), 434(EO), 436(ER), 442-445(R), 461(N)  
 Food and Nutrition Programs, 461(N)  
 Handbook for School Administrators (Bulletin 741), 52(N), 65(R), 91(R), 181(R), 302(N), 306(ER), 324(N), 367(R), 393(ER), 426(N), 461(N)  
 High school graduation requirements, 52(N), 181(R), 268(R)  
 Libraries, school, 461(N)

Migrant education, 351(N), 404(R)

Montessori Schools, Standards for Approval of, 241-245(R)

Nonpublic schools, 215(N), 267-270(R), 444(R)

Out-of-state graduate credit, 83(N), 270(R)

Psychological assistants, school, 13(R)

Psychologists, school, 13(R)

Special education, 64(R), 336(R), 376(N), 393(ER), 426(N), 442-445(R)

Speech education teachers, 64(R)

Speech therapists, 15(R)

Substitute teaching, 65(R)

Superintendent of Education, 426(N)

Teacher certification (see Teachers)

Teacher education, 445(R)

Textbook and Media Advisory Council, 376(N), 445(R)

Title IV Annual Program Plan for 1977-78, 245(R)

Vocational Education, State Plan for, 254(N), 336(R)

Vocational-Technical Education Committee, 434(EO)

Vocational-technical employees, 15(R)

Vocational-technical schools, 254(N), 350(N), 404(R), 461(N)

Education, higher:  
 Academic programs, reconsideration of, 230(N), 308(R)

Colleges and universities:  
 Associations, national, 9(R)  
 Athletic policies, 9(R), 52(N), 82(N), 181(R), 350(N), 403(R)  
 Board of Trustees for, 9(R), 52(N), 61(ER), 82(N), 180(R), 306(ER), 350(N), 362(ER), 403(R)  
 Continuing education programs, 324(N), 405-411(R)  
 Facilities use, 362(ER)  
 Faculty and staff policies and procedures, 61(ER), 82(N), 181(R)  
 Finance, 393(ER), 437(ER), 462(N)  
 Financial and leave policies and procedures, 350(N), 403(R)  
 General operating procedures, 52(N), 82(N), 180(R)  
 Louisiana State University, Board of Supervisors:  
 Bylaws and rules, 144-166(R)  
 Contract with Bicentennial Commission, 305(EO)  
 Nonpublic institutions of higher education, payments to, 86(N), 201-206(R)

- Off-Campus Activities, Guidelines for Conduct of, 251(R)
- Retirement, extension of, 61(ER), 82(N), 181(R)
- Scholarships:
  - Athletic, 9(R)
  - Out-of-state, 9(R)
  - Penalties, 10(R)
- Southern University, Board of Supervisors, 60(N), 251(R)
- Tuition, 60(N), 251(R)
- Master Plan for Higher Education, 377(N), 426(N), 462(N)
- Regents, Board of, 61(EO), 86(N), 172(N), 201-206(R), 230(N), 251(R), 263(N), 308(R), 324(N), 377(N), 393(ER), 405-411(R), 426(N), 437(ER), 462(N)
- Educational Television Authority, 176(P)
- Elementary and Secondary Education, Board of (see Education)
- Employment Security, Office of (see Labor Department)
- Employment Service, Louisiana State (see Labor Department)
- Energy Administration, Federal, 358(N)
- Entomology and Plant Industry, Bureau of (see Agriculture Department)
- Environmental protection, 59(N), 75(R), 85(N), 87(P), 175(N), 183(R), 191(R), 229(N), 248(R), 264(P), 310-314(R), 342-345(R), 359(N), 377(N), 424(R), 433(EO), 471(P)
- EPSDT (see Early and Periodic Screening, Diagnosis and Treatment Program)
- Errata, 330
- Exceptional children, financial assistance for, 133-141(R)
- Executive orders:
  - EWE-76-17, Criminal Justice Institute, 1
  - EWE-76-18, Major General Raymond H. Fleming Memorial Armory, 1
  - EWE-77-1, Governor's Study Commission on Advance Payment of Sales Taxes, 2
  - EWE-77-2, Governor's Study Commission on Sales and Use Tax Law, 2
  - EWE-77-3, Study committee for the New Orleans residence of Huey P. Long, 3
  - EWE-77-4, Committee on Statewide Planning for Nursing, 61
  - EWE-77-5, St. James—St. John the Baptist Bridge Authority, 177
  - EWE-77-6, Louisiana Office of Minority Business Enterprise, 233
  - EWE-77-7, Rockefeller Wildlife Refuge and Game Preserve, Governor's Advisory Board on, 234
  - EWE-77-8, Louisiana American Revolution Bicentennial Commission, 305
  - EWE-77-9, not published
  - EWE-77-10, Board of Commissioners for the Promotion of Uniformity of Legislation, 331
  - EWE-77-11, Louisiana Federal Surplus Property Agency, 331
  - EWE-77-12, Natural Gas Advisory Commission, 361
  - EWE-77-13, Task Force for Talent Bank of Women, 387, 432
  - EWE-77-14, Emergency, out-of-schedule, and revolving fund purchasing, 388
  - EWE-77-15, Law enforcement planning district agencies, 390
  - EWE-77-16, Flood insurance coordination, 390
  - EWE-77-17, Uniform population projections, 432
  - EWE-77-18, Office of Science, Technology, and Environmental Policy, 433
  - EWE-77-19, State Occupational Information Coordination Committee, 433
- Explosives, 358(N), 422(R)
- Family Services, Office of (see Health and Human Resources Department)
- Federal Property Assistance Agency, Louisiana (see Governor's Office)
- Ferry transportation, 177(EO)
- Fertilizer Commission, Office of Agricultural and Environmental Sciences (see Agriculture Department)
- Financial Institutions, Office of (see Commerce Department)
- Fire apparatus drivers/operators, 65-72(R), 168(N)
- Fire Fighting Personnel Standards and Education, Commission on (see Public Safety Department)
- Fire Protection, Office of (see Public Safety Department—Fire Safety Code, 428(N))
- Fishing:
  - Bait shrimp, 87(N), 210(R)
  - Menhaden season, 359(N), 424(R)
  - Netting regulations, 304(N), 347(R)
  - Oyster season, 87(N), 175(N), 264(N), 345(R), 386(N), 459(R), 470(N)
  - Shrimp season, 175(N), 251(R)
  - Sport fishing, 394 (ER)
  - Tackle used in competition, 60(N)
- Fleming, Major General Raymond H., Memorial Armory, 1(EO)
- Flood insurance, 390(EO)
- Food and Nutrition Programs, 461(N)
- Food Stamp Program, 257(N), 271(R), 463(N)
- Forestry Commission (see Natural Resources Department)
- Gas:
  - Liquefied petroleum, 89(ER), 261(N), 315(R)
  - Natural, 361(EO)
- Gasoline dispensing, automatic, 384(N)

Geophysical permits, 464(N)

Governor's Office:

Administration, Division of:

Administrative Services Section, 6 (PPM)

Mileage reimbursement, 434(PPM)

Property and Casualty Insurance Section,  
State, 391(EO)

Property Control Section, 435(PPM)

Purchasing Section, 4 (PPM), 388(EO)

State-owned vehicles, 434(PPM)

Federal Affairs and Special Projects, Office of,  
233(EO)

Federal Property Assistance Agency, Louisiana,  
217-228(N), 332(EO), 411-419(R)

Indigent Defender Board, 58(N), 142(R)

Natural Gas Advisory Commission, 361(EO)

Planning Office, State, 432(EO), 471(P)

Science, Technology, and Environmental Policy,  
Office of, 433(EO), 471(P)

State Register, Department of the, 265(P)

Surplus Property Agency, Louisiana, 217-228(N),  
332(EO)

Tax Commission, 15(R), 60(N), 76-81(R), 86(N),  
88(P), 230(N), 264(N), 289-295(R), 304(N),  
316(R), 462(N), 464(N)

Uniformity of Legislation, Board of Commissioners  
for the Promotion of, 331(EO)

Waste planning regions, 470(P)

Governor's Advisory Board on the Rockefeller Wildlife  
Refuge and Game Preserve, 234(EO)

Governor's Study Commission on Advance Payment of  
Sales Taxes (see Sales Taxes, Governor's Study  
Commission on Advance Payment of)

Governor's Study Commission on Sales and Use Tax  
Law (see Sales and Use Tax Law, Governor's Study  
Commission on)

Handicapped, 123(R), 429(N), 442-445(R)

Health and Human Resources Department:

Aging Services, Bureau of, 259(N)

Aid to Families with Dependent Children Program,  
6(ER), 54(N), 72(R), 89(ER), 100(R), 169(N),  
170(N), 182(R), 286(R), 332(ER), 334(ER),  
351(N), 352(N), 353(N), 368(R), 419(R),  
420(R)

Ambulatory surgical centers, 85(N), 123-133(R),  
169(N), 182(R)

Child care, 7(ER), 53(N), 54(N), 72(R), 89(ER),  
91-99(R), 169(N), 170(N), 182(R), 286(R),  
363(ER), 426(N), 462(N)

Child Day Care Centers, Minimum Standards for  
Licensure of, 91-99(R)

Comprehensive Health Planning, Office of, 61(EO)

Construction Grants Priority List, Fiscal Year 1978,  
228(N)

Day care services, 8(ER), 53(N), 55(N), 73(R),  
89(ER), 91-99(R), 169(N), 170(N), 182(R),  
286(R), 363(ER)

Dental conditions, reimbursement for hospital treat-  
ment of, 303(N), 309(R)

Dentistry, Board of, 215(N), 270(R)

Drinking water regulations, 84(N), 101-105(R)

Early and Periodic Screening, Diagnosis and Treat-  
ment Program, 393(ER), 427(N), 445(R)

Family Services, Office of, 6-9(ER), 53-56(N),  
62(ER), 83(N), 84(N), 89(ER), 91-99(R),  
100(R), 169(N), 170(N), 182(R), 257(N),  
271(R), 303(N), 306(ER), 309(R), 325(N),  
332(ER), 334(ER), 336-341(R), 342(R),  
351(N), 352(N), 353(N), 362(ER) 367(R),  
377(N), 393(ER), 419(R), 420(R), 421(R),  
426(N), 427(N), 438(ER), 445(R), 446(R),  
462(N), 463(N)

Food Stamp Program, 257(N), 271(R), 463(N)

Foster Care Program, 462(N)

Handicapped Persons, Minimum Standards for Certi-  
fication of Facilities Caring for, 123(R)

Health Planning, Comprehensive, Office of, 61(EO)

Health Services and Environmental Quality, Office  
of, 84(N), 101-105(R), 126(R), 228(N),  
245(R), 258(N), 271-285(R), 355(N), 369(R),  
377(N), 424(R), 428(N)

Air Control Commission, 377(N)

Hospitals:

Admissions to, 56(N), 303(N), 309(R)

Billing scales, 105-123(R)

General, mental, and geriatric, 56(N),  
105-123(R)

Inpatient services, 303(N), 309(R), 326(N),  
342(R)

Office of, Bureau of Substance Abuse, 16(R)

Outpatient services, 257(N), 271(R), 325(N),  
342(R)

Human Services, Office of:

Aging Services, Bureau of, 259(N)

Aging, State Plan for, 259(N)

Indo-Chinese Refugee Program, 6-9(ER), 53-56(N),  
72(R), 354(N), 368(R)

Intermediate care facilities, 62(ER), 83(N), 84(N),  
100(R), 170(N), 182(R), 248(R), 259(N),  
286(R), 288(R), 306(ER), 325(N), 341(R)  
362(ER), 377(N), 421(R), 427(N), 438(ER),  
446(R)

Laboratories, State health, 228(N), 245(R), 377(N)

Management and Finance, Office of:

Billing procedures for hospitals, 56(N),  
105(R)

Comprehensive Annual Services Program  
Plan, 170(N), 286(R)

Licensing and Certification Section, 84(N),  
123(R), 123-133(R), 248(R)

Maternity homes, 325(N), 336-341(R)  
 Medical reports, fees, 229(N), 248(R)  
 Medically Needy Program, 353(N), 367(R)  
 Medicare-Medicaid, 83(N), 99(R), 170(N), 182(R),  
 257(N), 271(R), 286(R), 306(ER), 325(N),  
 341(R), 463(N)  
 Mental Health, Office of, 356(N)  
 Mental Retardation, Office of, 259(N), 288(R),  
 428(N)  
 Nursing, Board of, 85(N), 183-191(R), 261(N),  
 309(R), 326(N), 421(R), 464(N)  
 Nursing Home Administrators, Board of Examiners,  
 172(N), 356(N)  
 Optometry Examiners, Board of, 263(N), 429(N)  
 Practical Nurse Examiners, Board of, 85(N), 192(R)  
 Physicians visits, 248(R), 326(N), 342(R)  
 Psychiatric facilities standards, 463(N)  
 Rehabilitation Services, Office of:  
     Exceptional Children's Act, 133-141(R)  
     Occupational information coordination, 433(EO)  
 Retarded, State schools for, 105-123(R)  
 Sanitary Code, 84(N), 100(R), 377(N), 428(N)  
 Secretary, Office of, 228(N), 229(N), 248(R)  
 Skilled nursing facilities:  
     Participation in Medicare-Medicaid, 83(N),  
     99(R), 286(R), 306(ER), 325(N), 341(R)  
     Rate adjustments, 62(ER), 84(N), 100(R),  
     427(N), 438(ER), 446(R)  
     Standards for payment to, 83(N), 100(R),  
     362(ER), 377(N), 421(R)  
 Social Services Program for Individuals and Families  
     (Title XX), 8(ER), 55(N), 89(ER), 169(N),  
     170(N)  
 Substance abuse, 16(R)  
 Treatment passes, 303(N), 309(R)  
 Veterinary Medicine, Board of, 87(N), 431(P)  
 Health Planning, Comprehensive, Office of (see Health  
     and Human Resources Department)  
 Health Services and Environmental Quality, Office of  
     (see Health and Human Resources Department)  
 Herbicides, 363-366(R)  
 Highway system, State, 334(ER), 470(N)  
 Horse racing, 16-47(R), 436(ER), 461(N)  
 Horses, health requirements, 236-241(R), 373(N),  
 436(ER)  
 Horticulture Commission, Office of Agricultural and  
     Environmental Sciences (see Agriculture Depart-  
     ment)  
 Hospitals, Office of (see Health and Human Resources  
     Department)  
 Housing and Urban Development Comprehensive Plan-  
     ning Assistance Program (HUD 701), 48(R),  
     304(N), 316-323(R)  
 Human Services, Office of (see Health and Human  
     Resources Department)  
 Hunting:  
     Alligator season, 264(N), 347(R)  
     Game, animals, 323(R), 345-348(R), 372(R),  
     423(R)  
     Game, birds, resident and migratory, 175(N),  
     264(N), 323(R), 329(N), 346(R), 372(R)  
     Muskrat and nutria, 62(ER)  
     Turkey season, 87(N), 90(ER), 373(R)  
 Hydrocarbons, liquid and gaseous, storage of, 167(N),  
 229(N), 264(P), 310-314(R), 386(P), 430(P),  
 471(P)  
 ICF/MR (see intermediate care facilities)  
 Indigent Defender Board (see Governor's Office)  
 Indo-Chinese Refugee Program, 6-9(ER), 53-56(N),  
 72(R), 354(N), 368(R)  
 Insurance Department:  
     Malpractice self-insurance, 75(R)  
 Insurance, flood, 390(EO)  
 Intermediate care facilities, 62(ER), 83(N), 84(N),  
 100(R), 170(N), 182(R), 248(R), 259(N), 286(R),  
 288(R), 306(ER), 325(N), 341(R), 362(ER),  
 377(N), 421(R), 427(N), 438(ER), 446(R)  
 Intoxication, chemical test for, 258(N), 271-285(R),  
 355(N), 369(R)  
 Jackson-Bienville Wildlife Management Area (see Wildlife  
     and Fisheries Department)  
 Kisatchie National Forest (see Wildlife and Fisheries  
     Department)  
 Labor Department:  
     Employment Security, Office of, 59(N), 356(N),  
     359(P), 420(R), 434(EO), 446(R), 464(N)  
     Employment Service, Louisiana State, 6(ER),  
     54(N), 72(R)  
     Labor, Office of, 59(N)  
     Management and Finance, 59(N)  
     Occupational Information Coordination Commit-  
     tee, 433(EO)  
     Plan for Reorganization, 58(N)  
     Workmen's Compensation Second Injury Board,  
     48(R), 464(N)  
 Laboratories:  
     State health, 228(N), 245(R), 377(N)  
     State Police Crime, 258(N), 271(R), 355(N),  
     370(R)  
 Land:  
     Assessment of, 230(N), 289-295(R)  
     Erosion of, 248(R)  
     Flood insurance, 390(EO)  
 Landmarks, 426(N)  
 Landscape architecture, 424(N), 438(R)  
 Land Surveyors, Board of Registration for Professional  
     Engineers and (see Transportation and Development  
     Department)  
 Law Enforcement and Administration of Criminal Jus-  
     tice, Commission on (see Public Safety Department)

Legislation, uniformity of, 331(EO)

Licensing and Certification Section, Office of Management and Finance (see Health and Human Resources Department)

Licensing Board for Contractors (see Commerce Department)

Liquefied Petroleum Gas Commission (see Public Safety Department)

Livestock Sanitary Board (see Agriculture Department)

LOMBE (see Business Enterprise, Minority, Louisiana Office of)

Long, Huey P., residence of, 3(EO)

LOOP, Inc., 59(N), 87(P), 471(P)

Louisiana Register, 432(EO)

Louisiana State University, Board of Supervisors (see Education, higher)

Management and Finance, Office of (see major departments)

Manpower Service Council, Governor's State, 434(EO)

Maternity homes, 325(N), 336-341(R)

Medical Assistance Program, 83(N), 100(R), 306(ER), 341(R), 354(N), 362(ER), 367(R), 377(N), 463(N)

Medicare-Medicaid (see Health and Human Resources Department)

Mental Health, Office of (see Health and Human Resources Department)

Mental Retardation, Office of (see Health and Human Resources Department)

Migrant education, 351(N), 404(R)

Mileage reimbursement, 434(PPM)

Milk and dairy products:

- Deceptive pricing, 11(R)
- Distribution and Stabilization Plan No. 1, 11(R)
- Sale of, 11(R), 349(N)

Mineral Resources, Office of (see Natural Resources Department)

Mining:

- Lignite and coal, 378-384(N)
- Sand and gravel, 359(N)

Montessori Schools, Standards for Approval of, 241-245(R)

Museum, State, Office of the (see Culture, Recreation, and Tourism Department)

Natural Gas Advisory Commission (see Governor's Office)

Natural Resources, Department:

- Conservation, Office of:
  - Oil, storage of, 167(N), 229(N), 264(P), 310-314(R), 328(N), 386(P), 430(P), 471(P)
  - Radiation Control Division, 183(R)
  - Surface mining and reclamation, 378-384(N)
  - Waste disposal, 299-302(N), 342-345(R)
  - Wells, offshore, 430(N)
- Forestry, Office of, 15(R), 464(N)
- Mineral Resources, Office of, 464(N)
- Plan for Reorganization, 171(N)
- Right-of-way grants, issuance of, 261(N), 314(R)
- Secretary, Office of, 314(R)
- Nature trails, 211(R), 231(N), 323(R)

Nursing:

- Board of (see Health and Human Resources Department)
- Committee on Statewide Planning for, 61(EO)
- Education programs, 85(N), 183-191(R)
- Levels of care, 306(ER), 325(N), 341(R)
- Practical Nurse Examiners, Board of (see Health and Human Resources Department)
- Standards of practice, 309(R), 326(N), 421(R)
- Nursing Home Administrators, Board of Examiners (see Health and Human Resources Department)
- Occupational Information Coordination Committee (see Labor Department)
- Offshore Terminal Authority (see Transportation and Development Department)
- Oil, storage of, 167(N), 229(N), 264(P), 310-314(R), 328(N), 386(P), 430(P), 471(P)
- Optometrists, licensing of, 263(N)
- Optometry Examiners, Board of (see Health and Human Resources Department)
- Oyster season, 87(N), 175(N), 264(N), 345(R), 386(N), 459(R), 470(N)
- Pardons, Board of (see Corrections Department)
- Pearl River Wildlife Management Area (see Wildlife and Fisheries Department)

Pesticides:

- Applicators, 348(N), 349(N), 363-366(R)
- Labeling of, 166(N), 235(R), 425(N)

Planning and Technical Assistance, Office of (see Urban and Community Affairs Department)

Planning Office, State (see Governor's Office)

Police, State, 334(ER), 422(R)

Police Officers, Municipal, Supplemental Pay Board of Review, 327(N), 371(R)

Policy and Procedure Memoranda:

- No. 62 (Revised), printing procedures, 4
- No. 63, State-owned vehicles and mileage reimbursement, 391

Pollution: Federal Water Pollution Control Act Amendments of 1972, 175(N), 228(N)

Population projections, 432(EO), 471(P)

PPM (see Policy and Procedure Memoranda)

Practical nurses, 85(N), 192(R)

Practices, deceptive, 11(R), 215(N), 255(N), 295(R)

Prisons, 384(N)

Property:

- Assessment of, 230(N), 289-295(R), 316(R)
- Federal surplus, 217-228(N), 331(EO), 411-419(R)



Flood insurance, 390(EO)  
Lease-financing, 461(N)  
Movable, 462(N)  
Oil and gas producing, appraisal of, 76-81(R)  
Personal, business, and industrial, 77(R)  
Property and Casualty Insurance Section, State, Division of Administration (see Governor's Office)  
Property Control Section, Division of Administration (see Governor's Office)  
Public accountants, registration of, 212(N), 252(N), 308(R)  
Public Safety Department:  
    Fire Fighting Personnel Standards and Education, Commission on, 65-72(R), 168(N), 254(N)  
    Fire Protection, Office of, 384(N), 428(N), 467(N)  
    Law Enforcement and Administration of Criminal Justice, Commission on, 303(N), 329(N), 385(N), 390(EO), 447-455(R)  
    Liquefied Petroleum Gas Commission, 89(ER), 261(N), 315(R)  
    Plan for Reorganization, 230(N)  
    Secretary, Office of, 358(N)  
    State Police, Office of, 422 (R)  
Public Works, Office of (see Transportation and Development Department)  
Publications, State, printing specifications, 5(PPM)  
Purchasing Section, Division of Administration (see Governor's Office)  
Rabies examinations, 377(N)  
Racing Commission (see Commerce Department)  
Radiation Control Division, Office of Conservation (see Natural Resources Department)  
Radio and Television Technicians Board (see Commerce Department)  
Real Estate Commission (see Commerce Department)  
Regents, Board of (see Education, higher)  
Register, State, Department of the (see Governor's Office)  
Rehabilitation Services, Office of (see Health and Human Resources Department)  
Retarded, State schools for (see Health and Human Resources Department)  
Retirement, 61(ER), 76(R), 81(R), 82(N), 181(R)  
Revenue and Taxation Department:  
    Plan for Reorganization, 86(N)  
    Sales Tax Regulations, 206-209(R), 468(N)  
    Severance Tax Regulations, 467(N)  
Revolving fund, 388(EO), 413(R)  
Right-of-way grants, issuance of, 261(N), 314(R)  
Rockefeller Wildlife Refuge and Game Preserve (see Wildlife and Fisheries Department)  
St. James–St. John the Baptist Bridge Authority, 177(EO)  
St. Tammany Wildlife Refuge (see Wildlife and Fisheries Department)

Sales tax:  
    Collection of, 206-209(R)  
    Governor's Study Committee on Advance Payment of Sales Tax, 2(EO)  
    Governor's Study Committee on Sales and Use Tax, 2(EO)  
Sanitary Code, State, 84(N), 101-105(R), 377(N), 428(N)  
Scholarships:  
    Athletic, 9(R)  
    Out-of-state, 9(R)  
    Penalties, 10(R)  
School Employees Retirement System (see Treasury Department)  
Schools: Vocational-technical, 15(R), 254(N), 336(R), 350(N)  
Science, Technology, and Environmental Policy, Office of (see Governor's Office)  
Severance taxes, timber and pulpwood, 15(R)  
Shrimp season, 175(N), 251(R)  
Skilled nursing facilities, 62(ER), 83(N), 84(N), 99(R), 100(R), 286(R), 306(ER), 325(N), 341(R), 362(ER), 377(N), 421(R), 427(N), 438(ER), 446(R)  
Social Services Program for Individuals and Families (Title XX), 8(ER), 55(N), 89(ER), 169(N), 170(N), 286(R)  
Solicitations, charitable, 216(N), 255(N), 295(R)  
Southern University, Board of Supervisors of (see Education, higher)  
State buildings: Major General Raymond H. Fleming Memorial Armory, 1(EO)  
State employees:  
    Civil Service Rules, 374(N), 395(R), 425(N), 441(R)  
    Classification and Pay Plan, Uniform, 253(N), 349(N)  
    Observance of legal holidays, 51(N)  
State publications, printing specifications, 5(PPM)  
State Register, Department of the (see Governor's Office)  
Stream Control Commission (see Wildlife and Fisheries Department)  
Structural Pest Control Commission (see Agriculture Department)  
Stumpage value, 464(N)  
Substance Abuse, Bureau of, Office of Hospitals (see Health and Human Resources Department)  
Superport (see Transportation and Development Department, Offshore Terminal Authority)  
Surface Mining and Reclamation Act, 378-384(N)

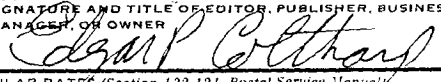
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*EO—Executive Order    ER—Emergency Rule    L—Legislation  
N—Notice of Intent    P—Pouvoirri    PPM—Policy and Procedure  
  Memorandum                                        R—Rule*

Surplus property, Federal, 217-228(N), 331(EO), 411-419(R)  
 Surplus Property Agency, Louisiana (see Governor's Office)  
 Sweet-potato weevil regulations, 82(N), 90(R), 252(N), 266(R), 435(ER)  
 Tax Commission (see Governor's office)  
 Taxation:  
     Ad valorem, 60(N), 76-81(R), 230(N), 289-295(R), 304(N), 316(R)  
     Collection of sales tax, 206-209(R)  
 Teachers, certification of, 13(R), 52(N), 64(R), 83(N), 181(R), 215(N), 241-245(R), 267-270(R), 302(N), 332(ER), 350(N), 404(R), 437(ER), 445(R), 461(N)  
 Teachers' Retirement System (see Treasury Department)  
 Termite control, 235(R)  
 Textbooks, 376(N), 445(R)  
 Timber stumpage values, 15(R)  
 Trade: Deceptive practices, 11(R), 215(N), 255(N), 295(R)  
 Transportation and Development Department:  
     Ferry transportation—bridge study, 177(EO)  
     Offshore Terminal Authority, 59(N), 75(R), 85(N), 87(P), 191(R)  
     Professional Engineers and Land Surveyors, Board of Registration for, 430(N)  
     Public Works, Office of, 173(N), 209(R)  
     Vehicles, overweight, 334(ER), 470(N)  
 Trapping:  
     Seasons and bag limits, 62(ER), 175(N), 264(N), 323(R)  
 Treasury Department:  
     School Employees Retirement System, 76(R)  
     Teacher's Retirement System, 81(R)  
 Trustees for Colleges and Universities, Board of (see Education, higher)  
 Tuition, 60(N), 251(R)  
 Turkey hunting season, 87(N), 90(ER), 373(R)  
 Universities (see Education, higher)  
 Urban and Community Affairs Department:  
     Bicentennial Commission, Louisiana American Revolution, 305(EO)  
     Community Services, Office of, 358(N)  
     Consumer Protection, Office of, 215(N), 255(N), 295(R), 358(N), 359(P), 385(N), 455-459(R)  
     Flood insurance coordination, 390(EO)  
     Planning and Technical Assistance, Office of, 48(R), 304(N), 316-323(R)  
 Vehicles:  
     Overweight, 334(ER)  
     State-owned, 434(PPM)  
 Veterinarian, State, 436(ER)  
 Veterinarians, licensing of, 87(N), 431(P)  
 Veterinary Medicine, Board of (see Health and Human Resources Department)  
 Vocational-Technical Education Committee (see Education)  
 Vocational-technical schools, 15(R), 254(N), 336(R), 350(N), 461(N)  
 Wage, average weekly, 359(P)  
 Waste disposal, 299-302(N), 342-345(R), 433(EO), 470(P)  
 Water, health regulations, 101-105(R)  
 Water quality standards, 175(N)  
 Water wells:  
     Abandoned, plugging and sealing of, 101-105(R)  
     Control devices, 173(N), 209(R)  
     Metering of, 298(N), 307(R)  
 Wells, oil and gas, 462(N)  
 Wildlife and Fisheries Department:  
     Atchafalaya Delta Wildlife Management Area, 231(N), 264(N), 346(R)  
     Boeuf Wildlife Management Area, 382(R), 394(ER)  
     Fishing tackle used in competition, 60(N)  
     Jackson-Bienville Wildlife Management Area, 346(R)  
     Kisatchie National Forest, 372(R)  
     Hunting, fishing, and trapping regulations, 62(ER), 87(N), 90(ER), 175(N), 210(N), 264(N), 304(N), 323(R), 329(N), 345-348(R), 359(N), 372(R), 386(N), 394(ER), 459(R), 470(N)  
     Pearl River Wildlife Management Area, 87(N), 211(R), 323(R), 423(R)  
     Plan for Reorganization, 173(N)  
     Rockefeller Wildlife Refuge and Game Preserve, 234(EO), 394(ER)  
     St. Tammany Wildlife Refuge, 212(R)  
     Shrimp season, 175(N), 251(R)  
     Stream Control Commission, 175(N), 297(R), 329(N), 359(N), 424(R)  
     Wildlife management areas, 394(ER)  
 Women, talent bank, 387(EO), 432(EO)  
 Wood decay, determining of, 252(N)  
 Work registration, 332(ER), 351(N)  
 Workmen's Compensation Second Injury Board (see Labor Department)

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