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EXECUTIVE ORDERS

EXECUTIVE ORDER EWE 93-10

WHEREAS: the Cooperative Economic Development Law (LA R.S. 33:9021 through 9032, inclusive) and particularly LA R.S. 33:9023(F) requires that any application to the Legislature or to any local governing authority seeking permission to create an Economic Development Corporation, the proposed corporation must submit the Economic Development Plan to the designated state and regional clearinghouses for review and comment as to the conformity of said application and economic development plan to the state and region's overall economic development goals; and

WHEREAS: the State Clearinghouse for such purposes must be designated;

NOW, THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the State of Louisiana, do hereby order that the Louisiana Department of Economic Development be designated as the State Clearinghouse for purposes of LA R.S. 33:9023(F), to be represented by the secretary thereof.

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 20th day of April, 1993.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 93-11

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order EWE 92-47 establishes (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1993 (the "1993 Ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1993 Ceiling and (iii) a system of central record keeping for such allocations, and

WHEREAS: the Parish of St. Charles has requested an allocation from the 1993 Ceiling to be used in connection with the financing of the acquisition or purchase of certain solid waste disposal facilities and air and water pollution control

facilities (the "Project") at Unit 3 (nuclear) of the Waterford Steam Electric Station of Louisiana Power and Light Company located in St. Charles Parish, Louisiana.; and

WHEREAS: the governor has determined that the project serves a crucial need and provides a benefit to the State of Louisiana and the Parish of St. Charles; and

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

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

SECTION 1. That the bond issue described in this Section is hereby granted an allocation from the 1993 ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$20,000,000	Parish of St. Charles	Louisiana Power and Light Company

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

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through July 1, 1993, provided that such bonds are delivered to the initial purchasers thereof on or before July 1, 1993.

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

SECTION 5: That this executive order, to the extent conflicting with the provisions of Executive Order EWE 92-47, supercedes and prevails over the provisions of such executive order.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, Louisiana, on this 23rd day of April, 1993.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 93-12

WHEREAS: to establish a state-wide Minority Arts and Humanity Council to preserve and promote the Afro-American Culture in the areas of music, dance, drama, literary and visual arts; and

WHEREAS: to establish a Black Arts and Humanity Council and have the Governor appoint a board of directors, composing of one person from each congressional district to service the entire state of Louisiana; and

WHEREAS: to promote and preserve the Black Art and Artists; and

WHEREAS: to provide workshops in the area of grant writing and means of incorporating as non-profit, tax-exempt organization; and

WHEREAS: to provide culture experiences on the local and state levels; therefore making it accessible to everyone;

NOW, THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the State of Louisiana, do hereby order and direct that a statewide Minority Arts and Humanity Council be established to preserve and promote the Afro-American Culture in the areas of music, dance, drama, literary and visual arts.

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 13th day of May, 1993.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 93-13

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order EWE 92-47 establishes (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1993 (the "1993 Ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1993 Ceiling and (iii) a system of central record keeping for such allocations; and

WHEREAS: the Louisiana Public Facilities Authority has requested an allocation from the 1993 Ceiling to be used in connection with the financing of an apartment complex designed and designated to house senior citizens; and

WHEREAS: the governor has determined that the Project serves a crucial need and provides a benefit to the State of Louisiana and the City of Gretna; and

WHEREAS: it is the intent of the Governor of the State of Louisiana that this executive order, to the extent inconsistent

with the provisions of Executive Order EWE 92-47, supersedes and prevails over such provisions with respect to the allocation made herein;

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

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1993 Ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$2,850,000	LA Public Facilities Authority	St. Joseph Limited Partnership Project

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

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through July 1, 1993, provided that such bonds are delivered to the initial purchasers thereof on or before July 1, 1993.

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

SECTION 5: That this executive order, to the extent conflicting with the provisions of Executive Order EWE 92-47, supersedes and prevails over the provisions of such executive order.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 26th day of May, 1993.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 93-14

WHEREAS: On January 14, 1993 the United States Environmental Protection Agency/National Oceanic and Atmospheric Agency issued the final rule under the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) concerning the technical management measures and implementation guidance documents to address non-point source pollution in "Coastal Waters"; and

WHEREAS: The CZARA guidance document includes

areas of concern to members of the Louisiana Forestry Association and to the citizens and State of Louisiana, in particular:

1. processes which include appropriate notification, compliance audits or other mechanisms for forestry activities;
2. changes to the existing Coastal Zone Boundary and extension into adjacent areas;
3. establishment and implementation of enforceable policies and mechanisms;
4. guidance on Forestry Management Measures which may modify or revise the current Best Management Policies of the State; and

WHEREAS: The Department of Agriculture and Forestry Association has the expertise and currently oversees existing programs governing non-point source pollution from forestry and agriculture activities;

NOW, THEREFORE I, EDWIN W. EDWARD, Governor of the State of Louisiana, by virtue of the authority vested in me through the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The Department of Agriculture and Forestry shall be designated as the oversight and implementing authority for the Forestry and Agriculture non-point source pollution Management Measure of the Coastal Zone Act Reauthorization Amendments of 1990 for the State of Louisiana.

SECTION 2: This designation shall include development, implementation, and funding consistent with all agencies designated for oversight in Louisiana Coastal Non-point Pollution Control Program.

SECTION 3: The provisions of this executive order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

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 7th day of June, 1993.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EMERGENCY RULES

EMERGENCY RULE

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Seed Commission

Rice Certification Standards (LAC 7:XIII.Chapter 87)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 3:1433, the commissioner of Agriculture and Forestry is amending the following rules for the implementation of new seed rice certification standards. These emergency rules are necessary in order to implement a single certification standard during the current crop year. The amended rule becomes effective upon signature and will remain in effect 120 days or until these rules are amended through the normal promulgation process, whichever comes first.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 87. Rules and Regulations Pursuant to the Louisiana Seed Law

§8735. Seed Sampling

A. - E. ...

F. Resampling Policy

1. Except in special instances, as described below, only one sample shall be obtained from each certified lot:

a. When a certified seed lot fails certification requirements due to physical or mechanical purity factors, such as excess inert matter or weed seed, the seed may be reconditioned if the contaminants are separable. A complete purity analysis and germination test will be required on the reconditioned lot of seed. Certified seed rice which fails certification due to the presence of red rice seed in the sample shall be subject to the terms of Subparagraph (e) below.

b. - d. ...

e. When a certified seed rice lot fails certification requirements due to the presence of one red rice seed in the original four pound sample, then a second eight pound sample may be drawn from the lot. If one or more red rice seeds are found in the second sample, the lot will be disqualified on the basis of red rice content. If no red rice seed is found in the second sample, the lot would meet certification requirements. Certified seed rice whose original sample contains the presence of more than one red rice seed may not be re-sampled.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:195 (April 1983), repealed and readopted LR 12:825 (December 1986), amended LR 19:

§8783. Rice Seed Certification Standards

A. ...

B. Field Standards

Factor	Breeder	Foundation	Registered	Certified
Land requirement	1 yr.	1 yr.	1 yr.	1 yr.
Other varieties	None	None	10 plants per acre	25 plants per acre
*Harmful diseases	None	None	None	None
Noxious weeds: Red Rice (including Black Hull Rice)	None	None	None	1 plant per 10 acres
Spearhead	None	None	None	2 plants per acre
Curly Indigo	None	None	4 plants per acre	4 plants per acre
*Diseases seriously affecting quality of seed and transmissible by planting stock.				

C. Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure seed	98.00%	98.00%	98.00%	98.00%
Inert matter	2.00%	2.00%	2.00%	2.00%
Other crops, including other varieties	None	None	None	2 seed/ lb.
Off-color grains, if of similar size, quality and maturity	None	5 seed/lb.	10 seed/lb.	20 seed/lb.
Noxious weeds: Red Rice (including Black Hull Rice)	None	None	None	None**
Spearhead, Curly Indigo and Mexican Weed	None	None	None	None
Other weeds	0.05%	0.05%	0.05%	0.10%
Germination		80.00%	80.00%	80.00%
**Four pounds shall be hulled from each lot to determine red rice content.				

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:576 (November 1982), amended LR 9:201 (April 1983), LR 9:754 (November 1983), LR 10:495 (July 1984), repealed and readopted LR 12:825 (December 1986), amended LR 13:157 (March 1987), LR 13:233 (April 1987), LR 14: (September 1988), LR 14:694 (October 1988), amended LR 15:613 (August 1989), amended LR 19:

Bob Odom
Commissioner

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

Illegal Weapons and Firearms (LAC 35:I.1709)

The Department of Economic Development, Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule effective May 18, 1993, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever occurs first.

The Racing Commission finds it necessary to adopt this rule to protect the public from persons carrying dangerous and illegal weapons and firearms, which could present life-threatening situations.

**Title 35
HORSE RACING**

Part I. General Provisions

**Chapter 17. Corrupt and Prohibited Practices
§1709. Illegal Weapons and Firearms**

A. Except as otherwise provided for by this Section, the illegal possession, carrying or use of a weapon, firearm, and/or explosive device on association grounds is prohibited. Anyone found in violation of this Section shall be fined or suspended or both and may have his or her license revoked.

B. This Section does not apply to any person of the following categories:

1. any local, state or federal law enforcement officer;
2. any member of track security who is properly certified to carry a firearm and whose employment with an association is reported in writing to the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 148.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 19:

Paul D. Burgess
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1868, BESE Personnel Manual

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved Revised Bulletin 1868, BESE Personnel Manual. Revisions to the manual were developed as a result of federal and state mandates, board action, or reworded for clarification as a result of using the manual. In order that implementation begin immediately, Bulletin 1868 is being adopted as an emergency rule, effective May 27, 1993, for 120 days or until final rule making takes place, whichever ever occurs first.

Included in Bulletin 1868, under Chapter D: Employee Compensation, Section 145: Vocational-Technical System is the Salary Schedule for Technical Institutes. This Section 145 of Bulletin 1868 supersedes the emergency rule relative to the Salary Schedule for Technical Institutes which appeared in the May, 1993 issue of the *Louisiana Register* on pages 597 - 604 as an emergency rule.

Bulletin 1868, BESE Personnel Manual may be seen in its entirety in the Office of the Louisiana Register located on the Fifth Floor of the Capitol Annex, in the Office of the State Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge, or in the Office of Vocational Education, State Department of Education.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Revised Composition of Parish Superintendents Advisory Council

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved the composition of the Parish Superintendents Advisory Council. Emergency adoption is necessary in order to continue the revised composition of the council until the rule is finalized. Effective date of this emergency rule is May 27, 1993 and supersedes the previously adopted emergency rule printed on page 120 of the February, 1993 issue of the *Louisiana Register*. This is also an amendment to the Administrative Code, Title 28, Chapter I, Section 105 as stated below:

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education

CHAPTER 1. Organization

§105. Board Advisory Councils

B. Composition

1. Parish Superintendents Advisory Council

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

D. Officers

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

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

H. Quorum

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

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

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Honors Scholarship

In accordance with emergency provision of R. S. 49:953(B) of the Administrative Procedure Act and in response to the Attorney General's Opinion of March 31, 1993, the Student Financial Assistance Commission, Office of Student Financial Assistance has adopted an emergency rule regulating the Honors Scholarship Program effective May 11, 1993, for a period of 120 days. A public hearing on this matter was held on January 25, 1993. This emergency rule removes the proposed definition of *Academic Course* which was found to contravene the language and intent of the Legislature found in R.S. 17:3042.31 et seq.

VII. HONORS SCHOLARSHIP PROGRAM

A. Program Description, History and Purpose

The Honors Scholarship Program, first awarded in the Fall of 1992, provides tuition exemption to Louisiana residents to acknowledge, honor and reward the academic achievement of Louisiana's top high school graduates, to insure that these students have the financial resources to pursue a higher education in one of Louisiana's colleges and universities and to provide an incentive to these students to seek their higher education in this state.

B. Legislative Authority

Chapter 20-B-3 of Title 17 of the Revised Statutes of 1950, Comprised of R.S. 17:3042:31 through 3042:35, enacted by Act 1085 and amended by Act 13 of the 1992 Regular Legislative Session.

C. Student Participation/Responsibilities

1. Initial Eligibility. To establish initial eligibility, the student must meet all of the following criteria:

- a. graduate in the top five percent of the academic year's graduating class from a Louisiana public or state (BESE) approved nonpublic high school, as identified and certified by the city and parish school board for public high schools and by the principal or headmaster of each nonpublic approved high school; or
- b. be enrolled in a state-approved home study program and score in the upper five percent in the state on the National Merit Examination; and
- c. be a resident, as defined in Section VIII.A. of this manual; and
- d. enroll as a first time full-time undergraduate student in a public or regionally accredited LAICU member independent college or university in the state, within 2 years of high school graduation*²; and

*A one time exception is granted for scholars named in 1992-93 who were not notified of their eligibility until after Fall, 1992 enrollment. The 1992-93 scholars enrolled at institutions ineligible to participate in the program (whether in or out-of-state) and who subsequently enroll at an eligible institution no later than the Fall Term, 1993, will be eligible to receive the tuition waiver provided that they are in compliance with all other eligibility criteria.

e. not be receiving other gratuitous financial assistance or support from the college or university attended or from any alumni organization or foundation organized by the alumni or other supportive individual of the college or university attended whose charter specifically provides that the purpose of the foundation is to aid said college or university in a philanthropic manner, if the total cost of the student's tuition is provided by the scholarship; and

f. not be receiving other aid (meaning aid which is not *gratuitous financial assistance or support* as defined in Paragraph H of this Chapter) which, together with award of the Honors Scholarship, would exceed the student's total cost of attendance as defined by the institution in accordance with federal regulations. This Paragraph shall not preclude an institution from establishing a maximum limitation on aid based upon some other criteria which would result in a limitation that is less than the student's total cost of attendance; and

g. not be receiving a tuition waiver or award from the state or an institution of higher education including, but not limited to, the Tuition Assistance Plan (TAP), the National Guard Tuition Waiver and the Vocational Rehabilitation Tuition Waiver.

2. Award Notification/Acceptance

a. Respond in writing, as requested, by the deadlines specified.

b. Receive the award certificate and the tuition exemption form at the high school ceremony or reception.

c. Present the tuition exemption form to the college at the time of registration.

3. Renewal Eligibility. Continuing eligibility is contingent upon the recipient meeting the following requirements:

a. continue to attend a Louisiana public or independent college or university as a full-time undergraduate student for not less than two semesters or three quarters in each academic year unless granted an exception for cause by OSFA;

b. maintain by the end of each academic year a cumulative college grade point average of at least a 3.0 on a 4.0 scale. Failure to maintain the required academic grade point average will result in permanent cancellation of the recipient's eligibility;

c. continue to register, maintain and successfully complete not less than 12 hours per semester, eight hours per quarter or six hours per summer session for each term during which a waiver was granted;

d. have previously received tuition waivers for less than 10 semesters (or 15 quarters), including summer sessions and less than seven years have elapsed since the month following the date of high school graduation;

e. eligible students, at their option, may have tuition waived for attendance during a summer session; however, if tuition is waived for a summer session it shall be counted as a full semester or quarter towards the tuition waiver limitation of 10 semesters or fifteen quarters. Students may elect to enroll part or full-time during a summer session and not accept the tuition waiver for that term, in which case the summer session would not be counted as a semester or quarter against the tuition waiver limitation;

f. be in compliance with the terms of other federal and state aid programs which the scholar may be in receipt of and which are administered by the Student Financial Assistance Commission;

g. not be receiving *gratuitous financial assistance or support* as defined in Paragraph H of this Chapter, if the total cost of the student's tuition is provided by the Honors Scholarship;

h. not be receiving other aid (meaning aid that is not *gratuitous financial assistance or support* as defined in Paragraph H of this Chapter) which, together with award of the Honors Scholarship, would exceed the student's total cost of attendance as defined by the institution in accordance with federal regulations. This Paragraph shall not preclude an institution from establishing a maximum limitation on aid based upon some other criteria which would result in a limitation that is less than the student's total cost of attendance; and

i. not be receiving a tuition waiver or award from the state or an institution of higher education including, but not limited to, the Tuition Assistance Plan (TAP), the Louisiana National Guard Tuition Waiver, and the Vocational Rehabilitation Tuition Waiver.

D. High Schools, School Boards, Special School Governing Boards and Louisiana Department of Education Participation/Responsibilities

1. City and Parish School Boards, Special School Governing Boards, Headmasters of BESE Approved Nonpublic High Schools and Louisiana Department of Education Representatives:

a. Each of these authorities shall apply the following guidelines in complying with R.S. 17:3042.33A:

i. consider only the academic grades recorded on the student's official high school transcript in determining class ranking;

ii. the academic courses which are to be considered in determining academic class ranking shall be defined as part of the written criteria to be adopted by the board or headmaster;

iii. define the procedure by which students who would otherwise have equal academic class ranking may be ranked (tie-breaker procedure). This may include an evaluation of the students' academic grades on a set of pre-determined core academic courses such as English, math and science or an evaluation of the level of difficulty of the courses taken by the students, such as honors courses and higher level math or science courses;

iv. by an affirmative act taken during a public meeting, approve written criteria for determining the academic class ranking of students and the procedure by which the top five percent shall be identified. Such written criteria shall incorporate each of the requirements defined in this Paragraph.

b. In computing the top five percent of each high school's graduating class, apply the following formula:

i. the total number of students who are Louisiana residents receiving a high school diploma from the institution during the academic year preceding the award year, multiplied by the figure .05, and, if not a whole number, rounded up to the next whole number. Foreign exchange students and other

nonresidents shall not be counted as members of the graduating class for the purpose of this computation;

ii. EXAMPLE: for a high school that awarded state high school diplomas to two summer graduates, seven midyear graduates and 79 spring graduates during the academic year considered, the following computation would apply:

$$[2 + 7 + 79 = 88 \times .05 = 4.4 \text{ round up to } 5.0]$$

iii. accordingly, five students may be selected for the Honors Scholarship at the high school depicted in the example.

c. Ensure that the approved selection criteria is publicly posted in each high school under the board or headmaster's jurisdiction and provide a copy of the criteria to OSFA.

d. Ensure that amendments to the criteria, as approved by the board/headmaster from time to time, shall only be effective for the years following the year in which amended.

e. Each year, by the deadline specified and on the forms provided by OSFA, city and parish school boards for public high schools, principals or headmasters for approved special schools and nonpublic BESE approved high schools, and Louisiana Department of Education representatives for home study students, shall certify and submit to OSFA the names of students graduating in the top five percent of each high school's academic year graduating class or the names of those students completing an approved home study program who scored in the upper five percent in the state on the National Merit Exam.

f. If the certifying authority (school board, principal, headmaster or State Department of Education representative) elects to notify scholars of their selection, then the following disclaimer Paragraph shall be included in any communication to the scholar:

"Although you have been named a 'Louisiana Honors Scholar', you must satisfy all of the following conditions to redeem a scholarship under this program:

(a). you must be a Louisiana resident as defined by the Louisiana Student Financial Assistance Commission; and

(b). you must be accepted by an eligible Louisiana college or university and be registered as a full-time student; and

(c). if the total cost of your tuition is paid by the Honors Scholarship, you must not be receiving any other gratuitous financial assistance or support as certified by the institution's financial aid office.

(d). you must be notified of your award by the Louisiana Office of Student Financial Assistance."

2. Public and Nonpublic High Schools and Louisiana Department of Education Representatives:

a. receive the notification of selected students and the award certificates produced by OSFA;

b. recognize recipients at an award ceremony or school reception as provided by R.S. 17:177;

c. invite members of the legislature representing the school's district to attend the ceremony or reception, endorse the certificates and make the presentation awarding such.

E. College/University Participation/Responsibilities

Colleges and universities eligible to participate in the Louisiana Honors Scholarship Program are Louisiana public and independent (regionally accredited member institutions of LAICU) colleges and universities. Participating institutions shall:

a. receive OSFA notification of student's eligibility determination;

b. respond to OSFA communications as requested, including but not limited to, the following:

i. certify full-time enrollment status each semester or quarter;

ii. supply certification of continuing eligibility, including the following, to be supplied at the completion of each academic year (ending after each spring semester/quarter):

(a). total number of hours earned during the specific academic year (including summer sessions);

(b). Cumulative hours earned (including prior academic years and summer sessions);

(c). cumulative GPA, including all grade credits earned to date;

(d). actual date of graduation;

iii. notify OSFA immediately if applicant fails to enroll or withdraws from school or drops to less than full-time attendance;

iv. notify OSFA of any irregularities discovered by the institution which may affect student eligibility status;

v. maintain adequate records to verify compliance with LASFAC rules;

c. follow LASFAC billing procedures, as follows:

i. institutions may bill LASFAC only for students certified eligible by OSFA;

ii. institutions will bill LASFAC based on their certification of new students' first time, full-time enrollment and renewal students' full-time enrollment as of the fourteenth class day (ninth class day for Louisiana Tech). Institutions are not to bill for students who are enrolled less than full-time on the fourteenth class day, nor for renewal students who did not maintain full-time attendance for the immediately preceding term of enrollment. Students failing to meet the full-time enrollment criteria are responsible for reimbursing the institutions for any monies owed. Refunds for less than full-time enrollment after the fourteenth class day are to be retained by the institution;

iii. institutions will not bill LASFAC for any awardee who has elected to accept another form of tuition waiver;

iv. if the total cost of the student's tuition is provided by the Honors Scholarship, the student shall not be receiving nor shall an institution award any other gratuitous financial assistance or support from the college or university attended or from any alumni organization or from a foundation organized by the alumni or other supportive individuals of the college or university attended whose charter specifically provides that the purpose of the foundation is to aid said college or university in a philanthropic manner;

v. annually, institutions must provide OSFA a current fee schedule for Louisiana Honors Scholarship Program billing purposes. The schedule must indicate the total cost of tuition, which shall not include any fees charged by the college or university that are in addition to the basic course enrollment charges. Independent institutions must bill LASFAC for the amount equal to the highest tuition charged at a Louisiana public college or university or the actual tuition of the independent institution, whichever is less. An itemized

description of the composition of the mandatory fees listed on the fee schedule must also be supplied;

vi. to prevent the student's total financial assistance awards (meaning the total of all awards which are not *gratuitous financial assistance or support* as defined in Paragraph H of this Chapter) from exceeding the institution's cost of attendance or some other limitation established by the institution which may be less than the cost of attendance, the institution may reduce the amount of tuition to be paid by the Honors Award and subsequently billed to OSFA;

vii. upon the school's certification, OSFA will reimburse the institution for each scholarship recipient up to the maximum amount listed on the approved fee schedule.

F. Louisiana State Legislators Participation/Responsibilities

1. Receive OSFA's notification that constituents have been selected for award of the Honors Scholarship.

2. Receive invitations from high schools in their respective districts and attend ceremonies for the purpose of endorsing the Louisiana Honors Scholarship award certificate and presenting the certificate to the recipient.

G. OSFA Participation/Responsibilities

1. Budget Forecasting:

a. determine the amount of funding required for continuation of the program by estimating the total new and continuing tuition exemptions expected to be awarded;

b. submit recommended budget;

c. receive notification of appropriation upon enactment.

2. Certification Processing:

a. forward blank certification forms and instructions to Louisiana public and approved nonpublic high schools and the Louisiana Department of Education;

b. receive, review and approve the completed high school certification listings of selectees.

3. Renewal Eligibility/Ineligibility Determination:

a. annually, at the close of each academic year, determine the recipient's current status and continuing eligibility;

b. notify recipients of their status and any actions needed.

4. Award Determination:

a. forward award notification to new and renewal recipients;

b. generate award listings and forward to high schools, college and university financial aid offices and to legislators.

c. maintain correspondence with colleges and universities to confirm initial and continuing eligibility of students for the Louisiana Honors Scholarship.

5. Reimburse the tuition waived by colleges and universities:

a. review and approve for reimbursement the school's current schedule of fees;

b. mail Honors Scholarship billing packets to schools;

c. verify and reconcile the school's Honors Scholarship billing invoice;

d. resolve and correct discrepancies, if applicable;

e. mail payment acknowledgement and check to school.

H. Definitions Applicable to this Chapter

Academic Year—for purposes of the Louisiana Honors

Scholarship Program, the annual academic year for both college and high school begins with the summer session, includes the fall and winter terms and ends at the conclusion of the spring term, in that order. For example, for a high school graduate to be considered for award of the scholarship to attend college in the 1992 fall term, he/she must have graduated from high school during the summer term 1991 (usually June or July), mid-term 1991 (usually December), or the spring term 1992 (usually May or June). This definition is not to be confused with the Louisiana Department of Education's definition of school year, which is found in Bulletin 741.

Basic Course Enrollment Charges—those institutional tuition and mandatory fees charged all full-time students for purposes of enrollment.

BESE Approved Nonpublic High School—as defined in the Louisiana School Directory (Bulletin 1462), an approved nonpublic school meets the standards specified in The Louisiana Handbook for School Administrators (Bulletin 741). For the purposes of this Chapter, approved nonpublic schools may include private or diocesan high schools classified annually by the Department of Education as approved, provisionally approved or probationally approved.

Graduate—for the purposes of this Chapter, a high school graduate is defined as a student certified by award of a high school diploma to have satisfactorily completed the required units at a Louisiana public or BESE approved nonpublic high school.

Gratuitous Financial Assistance or Support—

a. this definition shall be applicable to all students certified as Honors Scholars on or after May 11, 1993 (the date the emergency rule becomes effective);

b. as cited in R.S. 17:3042.34A(4), *gratuitous financial assistance or support* means the granting of money or the provision of services to a student without requiring from the student repayment or recompense in the form of work or otherwise, by the college or university the student attends from resources available to the college or university for distribution at the institution's discretion or from resources available to an alumni organization or foundation whose purpose is to aid said college or university in a philanthropic manner. *Gratuitous financial assistance or support* does not include:

i. state or federally administered financial assistance programs including, but not limited to, the following: Federal Family Education Loan Program (FFELP), Federal Direct Loan (Demonstration Program), Federal Perkins Loan, Federal Pell Grant, Federal Work Study (FWS), Federal Supplemental Education Opportunity Grant (FSEOG), State Student Incentive Grant (SSIG), Federal Paul Douglas Teacher Scholarship, T. H. Harris Scholarship, Rockefeller Scholarship, Education Majors Scholarship, Byrd Scholarship; and

ii. any state or federal program enacted to supplant or supplement those listed in Subclause "i." above, unless otherwise provided for by these regulations; and

iii. scholarships, grants or loans that are awarded by a business, religious, honorary or civic organization whose purpose is not the philanthropic support of an institution; and

iv. aid provided by a LAICU member private

institution in the amount of the difference between the Honors Scholarship Award and the cost of tuition and mandatory enrollment fees at that institution.

LAICU Member Institution—a private college or university which is a member of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU). As of June 1992, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, Our Lady of Holy Cross College, Tulane University, and Xavier University.

Jack L. Guinn
Executive Director

DECLARATION OF EMERGENCY

Office of the Governor
Office of Elderly Affairs

State Plan on Aging (LAC 4:VII.1327)

The Office of the Governor, Office of Elderly Affairs, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule, effective June 4, 1993. This action is necessary to comply with Administration on Aging Program Instruction AoA-PI-93-4. This rule shall remain effective until the current State Plan on Aging expires on September 30, 1993.

Title 4

ADMINISTRATION

Part VII. Governor's Office of Elderly Affairs

Chapter 11. Elderly Affairs

§1327. Addendum

A. Purpose

This Section incorporates the new State Plan on Aging assurances and provisions required under the Older Americans Act as Amended (hereafter referred to as "the act").

B. Assurances

1. Conflicts of Interest

a. No individual (appointed or otherwise) involved in the designation of the state agency or an area agency on aging, or in the designation of the head of any subdivision of the state agency or of an area agency on aging, is subject to a conflict of interest prohibited under the act.

b. No officer, employee, or other representative of the state agency or an area agency on aging is subject to a conflict of interest prohibited under the act.

c. Mechanisms are in place to identify and remove conflicts of interest prohibited under the act [OAA §307(a)(7)(B)].

2. The state agency and each area agency on aging will:

a. maintain the integrity and public purpose of services provided, and service providers, under the state plan in all contractual and commercial relationships;

b. disclose to the commissioner of the Administration on Aging (hereafter referred to as "the commissioner"):

i. the identity of each nongovernmental entity with which the state agency or area agency on aging has a contract or commercial relationship relating to providing any services to older individuals; and

ii. the nature of such contract or such relationship;

c. demonstrate that a loss or diminution in the quality of the services provided, or to be provided under the act by such agency has not resulted and will not result from such contract or such relationship;

d. demonstrate that the quantity or quality of the services to be provided under the state plan will be enhanced as a result of such contract or such relationship; and

e. on the request of the commissioner, for the purpose of monitoring compliance with the act (including conducting of an audit), disclose all sources and expenditures of funds the state agency and area agency on aging receive or expend to provide services to older individuals [OAA §307(a)(7)(C)].

3. Area agencies on aging will give priority to legal assistance related to income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination [OAA §307(a)(15)].

4. The state agency, in carrying out the State Long-Term Care Ombudsman program, under §307(a)(12) of the act, will expend not less than the total amount expended by the agency in fiscal year 1991 in carrying out such a program under Title III [OAA §307(a)(21)].

5. If the state receives funds appropriated under §303(g) of the act, the state agency and area agencies on aging will expend such funds to carry out Part G of Title III [OAA §307(a)(30)].

6. Special efforts will be made to provide technical assistance to minority providers of services [OAA §307(a)(32)].

7. The state agency will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits under Title III, if applicable [OAA §307(a)(35)(A)].

8. Funds received under Title III will not be used to pay any part of a cost (including an administrative cost) incurred by the state or an area agency on aging to carry out a contract or commercial relationship that is not carried out to implement Title III [OAA §307(a)(38)].

9. Preference in receiving services under Title III will not be given by the area agency on aging to particular older individuals as a result of a contract or commercial relationship [OAA §307(a)(39)].

10. If the state receives funds appropriated under §303(g) of the act, the state agency and area agencies on aging will expend such funds to carry out Part G [OAA §307(a)(40)].

11. Demonstrable efforts will be made:

a. to coordinate services provided under the act with other state services that benefit older individuals; and

b. to provide multi-generational activities, such as opportunities for older individuals to serve as mentors or advisors in child care, youth day care, educational assistance, at-risk youth intervention, juvenile delinquency treatment, and family support programs [OAA §307(a)(41)].

12. The state will coordinate public services within the state to assist older individuals to obtain transportation services associated with access to services provided under Title III, to services under Title VI, to comprehensive counseling services, and to legal assistance [OAA §307(a)(42)].

13. The state has in effect a mechanism to provide for quality in the provision of in-home services under Title III [OAA §307(a)(44)].

14. The state, in carrying out any chapter of Title VII for which the state receives funding under Title VII, will establish programs in accordance with the requirements of Title VII [OAA §705(a)(1)].

15. The state will hold public hearings and use other means, to obtain the views of older individuals, area agencies on aging, recipients of Title VI, and other interested persons regarding programs carried out under Chapter 1 of Title VII [OAA §705(a)(2)].

16. The state, in consultation with area agencies on aging, will identify and prioritize statewide activities aimed at ensuring that older individuals have access to, and assistance in securing and maintaining, benefits and rights [OAA §705(a)(3)].

17. The state will use funds made available under Title VII for activities in addition to, and will not supplant, any funds that are expended under any federal or state law in existence on the day before the date of the enactment of Title VII, to carry out the vulnerable elder rights protection activities described in Title VII [OAA §705(a)(4)].

18. The state will place no restrictions, other than the requirements referred to in clauses (i) through (iv) of §712(a)(5)(C) of the act, on the eligibility of entities for designation as local Ombudsman entities under §712(a)(5) of the act [OAA §705(a)(5)].

19. With respect to programs for the prevention of elder abuse, neglect, and exploitation under Chapter 3 of the act:

a. in carrying out such programs the state agency will conduct a program of services consistent with relevant state law and coordinated with existing state adult protective service activities for:

i. public education to identify and prevent elder abuse;

ii. receipt of reports of elder abuse;

iii. active participation of older individuals participating in programs under the act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance if appropriate and if the individuals to be referred consent; and

iv. referral of complaints to law enforcement or public protective service agencies if appropriate;

b. the state will not permit involuntary or coerced participation in the program of services described in Subparagraph (a) of this Paragraph by alleged victims, abusers, or their households; and

c. all information gathered in the course of receiving reports and making referrals shall remain confidential except:

i. if all parties to such complaint consent in writing to the release of such information;

ii. if the release of such information is to a law enforcement agency, public protective service agency,

licensing or certification agency, ombudsman program, or protection or advocacy system; or

iii. upon court order [OAA §705(a)(6)].

20. The state agency:

a. from funds appropriated under §702(d) of the act for Chapter 5, will make funds available to eligible area agencies on aging to carry out Chapter 5 and, in distributing such funds among eligible area agencies, will give priority to area agencies on aging based on:

i. the number of older individuals with greatest economic need, and older individuals with greatest social need, residing in their respective planning and service area; and

ii. the inadequacy in such area of outreach activities and application assistance of the type specified in Chapter 5;

b. will require, as a condition of eligibility to receive funds to carry out Chapter 5, an area agency on aging to submit an application that

i. describes the activities for which such funds are sought;

ii. provides for an evaluation of such activities by the area agency on aging; and

iii. includes assurances that the area agency on aging will prepare and submit to the state agency a report of the activities conducted with funds provided under §705(a)(7) of the act and the evaluation of such activities;

c. will distribute to area agencies on aging:

i. the eligibility information received under §202(a)(20) of the act; and

ii. information, in written form, explaining the requirements for eligibility to receive medical assistance under Title XIX of the Social Security Act (42 U.S.C. 1296 et seq.); and

d. will submit to the commissioner a report on the evaluations required to be submitted under Subparagraph (b) of this Paragraph [OAA §705(a)(7)].

C. The state agency will carry out Title VII in the following manner:

1. The state agency will continue to operate the Office of the State Long Term Care Ombudsman. Title VII funding will be supplemented with Title III-B funds to ensure adequate funding for the designated local entities to function effectively.

2. Title VII Elder Abuse funds will be used to supplement the state's \$1.8 million Elder Abuse Program being administered by the state agency. The state agency funds five regional contractors and staffs two regional offices to investigate and resolve complaints of elder abuse. The Title VII funds will help provide short-term supportive services required to resolve complaints.

3. The state agency will continue to fund legal assistance at 5 percent of Title III-B supportive services funds. The state agency contracts with a statewide provider to provide legal assistance to nursing home residents. Area agencies on aging, through contracts and pro-bono agreements, provide legal assistance and education to non-institutionalized elderly [OAA §705(a)(8)].

D. Activities to Increase the Access of Older Native Americans to Aging Programs and Services

1. The Office of Elderly Affairs will coordinate efforts with the Louisiana Governor's Office of Indian Affairs and

OAA Title VI Tribal organizations to outreach and inform Native Americans of the availability of aging programs.

2. Through interagency agreements, older Native Americans can be identified and the information provided to the area agencies.

3. The state agency will require AAAs to outreach to older Indians and to provide information on the availability of programs for which they are eligible.

4. As funds become available from other sources for the provision of services to older Indians, the state agency will provide this information to the AAAs for dissemination to appropriate organizations [OAA §307(a)(35)].

E. Intrastate Funding Formula

1. The following is a descriptive summary of the current Intrastate Funding Formula's assumptions and goals, and the application of the definitions of greatest economic or social need [§305(d)(2)] and a demonstration of the allocation of funds, pursuant to the formula, to each PSA [§305(d)(2)]. By July 1, 1994 the state agency will revise the Intrastate Funding Formula in accordance with guidance provided by the Administration on Aging.

2. Descriptive Statement

a. The current intrastate funding formula for the distribution of Older Americans Act Title III funds in Louisiana provides for a base allocation by parish. The following factors are considered in the distribution of funds remaining after base allocations are made: population aged 60 and over; population aged 60 and over below the Bureau of the Census poverty threshold; population aged 75 and over; and land area in square miles. Each of these factors is derived by dividing the planning and service area total by the state total.

b. Population aged 60 and over, and land area in square miles are assigned weights of one each. Population aged 60 and over below the Bureau of the Census poverty threshold is assigned a weight of nine-tenths. Population aged 75 and over is assigned a weight of one-tenth. The sum of these four factors is three.

c. Those elderly in greatest economic need are defined as persons aged 60 and older whose incomes are at or below the poverty threshold established by the Bureau of the Census. Those elderly in greatest social need are defined as persons aged 60 and over who have needs based on non-economic factors such as social isolation caused by living in remote areas, or who are especially vulnerable due to the heightened possibility of frailty among elderly aged 75 and older. Other social needs are those which restrict an elderly individual's ability to perform normal daily tasks, or which restrict his or her ability to live independently; they can be caused by racial or ethnic status, or language barriers. The intra-state funding formula accounts for these individuals by not allocating funds solely on the basis of population. The land area in square miles factor is included to compensate area agencies serving predominantly rural areas for the special problems encountered by sparse populations who may be spread over large geographical areas. The four funding factors combine to meet the special needs of socially and economically needy elderly, urban elderly and rural elderly.

d. The base funding allocation of \$12,000 per parish

is established on the assumption that this amount represents a minimum allocation for the administration of Older Americans Act programs. There is an increasing need to provide a continuum of care for the very old (aged 75 and older) as this segment of the population gets larger each year. Funding limitations dictate that this group be given special emphasis.

3. Numerical statement of the intrastate funding formula
 - a. Base allocation per PSA: \$12,000 per parish
 - b. Formula Allocation per PSA:

	FACTORS	WEIGHT
i.	$\frac{\text{PSA 60+ Population}}{\text{State 60+ Population}}$	1.0
ii.	$\frac{\text{PSA 60+ Population Below Poverty Threshold}}{\text{State 60+ Population Below Poverty Threshold}}$	0.9
iii.	$\frac{\text{PSA Land Mass in Square Miles}}{\text{State Land Mass in Square Miles}}$	1.0
iv.	$\frac{\text{PSA 75+ Population}}{\text{State 75+ Population}}$	0.1
v.	SUM	3.0

4. PSA FORMULA =

$$\frac{(i) \times 1 + (ii) \times 0.9 + (iii) \times 1 + (iv) \times 0.1}{3}$$

[OAA §307(a)(33)]

F. Costs of Services in Rural Areas

YEAR	PROJECTED	ACTUAL
FY 1992		\$ 5,659,684
FY 1993	\$ 5,544,086	
FY 1994	\$ 5,398,793	

[OAA §307(a)(37)]

James R. Fontenot
Director

DECLARATION OF EMERGENCY

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

Facility Need Review Utilization Report

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is adopting the following rule in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1). There is no cost associated with the implementation of this emergency rule. This rule is effective until the final rule associated with the notice of intent on Policies and Procedures of the Facility Need Review Program becomes effective. This notice incorporates the provisions of this emergency rule.

The department has begun gathering occupancy data from nursing facilities in accounting for provider fees authorized under R.S. 46:2601-2605. The facility need review conducted by the department also gathers facility occupancy data, but the reporting periods differ. In order to avoid duplication of effort by the department and additional reporting by facilities, the month the Nursing Facility Utilization Report (LTC-2) is issued by the department is being changed to the fourth month following the end of each calendar quarter.

EMERGENCY RULE

Effective May 18, 1993, the last sentence in Section 12502 B.6.b.(1), page 10 of the Policies and Procedures for Facility Need Review reads: "The LTC-2 is issued by the department in the fourth month following the end of each calendar quarter."

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Liquified Petroleum Gas Commission**

Anhydrous Ammonia (LAC 55:IX.Chapter 15)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to re-adopt an emergency rule, effective July 18, 1993, for 120 days or until a final rule takes effect through the normal promulgation process, whichever is shortest. Re-adoption is necessary in order to keep the original emergency rule in effect until final rule promulgation takes effect. Emergency rule action is necessary to ensure the safe handling of anhydrous ammonia and to provide updated regulations in accordance with the law as amended in 1990.

The text of this emergency rule can be read in its entirety in the March 20, 1993 *Louisiana Register* on pages 295 - 301.

G. L. "Mike" Manuel, Jr.
Director

DECLARATION OF EMERGENCY

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

Food Stamps (LAC 67:III.1983)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule effective June 28, 1993, in the Food Stamp Program.

Emergency rulemaking is necessary to affect a change in policy which will reduce benefits to some food stamp households. It is necessary to extend emergency rulemaking since the emergency rule of March 1, 1993 is effective for a maximum of 120 days and will expire before the final rule takes effect.

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

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter I. Income and Deductions

§1983. Income Deductions and Resource Limits

* * *

B. A child care expense that is paid for or reimbursed by the Job Opportunities and Basic Skills Training Program or the Transitional Child Care Program shall not be deductible, except for that expense which exceeds the payment or reimbursement.

* * *

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:11009 et seq. and 51:11086 et seq., P.L. 99-500, 7 CFR 273.9 and 273.10 (d)(1)(i).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989). Amended by the Department of Social Services, Office of Family Support, LR 19:303 (March 1993), LR 19

Gloria Bryant-Banks
Secretary

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Commercial Red Snapper Closure

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

EMERGENCY RULE

Effective midnight June 11, 1993, the commercial fishery for red snapper in Louisiana waters will close and remain closed until 12:01 a.m. January 1, 1994.

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

Joe L. Herring
Secretary

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Spring Shrimp Season

In accordance with the emergency provisions of R.S. 49:950 et seq. of the Administrative Procedure Act and R.S. 56:497, the Wildlife and Fisheries Commission hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

EMERGENCY RULE

The Louisiana Wildlife and Fisheries Commission does hereby change the opening date for the 1993 spring inshore shrimp season in a portion of Zone 2, which is that portion of Louisiana's inside waters, as described in R.S. 56:495, from South Pass of the Mississippi River to the Atchafalaya River Ship Channel out to Eugene Island to open at 6 a.m. May 31, 1993.

The Wildlife and Fisheries Commission finds that the current economic conditions in a portion of coastal Louisiana within Zone 2 necessitate that the residents of that area be allowed to return to their work as commercial shrimpers as soon as possible.

Peter Vujnovich
Vice-Chairman

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Terrebonne Barrier Islands Refuge (LAC 76:III.321)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:6(18), 56:761 and 56:785 the Wildlife and Fisheries Commission hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule as of July 1, 1993, upon expiration of the previous declaration of emergency.

Title 76

WILDLIFE AND FISHERIES

**Part III. State Game and Fish Preserves and Sanctuaries
Chapter 3. Particular Game and Fish Preserves and Commissions**

§321. Terrebonne Barrier Islands Refuge

The Department of Wildlife and Fisheries does hereby establish regulations for the management of the Terrebonne Barrier Islands Refuge. The refuge has the greatest number and species diversity of nesting waterbirds of any privately owned barrier island in the state and represents one of the three historical nesting sites presently utilized by the brown pelican. The administrative responsibility for this refuge shall rest with the department secretary; the assistant secretary, Office of Wildlife; and the Fur and Refuge Division.

A. Regulations for Raccoon and Wine Islands

1. Trespassing is strictly prohibited. Both islands are restricted to the public. The secretary shall have the authority to provide limited public access in the future if biologically justified and recommended by the Fur and Refuge Division.

2. Boat traffic is allowed in the surrounding waterways except for those waterways on the interior of the islands.

3. Disturbing, injuring, destroying, collecting or attempting to disturb, injure, destroy, or collect any plant or animal is prohibited.

4. Littering is prohibited.

5. The destruction, injury, defacement, disturbance or the unauthorized removal of any public property including natural objects is prohibited.

6. Surf fishing from boats is allowed. Trespassing beyond low tide zone (exposed land area) is prohibited.

7. Special permits to allow access to the refuge will be considered while providing for protection of colonial nesters.

8. Mineral activities will be considered on a case-by-case basis due to the dynamic nature of this refuge and the existing mineral provisions included in the surface lease between the department and Louisiana Land and Exploration Company. Coordination will occur with the landowner to assure compliance with all provisions of the surface lease.

B. Regulations for Whiskey Island

1. Bird nesting colonies are restricted areas. Such areas will be posted by the department and trespassing in these restricted areas is prohibited.

2. Disturbing, injuring, destroying, collecting or attempting to disturb, injure, destroy or collect any plant or animal is prohibited.

3. Littering is prohibited. All trash must be removed from the refuge upon departure.

4. Alcoholic beverages and controlled dangerous substances (drugs) are prohibited.

5. Carrying, possessing, or discharging firearms, fireworks, or explosives is prohibited.

6. Travel in or use of any motorized or other vehicle is prohibited.

7. The destruction, injury, defacement, disturbance, or the unauthorized removal of any public property including natural objects is prohibited.

8. Use of the refuge will be allowed from official sunrise

to official sunset. Sightseeing, bird watching and fishing is allowed in non-restricted areas.

9. Overnight camping is prohibited.

10. Special permits to allow access to the refuge will be considered while providing for protection of colonial nesters.

11. Mineral activities will be considered on a case-by-case basis due to the dynamic nature of the refuge and the existing mineral provisions included in the surface lease between the department and Louisiana Land and Exploration Company. Coordination will occur with the landowner to assure compliance with all provisions of the surface lease.

C. Violation of the provisions of these regulations is a class 2 violation as described in Title 56:115 (D), 56:764 and 56:787.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(18), R.S. 56:761 and R.S. 56:785.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 19:

Bert H. Jones
Chairman

RULES

RULE

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

Commercial Pesticide Applicators (LAC 7:I.13123)

Notice is hereby given that the Department of Agriculture and Forestry, Office of Pesticide and Environmental Programs, hereby amends the following rule concerning the certification of commercial pesticide applicators.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 131. Louisiana Advisory Commission on Pesticides

Subchapter F. Certification

§13123. Certification of Commercial Applicators

* * *

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

* * *

Category 7. Industrial, Institutional, Structural and Health Related Pest Control

* * *

b. Subcategory 7b is for applicators who apply or supervise the application of restricted use pesticides on a

non-fee basis in, on or around institutions, motels, apartment houses, hotels, schools, hospitals and like places as the owner or in the employ of the owner. Applicators who apply or supervise application of restricted use pesticides in, on, or around school structures must attend yearly technician recertification training sessions as described in LAC 7:XXV.14111.Q.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 19: (June 1993).

This rule complies with and is enabled by the Louisiana Pesticide Law, R.S. 3:3201, et seq.

Bob Odom
Commissioner

RULE

Department of Economic Development Office of Financial Institutions

Fair Debt Collections (LAC 10:I.1951)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and as provided for by Act 1112 of 1992, the commissioner gives notice that the Office of Financial Institutions hereby adopts the following rule to provide for the enforcement of the Federal Fair Debt Collection Practices Act, Title VIII, 15 U.S.C. 1692, et seq.; and to provide for the establishment of administrative procedures for the enforcement of the provisions therein.

Title 10

BANKS, CREDIT UNIONS, SAVINGS AND LOANS, SAVINGS BANKS, UCC AND CONSUMER CREDIT

Part I. Banks

Chapter 19. Enforcement of Federal Fair Debt Collections Practices Act

§1951. General Provisions

A. The provisions of the Federal Fair Debt Collection Practices Act (15 USC 1692 et seq.) shall be enforced by the Office of Financial Institutions. The commissioner of financial institutions, or his designee, shall institute procedures regarding accepting, logging, reviewing, and resolving complaints received regarding unfair debt collection practices by persons located within the state of Louisiana.

B. The commissioner shall in conjunction with the Louisiana attorney general, initiate and conduct investigations as reasonably necessary to establish the existence of practices which are in noncompliance with the Federal Fair Debt Collection Practices Act, or any rules and regulations issued in accordance therewith, and may assess the debt collector for reasonable costs of any such investigation. The commissioner shall further cooperate with the Federal Trade Commission,

and any other state or federal governmental entity with the investigation of violations of the Fair Debt Collection Practices Act, and may share information or seek assistance in compliance therewith by the affected entities.

C. The commissioner, or his designee, shall cause to have all complaints submitted on a form acceptable to him, which said complaints are to be registered or logged in upon receipt, within the consumer credit division of his office; and, further, the final disposition of each complaint shall be documented in writing, and upon final disposition with respect to the complaints received by this office shall be filed using the name of the complainant as a reference. The commissioner shall determine the period for which such records shall be retained by the Office of Financial Institutions; however, such period shall be no less than two years.

AUTHORITY NOTE: Promulgated in accordance with Act 1112 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions LR 19: (June 1993).

Larry L. Murray
Commissioner

RULE

Department of Economic Development Real Estate Commission

Out-of-State Broker Cooperation (LAC 46:LXVII.Chapter 63)

Under the authority of the Real Estate License Law, R.S. 37:1431 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Real Estate Commission has adopted the following rules and regulations pertaining to out-of-state broker cooperation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Chapter 63. Out-of-State Broker Cooperation §6301. Broker Cooperation

A Louisiana broker may cooperate with a licensed broker of another state in the sale, lease, management or auction of real property located in Louisiana within the limits provided in the Louisiana real estate license law and rules under the following conditions.

1. The sale, lease, management or auction shall be handled under the direct supervision and control of the Louisiana broker who shall take full responsibility for all actions of the nonresident broker. All advertising of any kind must contain the names of both the Louisiana licensed broker and the cooperating broker. The cooperating broker may place a sign on real property located in Louisiana with the written consent of the Louisiana licensed broker.

2. Any monies collected on behalf of others shall be

maintained in the Louisiana broker's sales escrow, rental trust or security deposit trust account unless all parties having an interest in the funds to be deposited therein have agreed otherwise in writing.

3. In each instance herein where a Louisiana broker enters into a cooperating agreement with an out-of-state broker for the sale, lease, management or auction of Louisiana real property, the Louisiana broker must file one copy of a cooperating agreement with the Louisiana Real Estate Commission prior to the property being advertised, shown, or any contract taken. A written cooperating agreement describing the property involved must be filed for each separate transaction. This agreement must contain verbiage wherein both the Louisiana broker and the out-of-state broker agree to sign all written reports and contracts and comply with the Louisiana Real Estate Commission license law and rules in all respects.

4. Any fee or commission received as a result of a cooperative transaction shall be paid to the Louisiana broker who will, in turn, compensate the out-of-state broker. The percentage of fees or commission to be received by the Louisiana broker and the out-of-state broker shall be negotiable between the two parties and shall be agreed upon, in writing, by the parties in their cooperative agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 4:482 (December 1978), amended by the Department of Economic Development, Real Estate Commission, LR 11:758 (August 1985), repealed LR 17:650 (July 1991), promulgated LR 19: (June 1993).

§6303. Referral Fees

A licensed broker in this jurisdiction may divide or share a real estate commission with a licensed broker in another jurisdiction whenever the licensed broker in the other jurisdiction acts only as a referral agent who is not involved in the actual negotiations, execution of documents, collections of rent, management of property, or other real estate brokerage activity in a real estate transaction which involves more than the mere referral of a client or customer to the licensed broker of this jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 19: (June 1993).

§6305. Jurisdiction Over Out-of-State Activities

The agency shall have the power to impose any sanction permitted by this law on any licensee of this jurisdiction who performs or attempts to perform any of the acts of a licensee on property located in another jurisdiction without first having been properly licensed in that jurisdiction or otherwise having fully complied with that jurisdiction's laws regarding real estate brokerage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 19: (June 1993).

J. C. Willie
Executive Director

RULE

Board of Elementary and Secondary Education

8 (g) Annual Program and Budget FY 93-94

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted the 8(g) Annual Program and Budget for Fiscal Year 1993-94 as printed below:

I. Exemplary Competitive Programs Designed to Improve Student Academic Achievement or Vo-Tech Skills

A. Pre-K - 3rd Grade	\$1,500,000
B. Student Enhancement (Grades 4-12)	1,500,000
C. Vocational Education	1,500,000

II. Exemplary Block Grant Programs Designed to Improve Student Academic Achievement or Vo-Tech Skills

A. Elementary and Secondary Education	6,000,000
1. Early Childhood Education (Pre-K - 3rd Grade)	
2. Student Enhancement (Grades 4 - 12)	
3. Educational Technology	
B. Model Early Childhood Program	3,300,000
C. Vocational Education	
1. Extension	700,000

III. Exemplary Statewide Programs Designed to Improve Student Academic Achievement or Vo-Tech Skills

A. Elementary/Secondary	
1. Talent Improvement Program for Gifted and Talented Students	60,000
2. Mini Grant Awards of Excellence	200,000
3. Statewide Distance Learning Network	1,500,000
4. Enhancement of Secondary Math and Physics	100,000
5. Summer High School Credit Program	50,000
6. Academic/Vocational Enhancement of BESE Special Schools	100,000
7. Multisensory Arts Program	600,000
B. Vocational Education	
1. Curriculum Upgrade	50,000
2. Occupational Competency Testing Program	15,000
3. VTIE Tuition Exemption Program	70,000
4. Statewide Quickstart	800,000
5. Accreditation/Certification	100,000
6. Vocational Skills Enhancement	1,300,000
C. Professional Development Administrators	
Leadership Academy: Assessment and Development	300,000
Teachers	
1. Tuition Exemption Program	3,565,000
2. Instructional Enhancement Program	1,170,000
3. LaSIP	1,000,000
4. Louisiana Geography Education Alliance	50,000

IV. Research or Pilot Programs Designed to Improve Student Academic Achievement	
A. Louisiana Educational Assessment Program	1,000,000
B. Accelerated Schools for At-Risk Students	400,000
C. Identifying and Serving Under-Represented Gifted	150,000
D. High Schools that Work	312,000
V. Purchase of Superior Textbooks, Library Books, and Other Instructional Materials	2,605,000
VI. Teaching of Foreign Languages in Elementary and Secondary Schools	175,000
VII. Scholarships or Stipends to Prospective Teachers in Critical Shortage Areas	
A. Education Majors Program	1,300,000
B. Post-Baccalaureate Scholarship Program	300,000
VIII. Management and Oversight	
A. BESE Administration (.9%)	319,349
B. BESE Fiscal/Programmatic Evaluation (1.1%)	<u>355,607</u>
TOTAL	<u>\$32,446,956</u>

AUTHORITY NOTE: Promulgated in accordance with LA Constitution, Art. VII, Section 10.1, R. S. 17:3801

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 741, Attendance Definition and Guidelines

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted the document entitled *Attendance Definition and Guidelines* for implementation during the 1993-94 school year to allow LEAs to collect attendance data in a standardized manner. This amendment to Bulletin 741, *Louisiana Handbook for School Administrators* is stated below:

Add as a new standard and procedure block following Standards 1.005.01 and 2.055.01:

"A student is considered to be in attendance when he or she (1) is physically present at a school site or is participating in an authorized school activity and (2) is under the supervision of authorized personnel."

Add as a procedure block to Standards 1.055.08 and 2.055.08:

This definition for attendance would extend to students who are homebound, assigned to and participating in drug rehabilitation programs that contain a state-approved education component, or participating in school-authorized field trips.

Half-Day Attendance—a student is considered to be in attendance for one-half day when he or she is (1) physically present at a school site or is participating in an authorized school activity and (2) is under the supervision of authorized

personnel for more than 25 percent but not more than half (26 percent - 50 percent) of the student's instructional day.

Whole-Day Attendance—a student is considered to be in attendance for a whole day when he or she is (1) physically present at a school site or is participating in an authorized school activity and (2) is under the supervision of authorized personnel for more than 50 percent (51 percent - 100 percent) of the student's instructional day.

Add as a procedure block to Standards 1.055.08 and 2.055.08:

All absences whether excused or unexcused shall be counted as absences for attendance reporting purposes to the Department. Students who are (1) physically present at a school site or participating in an authorized school activity and (2) are under the supervision of authorized personnel for 25 percent or less of the school day shall be deemed absent for attendance reporting purposes.

Add to the glossary:

Attendance (Half-Day): A student is considered to be in attendance for one-half day when he or she (1) is physically present at a school site or is participating in an authorized school activity and (2) is under the supervision of authorized personnel for more than 25 percent but not more than half (26 percent - 50 percent) of the student's instructional day.

Attendance (Whole-Day): A student is considered to be in attendance for a whole day when he or she (1) is physically present at a school site or is participating in an authorized school activity and (2) is under the supervision of authorized personnel for more than 50 percent (51 percent - 100 percent) of the student's instructional day.

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

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 1196, Food and Nutrition Program (LAC 28:I.913)

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted the revised Bulletin 1196, *Louisiana Food and Nutrition Programs Policies of Operation*.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans §913. School Food Service Standards and Regulations

A. Bulletin 1196

1. Bulletin 1196, *Louisiana Food and Nutrition Programs*, is adopted, as revised, 1992.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(5); R.S. 17:10; R.S. 17:82; R.S. 17:191 - 199.

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 1822, Competency Based Postsecondary Curriculum Outlines

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education amended Bulletin 1822, Competency Based Postsecondary Curriculum Outlines as follows.

PRESENT		Length	
Course Title			
Account Clerks	1,238 Hours	11 Months	
Secretary	1,463 Hours	13 Months	
Word Processor Operator	1,125 Hours	10 Months	
REVISED		Length	
Course Title			
Accounting Technician	1,560 Hours	15 Months	5 Quarters
Secretary	1,248 Hours	12 Months	4 Quarters
Information Processing Technician	1,248 Hours	12 Months	4 Quarters
NEW CURRICULUM		Length	
Course Title			
Executive Assistant (CIP Code-52.0402)	1,872 Hours	18 Months	6 Quarters

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

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Personnel Evaluation Standards (LAC 28:I.917)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education deleted §917.B and C of the Administrative Code relative to LATIP/TEP and STAR since these provisions are now obsolete.

Title 28

EDUCATION

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§917. Personnel Evaluation Standards and Regulations**

- A. ...
- B. - C. Delete.

AUTHORITY NOTE: Promulgated in accordance with SCR 66, Act 325 of the 1991 Regular Session.

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Waiver of Minimum Standards (LAC 28:I.313)

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published November 20, 1992, and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, is hereby repromulgating the rule which appeared in the February, 1993 issue of the *Louisiana Register* and listed below for clarification.

Title 28

EDUCATION

**Part I. Board of Elementary and Secondary Education
Chapter 3. Rules of Procedure**

§313. Waivers of Minimum Standards: Procedures

E. Programs in Special Education

1. The department may grant annual approval to school systems to conduct pilot programs upon receipt of a request signed by the superintendent which details how the program is to be implemented and the reason for its implementation.
2. An annual report must be submitted to the department upon completion of the program.
3. The department will submit to the board, a semi-annual report on approvals granted.
4. A school system may appeal department disapproval of a program to the board.

AUTHORITY NOTE: R.S. 17:1941 et seq., R.S. 17:458.

Carole Wallin
Executive Director

RULE

**Department of Education
Proprietary School Commission**

Fines/Sanctions for Violations (LAC 28:III.1801)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Education, Proprietary School Commission has adopted the following rule by establishing a system of civil fines and sanctions for violations of state statutes and regulations pertaining to the administration and operation of proprietary schools.

Title 28
EDUCATION

Part III. Proprietary Schools

Chapter 18. General Policies

Subchapter A. Proprietary Schools

§1801. Violations

A. Authority and Scope

1. The definition of school for the purpose of this rule shall include all licensed proprietary schools and school owners, employees, operators, agents and solicitors.

2. Any proprietary school found to be in violation of any provision of R.S. 17:3141 et seq. or any other state regulation adopted by the Proprietary School Commission pursuant to the Administrative Procedure Act governing the administration or operation of a proprietary school may be sanctioned by one or more of the following remedies:

- a. restitution and remedial measures;
- b. civil money penalties (fines);
- c. revocation of license.

3. Considerations. The Proprietary School Commission's assessment of a sanction shall be based on the following factors:

- a. whether the violation or a substantially similar violation has previously occurred;
- b. the duration of the violation;
- c. the severity of the violation;
- d. the school's history of compliance with the regulations;
- e. what sanction is most likely to bring the school into compliance in the shortest time;
- f. the "good faith" exercised by the school in attempting to stay in compliance with the regulations; and,
- g. such other factors as the Proprietary School Commission deems appropriate.

B. Notice, Investigation, and Appeal Procedure

Any sanction may be administratively appealed in the following manner, as long as the appeal is timely filed.

1. Notice of a Violation

a. When a violation of state statutes or regulations governing the administration or operation of a proprietary school has occurred, the Bureau of Proprietary Schools shall give notice of the violation to the proprietary school's director by certified mail return receipt requested.

b. The written notice of the violation shall:

- i. specify the violation(s);
- ii. cite the legal authority which establishes the violation(s);
- iii. cite any sanctions assessed for each violation;
- iv. inform the proprietary school's director that the determination of the violation and imposition of the sanction are final, and no further administrative or judicial appeals may be had if a timely appeal is not filed; and
- v. inform the proprietary school's director if the violation is regarded as a repeat or continuing violation and the manner in which the sanction will be imposed.

c. The Proprietary School Commission shall have authority to determine whether a violation is a repeat or continuing violation.

i. A repeat violation is the recurrence of the same or a substantially similar violation within a period of 12 months.

ii. A continuing violation is one that may be reasonably expected to continue until corrective action is taken. A continuing violation may be considered as a repeat violation for each day following the day on which the initial violation is established, until such time as there is evidence establishing a date by which the violation is corrected. A continuing violation may be subject to appropriate sanctions for repeat violations up to the number of days of the violation at the discretion of the Proprietary School Commission.

d. If a person or a proprietary school does not request an administrative appeal in a timely manner or does not submit satisfactory evidence to rebut the findings of the Proprietary School Commission, the Proprietary School Commission shall enforce sanctions as provided in these regulations.

e. If the school requests an administrative appeal, such request shall:

i. state which violations the school or person contest and the specific reasons for disagreement and be received in writing by the Proprietary School Commission within 15 days of receipt of the notice of a violation by certified mail;

ii. be limited to a discussion of those issues specifically contested. Any violations not specifically contested shall become final, and sanctions shall be enforced at the expiration of the time for appeal.

f. Where the sanctions include the revocation of a license, the notice shall inform the school that the administrative hearing shall be conducted before the State Board of Elementary and Secondary Education.

2. Investigation. When the Bureau of Proprietary Schools becomes aware of a violation, it may conduct an on-site investigation of a school. The inspection may or may not be announced at the discretion of the bureau.

a. The agent conducting the investigation shall have the authority to:

- i. privately interview administrators, teachers, solicitors, and students;
- ii. inspect school records, documents, catalogues, forms, and advertisements;
- iii. inspect the school facilities and equipment.

b. The school shall cooperate fully with the agent.

c. Within five days of the investigation the agent shall prepare a written report which shall be furnished to the bureau and the school. The report shall contain:

- i. factual findings relevant to the initial violation;
- ii. factual findings of any additional violations;
- iii. recommendations of remedial measures to be taken by the school; and
- iv. recommendations of any sanctions to be taken by the commission, including the commission's petition for an injunction to terminate the violation.

d. Additional or follow-up visits may be made to the school to monitor violations or to monitor remedial measures taken to correct prior violations.

3. Administrative Appeal Procedure

a. When a school files a timely request for an administrative hearing, the bureau shall schedule a hearing at

the next scheduled commission meeting. Written notice of the date of the hearing shall be mailed to the school.

b. The hearing shall be conducted by the commission. A tape recording of the hearing shall be made.

c. The school may deny the violation, admit the violation in part and deny it in part, or admit the violation but request a reduction or modification of the sanction imposed.

d. The school may present witnesses or documentary evidence in its defense that bear directly on the violation asserted.

e. The school is limited to one witness to attest to its reputation or to remedial measures it has taken. The commission may consider reputation and remedial measures in mitigation of the sanction. For continued or repeat violations, reputation or remedial measures shall not be considered.

f. Within three days of the hearing the commission shall make a determination. The commission shall:

i. affirm the violation, revoke the violation, or affirm in part and revoke in part;

ii. affirm the sanction, reduce the dollar amount of the sanction, or waive the payment of a penalty pending remedial action and a follow-up investigation; or

iii. modify a non-monetary sanction.

g. A sanction which requires monetary payments, either fines or restitution, shall be paid within 10 days of the decision by the commission. The decision of the commission is the final administrative disposition of an appeal except as provided otherwise in this rule or by statute.

h. If the sanction recommended by the Proprietary School Commission is the revocation of a school's license, the administrative appeal hearing shall be conducted by the State Board of Elementary and Secondary Education. The school has certain rights including the right to a public hearing before the board as provided in R.S. 17:3141.6.

C. Description of Sanctions

1. Restitution and Remedial Measures. The commission may impose sanctions consisting of, but not limited to, the following measures:

a. rebate of all or a portion of the tuition to the students;

b. modification or termination of advertising when unwarranted, false, or misleading claims are made, or placement of corrective ads;

c. counseling of students when they have been insufficiently informed about a material matter;

d. the posting of a sign in a prominent position in a school correcting a false representation made to the students;

e. the distribution of an informational leaflet to the students informing them of their rights;

f. the inclusion or exclusion of information from the student catalogue to correct a misrepresentation;

g. repairs or modification to a physical facility when health or safety is jeopardized;

h. repairs or modification to equipment when health or safety is jeopardized;

i. an order to terminate a gross violation of the statutes or regulations;

j. an order to cease the enrollment of new students or

to limit enrollment to those students who meet more restrictive admission standards;

k. modification of the curricula or methods or instruction.

2. Civil Money Penalties (Fines). The commission has the authority to impose a fine up to \$500 for each violation. Repeat or continuing violations may be assessed separate fines up to \$500 for each day of violation. After a fine is imposed the commission may allow a specified period of time for the correction of the violation. If the violation is corrected, the commission may waive the payment of the fine. The school may be given the opportunity to demonstrate compliance before the fine becomes final. A violation for which a fine is waived shall still be counted for repeat and continued violations. The right to assess civil fines is not merged in other remedies, and the commission may impose other sanctions in addition to the fines.

3. Revocation of License. The Proprietary School Commission may recommend the revocation of a school's license to the State Board of Elementary and Secondary Education.

D. Violations. The following are an illustrative and non-exhaustive list of violations:

1. failure to provide the commission with an item of information required by R.S. 17:3141.1 et seq.;

2. misrepresentation about a school's credentials or accreditation;

3. a false claim or guaranty of employment by a school or a solicitor;

4. failure to disclose to a student a necessary requirement for employment;

5. false or misleading advertising;

6. unethical behavior by a solicitor;

7. failure to disclose to a student liability for repayment of a student loan;

8. failure to respond to student complaint as provided in the student complaint rule, R.S. 17:3141.3(D)(2)(b);

9. employment of teachers who are unqualified in a subject they teach;

10. unsafe or unhealthy condition at a school;

11. unsafe or unhealthy instructional equipment;

12. failure to teach the number of hours claimed;

13. failure to maintain attendance records and to provide them for inspection;

14. failure to comply with a contractual relationship with the students;

15. failure to pay a refund to a student;

16. failure to release the grades of a student;

17. failure to cooperate with an investigator from the Proprietary School Commission;

18. attempting to obtain, obtaining, or renewing a license to operate a school by fraudulent misrepresentation or bribery;

19. pleading nolo contendere or being found guilty of a felony in any state;

20. failure to comply with the provision of this Chapter or any written rule or regulation of the commission;

21. the use of the word "job(s)" or "employment" or "wanted" or "help wanted" or "trainee" either in the headline

or the body of the advertisement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3, 3141.8, 3141.14, 3141.18

HISTORICAL NOTE: Promulgated by the Department of Education, Proprietary School Commission, LR 19: (June 1993).

Andrew H. Gasperecz
Executive Secretary

RULE

Department of Environmental Quality Office of the Secretary

Permit Processing (OS12) (LAC 33:I.Chapter 15)

(Editor's Note: A portion of the following rule, which appeared on pages 487 and 488 of the April 20, 1993 Louisiana Register, is being republished to correct a typographical error.)

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 15. Permit Review

§1505. Review of Permit Applications for New Facilities and Substantial Permit Modifications

* * *

D. Exceptions. Notwithstanding any other provisions of this Chapter to the contrary, the following requirements shall pertain to all applications for permits relating to oil and gas wells and pipelines:

* * *

E. Extensions. Any deadline established by this Section may be extended. A request for an extension of any deadline shall be submitted in writing by the permit applicant or by the secretary or his designee. The request shall specify the reasons and any special conditions that support a deadline extension. Written responses to all extension requests shall be submitted to the requestor within 10 days of receipt of the request.

F. Withdrawal of Permit Application

1. An applicant may voluntarily withdraw an application during the review process, without prejudice, provided notice of withdrawal is submitted in writing with the appropriate signatory authority, and:

a. the applicant has voluntarily submitted an application for a new facility and such application is not required other than to gain permission to operate; or

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), repromulgated LR 19: (June 1993).

Glenn A. Miller
Assistant Secretary

RULE

Board of Trustees of the Firefighters' Pension and Relief Fund of New Orleans and Vicinity

Direct Rollovers

The Board of Trustees of the Firefighters' Pension and Relief Fund of New Orleans and Vicinity ("fund"), pursuant to R.S. 11:3363(F), has adopted rules and regulations regarding the implementation of the provisions of Section 401(a)(31) of the Internal Revenue Code of 1986, as amended from time to time, concerning the requirements of direct rollovers of eligible retirement distributions from this fund to an eligible retirement plan.

RULE

A. Direct Rollovers

1. Notwithstanding any provision of the plan to the contrary, effective January 1, 1993, distributions shall be made in accordance with the following direct rollover requirements and shall otherwise comply with Section 401(a)(31) of the Internal Revenue Code and the Treasury Regulations promulgated thereunder, the provisions of which are incorporated herein by reference. The trustees shall allow a member to directly roll over his eligible rollover distribution which is paid directly to an eligible retirement plan as specified by the member.

2. For purposes of these rules and regulations, an eligible rollover distribution is any distribution from this fund of all or any portion of the balance to the credit of the member except the following:

a. any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made over any one of the following periods: the life of the member (or the joint lives of the member and the member's designated beneficiary), the life expectancy of the member (or the joint life and last survivor expectancy of the member and the member's designated beneficiary), or a specified period of 10 years or more; or

b. any distribution to the extent the distribution is required under Section 401(a)(9) of the Internal Revenue Code, relating to the minimum distribution requirements.

3. For purposes of this section, an eligible retirement plan is an individual retirement account under Code §408(a); and individual retirement annuity under Code §408(b); a qualified defined contribution plan under Code §401(a); an annuity plan under code §403(a); or any other type of plan specified under the Treasury Regulations.

4. A member shall elect to have his eligible rollover distribution directly rolled over to an eligible retirement plan by completing and filing the applicable forms before the date of distribution of his pension benefits. The member, pursuant to the provisions hereunder, must specify the eligible retirement plan to which his eligible rollover distribution will be directly paid as a direct rollover. A member may revoke any election to directly roll over his eligible rollover distribution, provided such revocation is in writing and filed with the trustees before his date of distribution of his pension benefits.

RULE

Board of Trustees of the Firefighters' Pension and Relief Fund of New Orleans and Vicinity

Partial Buy Back and Partial Restoration of Forfeited Credit of Service

The Board of Trustees of the Firefighters' Pension and Relief Fund of New Orleans and Vicinity ("fund"), pursuant to R.S. 11:3363(F), has adopted rules and regulations regarding the implementation of a partial buy back and partial restoration of forfeited credits of service in accordance with the provisions of R.S. 11:3365(C).

RULE

A. An old or new system member shall partially buy back a portion of his forfeited credits of service and shall do so by satisfying the following requirements as set forth herein.

1. A member must have returned to employment with the Fire Department and remain in such employment for a period of four years or more.

2. The amount of a partial buy back, and accordingly a partial restoration of forfeited credits, shall be determined by calculating the amount the member withdrew of his Accumulated Employee Contributions on his initial termination of employment plus three and one-half percent of interest, compounded annually, for each calendar year the member retained his withdrawn Accumulated Employee Contributions, which total amount shall be referred to as the "total buy back amount" (interest shall be prorated for any period less than a calendar year period).

The "total buy back amount" shall be prorated by months based on the total years of forfeited credits as follows:

<u>Total Buy Back Amount</u>		<u>Monthly Buy Back Amount</u>
Total Number of Months of Forfeited Credits	=	For Each Month of Forfeited Credit

The annual buy back amount for each forfeited year of credit shall be determined by multiplying the monthly buy back amount by the number of years (a 12 month consecutive period) the member wishes to buy back.

3. A member may restore his total number of years of forfeited credit on a piece meal basis, provided the member restores at least two or more years of forfeited credit, in increments of 12 consecutive months. A member is prohibited from restoring his forfeited credits of service on a monthly basis and is prohibited from restoring less than two years, unless the restoration of credits is his final restoration request or the restoration request is for his total forfeited credits.

4. A year of credit shall mean a 12-month consecutive period.

5. A member shall elect a partial buy back and partial restoration of forfeited credits of service by completing and filing the applicable forms with the trustees. A member may revoke any election for a partial buy back and partial restoration, provided such revocation is in writing and filed with the trustees.

6. The trustees shall adjust the member's years of credit service as a result of the partial restoration of forfeited credits upon receipt of the annual buy back amount for each year the

5. The trustees shall accomplish a direct rollover under Section 401(a)(31) of the Internal Revenue Code by establishing reasonable procedures in accordance with the Treasury Regulations either by a wire transfer or by mailing the distribution check directly to the eligible retirement plan specified by the member. Payment made by check must be negotiable only by the trustee of the eligible retirement plan. Payment made by wire transfer must be directed only to the trustee of the eligible retirement plan.

The trustees shall, in their sole and absolute discretion, distribute the eligible rollover distribution check directly to the member, instructing the member to deliver same to his designated eligible retirement plan, provided that if the eligible retirement plan is an individual retirement account, the check must be payable to the trustee, as trustee of the individual retirement account for the benefit of the distributee member; or if to a qualified retirement trust, the check must be payable to the trustee of the qualified plan for the benefit of the distributee member.

6. The member shall not directly roll over any eligible rollover distribution, or portion thereof, if the total amount of his eligible rollover distribution is less than \$200, or as such amount may be adjusted from time to time under Section 401(a)(31) of the Internal Revenue Code or the Treasury Regulations promulgated thereunder.

7. The member shall not directly roll over a portion of his eligible rollover distribution to an eligible retirement plan if such portion is less than \$200, or such other amount as provided under Section 6 above. The remainder of the member's eligible rollover distribution not directly rolled over shall be paid to the member.

8. The member shall directly roll over his eligible rollover distribution, or a portion thereof, only to a single eligible retirement plan. The member is prohibited from dividing his eligible rollover distribution into two or more separate distributions to be paid in direct rollovers to two or more eligible retirement plans.

9. The trustees shall treat a member's election to make or not make a direct rollover with respect to one payment in a series of periodic payments as applying to all subsequent payments in a series. The member, with respect to subsequent payments, shall at any time change his previous election to make or not make a direct rollover by completing and filing the appropriate forms with the trustees.

10. A surviving spouse of a deceased member shall elect to have her eligible rollover distribution directly rolled over only to an individual retirement account in accordance with the provisions hereunder.

11. A spouse or former spouse alternate payee under a Qualified Domestic Relations Order shall elect to have her eligible rollover distribution directly rolled over to an eligible retirement plan as specified by the spouse or former spouse alternate payee in accordance with the provisions hereunder.

12. A non-spouse beneficiary of a deceased member is prohibited from electing a direct rollover to any eligible retirement plan.

William M. Carrouche
Chairman

member elects to restore. Until the full payment of the partial buy back amount is received by the board, no adjustment or restoration of the member's forfeited credits shall be made.

7. A member is strictly prohibited hereunder from receiving his accumulated employee contributions upon his termination of employment in a form other than a full and total lump-sum payment.

8. Nothing contained herein shall be interpreted in violation of R.S. 11:3365(C) and R.S. 11:3363(C) nor shall the provisions hereunder be applied on a discriminatory basis.

William M. Carrouche
Chairman

RULE

Department of Health and Hospitals Board of Embalmers and Funeral Directors

Permitted Examination Sites
(LAC 46:XXXVII.501, 505, and 903)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Department of Health and Hospitals, Board of Embalmers and Funeral Directors (board), pursuant to the authority vested in the board by R.S. 37:840, and the provisions of the Administrative Procedure Act, has amended its rules governing the location at which applicants for an embalmer/funeral directors license may take the National Board examination, LAC 46:XXXVII. 501, 505 and 903.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXVII. Embalmers and Funeral Directors

Chapter 5. Examination

§501. Place and Time

Examinations shall be held at those times as the board may deem necessary and expedient either:

A. at the domicile of the board; or, alternatively, and only with board approval,

B. at the accredited mortuary science school, as approved by the board, where the applicant matriculated and successfully completed the required course of study.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated, LR 5:277 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 19: (June 1993).

§505. Examination for Combination Embalmer and Funeral Director

Applicants for a combination embalmer/funeral director license shall be given a written and/or oral examination on subjects defined in courses required by the American Board of Funeral Service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:277 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 19: (June 1993).

Chapter 9. Internship

§903. Requirements for Funeral Directing

A.1. - 8. ...

9. Upon completion of the internship of a funeral director applicant, the intern applicant must appear at the next examination scheduled except when a delayed appearance for good cause, acceptable to the board, is allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended March 1974, promulgated LR 5:277 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:9 (January 1989), LR 19: (June 1993).

Dawn Scardino
Executive Director

RULE

Department of Health and Hospitals Board of Medical Examiners

Certification and Practice of Respiratory Therapists and
Respiratory Therapy Technicians
(LAC 46:XLV.Chapters 25 and 55)

The Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3351-3361 and 37:1270(B)(6), and in accordance with applicable provisions of the Administrative Procedure Act, has amended its rules governing the licensure and practice of respiratory therapists and respiratory therapy technicians to provide for the conduct of nontraditional respiratory care training programs qualifying an applicant for licensure, the authority and responsibilities of the Advisory Committee on Respiratory Care with respect thereto and the supervision of students in respiratory care.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Profession

Subpart 2. Licensure and Certification

Chapter 25. Respiratory Therapists and Respiratory Therapy Technicians

Subchapter A. General Provisions

§2503. Definitions

A. As used in this Chapter, unless the context clearly states otherwise, the following terms and phrases shall have the meanings specified:

The Act, Respiratory Therapy Practice Act or Act—Acts 1985, No. 408, as amended, R.S. 37:3351-3361.

Applicant—a person who has applied to the board for licensure as a licensed respiratory therapist or a licensed respiratory therapy technician.

Board—the Louisiana State Board of Medical Examiners.

Certified Respiratory Therapy Technician—one who has been certified by the National Board for Respiratory Care.

Chest Pulmonary Therapy (CPT)—chest percussion, postural drainage, chest clapping, chest vibrations, bronchopulmonary hygiene and cupping.

Licensed Respiratory Therapist—a person who is licensed by the board to practice respiratory therapy only under the qualified medical direction and supervision of a licensed physician.

Licensed Respiratory Therapy Technician—a person who is licensed by the board to provide respiratory therapy only under the qualified medical direction and supervision of a licensed physician.

Medical Gases—gases commonly used in a respiratory care department in the calibration of respiratory therapy equipment (nitrogen, oxygen, compressed air and carbon dioxide), in the diagnostic evaluation of disease (carbon monoxide, nitrogen, carbon dioxide, helium and oxygen) and in the therapeutic management of disease (nitrogen, carbon dioxide, helium, oxygen and compressed air).

National Board for Respiratory Care—the official credentialing board of the profession, or its successor.

Nontraditional Respiratory Care Education Program—a program of studies primarily through correspondence with tutorial assistance and with a clinical component comparable to a traditional program.

Physician—a person who is currently licensed by the board to practice medicine in the state of Louisiana.

Registered Respiratory Therapist—one who has been registered by the National Board for Respiratory Care.

Respiratory Therapy—the allied health specialty practiced under the direction and supervision of a licensed physician involving the treatment, testing, monitoring, and care of persons with deficiencies and abnormalities of the cardiopulmonary system. Such therapy includes the following activities conducted upon written prescription or verbal order of a physician and under his direct supervision:

a. application and monitoring of oxygen, ventilatory therapy, bronchial hygiene therapy, respiratory rehabilitation, and cardiopulmonary resuscitation;

b. insertion and care of airways as ordered by a physician;

c. institution of any type of physiologic monitoring applicable to respiratory therapy;

d. administration of drugs and medications commonly used in respiratory therapy that have been prescribed by a physician to be administered by qualified respiratory therapy personnel;

e. initiation of treatment changes and testing techniques required for the implementation of respiratory therapy protocols as directed by a physician;

f. administration of medical gases, and environmental control systems and their apparatus;

g. administration of humidity and aerosol therapy;

h. application of chest pulmonary therapy, transcription and implementation of the written and verbal orders of a physician;

i. the institution of known and physician-approved protocols relating to respiratory therapy in emergency situations in the absence of immediate direction by a physician;

j. application of specific procedures and diagnostic testing as ordered by the physician to assist in diagnosis, monitoring, treatment, and research, including those procedures required and directed by the physician for the drawing of blood samples to determine acid-base status and blood gas values, the collection of sputum for analysis of body fluids, and the measurement of cardiopulmonary functions as commonly performed in respiratory therapy; and

k. supervision of other respiratory therapy personnel.

B. Respiratory therapy shall also include teaching patient and family respiratory therapy procedures as part of a patient's ongoing program and consultation services or for health, educational, and community agencies under the order of a licensed physician.

C. Masculine terms wherever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 19: (June 1993).

Subchapter B. Requirements and Qualifications for Licensure

§2509. Requirements for Licensure of Respiratory Therapy Technician

A. To be eligible and qualified to obtain a respiratory therapy technician license, an applicant shall:

1. be at least 18 years of age;

2. be of good moral character;

3. be a high school graduate or have the equivalent of a high school diploma;

4. have successfully completed:

a. a traditional respiratory care education program then accredited by the American Medical Association Committee on Allied Health Education and Accreditation, or its successor, in collaboration with the Joint Review Committee for Respiratory Therapy Education; or

b. a nontraditional respiratory care education program then accredited by the American Medical Association Committee on Allied Health Education and Accreditation, or its successor, in collaboration with the Joint Review Committee for Respiratory Therapy Education which was conducted in accordance with the provisions of §2510 of this Chapter;

5. possess at least one of the following credentials:

a. current credentials as a certified respiratory therapy technician granted by the National Board for Respiratory Care, or its successor organization or equivalent approved by the board, on the basis of written examination; or

b. have taken and successfully passed the examination administered by the board as further detailed in §2519 to

2537 of this Chapter; provided, however, that an applicant who has failed such examination four times shall not thereafter be eligible for licensure in Louisiana; or

c. a temporary license issued in accordance with the provisions of §2547.B of these rules and who has taken and passed the licensing examination administered by the board; provided, however, that an applicant who has failed such examination four times shall not thereafter be eligible for licensure in Louisiana;

6. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the Commissioner of Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 C.F.R.);

7. satisfy the applicable fees as prescribed by Chapter 1 of these rules;

8. satisfy the procedures and requirements for application provided by §2513 to §2517 of this Chapter and, if applicable, the procedures and requirements for examination provided by §2519 to §2537 of this Chapter; and

9. not be otherwise disqualified for licensure by virtue of the existence of any grounds for denial or licensure as provided by the law or in these rules.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 14:87 (February 1988), LR 15:271 (April 1989), LR 17:479 (May 1991), LR 19: (June 1993).

§2510. Conduct of Nontraditional Training Programs

A. To qualify an applicant for licensure as a respiratory therapy technician pursuant to §2509.A.4.b, a nontraditional respiratory care education program must be conducted in accordance with the following standards:

1. A respiratory therapy technician student participating in such a program must be concurrently enrolled in a respiratory care education program of a school or college accredited by the American Medical Association Committee on Allied Health Education and Accreditation, or its successor, in collaboration with the Joint Review Committee for Respiratory Therapy Education.

2. The hospital furnishing tutorial assistance, testing, clinical training and similar services for the benefit of the student must:

a. have a written affiliation agreement with the accredited program;

b. designate a training coordinator who shall have had prior experience in a formal respiratory care educational environment with a least five years clinical experience in respiratory care and who shall be a licensed registered respiratory therapist, licensed certified respiratory therapy technician, or a physician who actively practices respiratory care;

c. provide for tutorial assistance and supervision of the student's clinical activities to be provided by a licensed registered respiratory therapist, a licensed certified respiratory therapy technician, or a physician who actively practices respiratory care; and

d. be able to provide students with an opportunity to observe and participate in respiratory therapy procedures adequate in number and type to support the clinical training of entry-level technicians relative to the number of students admitted to and participating in such training.

3. A student providing respiratory care to patients as permitted by R.S. 37:3361(3) in the course of a student's clinical training shall be supervised in accordance with the provisions of §5515 of these rules and shall be identified to patients and licensed practitioners by title or otherwise which clearly designates the student's status as a student or trainee.

B. A nontraditional respiratory care education program which does not conform to and apply the standards prescribed in the preceding subsection shall not be considered by the board to qualify an applicant for licensure under §2509.A.4.b.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19: (June 1993).

Subchapter E. Licensure Issuance, Termination, Renewal, Temporary Issuance and Reinstatement

§2547. Temporary License

A. The board may issue an 18-month temporary license as a respiratory therapist or respiratory therapy technician under the following terms and conditions:

1. To be eligible for an 18-month temporary license as a respiratory therapist or respiratory therapy technician, an applicant shall:

a. be qualified for licensure under §2507.A or §2509.A, save for having taken and passed a required licensing examination;

b. have successfully completed a respiratory care educational program accredited by the American Medical Association Committee on Allied Health Education and Accreditation, or its successor, in collaboration with the Joint Review Committee for Respiratory Therapy Education; and

c. have taken, or made application to take, the required written examination and be awaiting the administration and/or reporting of scores thereon.

2. A temporary license issued under this Subsection shall be effective for not more than 18 months and shall, in any event, expire and become null and void on the earlier of:

a. the date on which the board takes action on the application following notice of the applicant's scores on the licensing examination; or

b. the first date of the examination if the applicant fails to appear for or complete the examination.

3. Upon expiration of a temporary license issued under this Subsection by virtue of the applicant's failure to achieve a passing score on the licensing examination, the temporary license may be renewed by the board for one additional period not to exceed 18 months. A temporary license so renewed shall expire and become null and void at the expiration of one

year from the date of renewal if the temporary license holder has not, on or prior to such date, applied to retake the licensing examination. Any such renewed temporary license shall also expire and become null and void on the earlier of:

a. the date on which the board takes action on the application following notice of the applicant's scores on the licensing examination; or

b. the first date of the examination if the applicant fails to appear for or complete the examination.

B. The board shall issue a temporary license as a respiratory therapy technician, effective for a period not to exceed one year, to an applicant who, on and as of June 26, 1989, held a temporary license issued by the board pursuant to R.S. 37:3357(E)(2) and who, on and as of such date and continuously thereafter to and including the date of application, was enrolled in a respiratory therapy technician educational program approved by the American Medical Association. A temporary license issued under this Subsection may be renewed once, for a period not to exceed one year, provided that at the time of expiration of the initial temporary license, the temporary license holder continues to be enrolled in such an approved educational program. An initial or renewed temporary license issued under this Subsection shall in any event expire and become null and void on any date that the holder concludes or terminates his or her enrollment in such an approved educational program.

C. The board may grant a permit to practice, effective for a period of 60 days, to an applicant who has made application to the board for a license as a respiratory therapist, who provides satisfactory evidence of registration by the National Board for Respiratory Care pursuant to written examination administered by the NBRC, and who is not otherwise demonstrably ineligible for licensure under §2507 of these rules. A permit issued under this Subsection may not be extended or renewed beyond its initial term.

D. The board may grant a permit to practice, effective for a period of 60 days, to an applicant who has made application to the board for a license as a respiratory therapy technician, who provides satisfactory evidence of having successfully completed a respiratory care educational program approved by the American Medical Association, and who is not otherwise demonstrably ineligible for licensure under §2509 of these rules. A permit issued under this Subsection may not be extended or renewed beyond its initial term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 15:271 (April 1989), LR 17:480 (May 1991), LR 19: (June 1993).

Subchapter F. Advisory Committee on Respiratory Care §2549. Organization; Authority and Responsibilities

A. The Advisory Committee on Respiratory Care (the "committee"), as established, appointed and organized pursuant to R.S. 37:3356 of the Act is hereby recognized by the board.

B. The committee shall:

1. have such authority as is accorded it by the Act;
2. function and meet as prescribed by the Act;

3. serve as a clearinghouse for nontraditional respiratory care education and training programs conducted in the state of Louisiana;

4. advise the board on issues affecting the licensing of respiratory therapists and respiratory therapy technicians and on the regulation of respiratory care in the state of Louisiana; and

5. perform such other functions and provide such additional advice and recommendations as may be requested by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19: (June 1993).

§2551. Delegation of Authority

A. Authority is hereby delegated to the Advisory Committee on Respiratory Care to survey, by site visit or otherwise, each hospital or other institution located in this state which is affiliated with and at which is conducted a nontraditional respiratory care education and training program for the purpose of reporting to the board as provided by Subsection B hereof.

B. The committee shall annually report to the board, in writing, on each such nontraditional respiratory care education and training program conducted in this state and, with respect to each such program, advise the board with respect to:

1. such program's compliance with the provisions of these rules relating to the conduct of such programs;

2. the number of students enrolled and participating in such program during the preceding year;

3. the number of graduates of such program having taken the National Board of Respiratory Care entry-level examination and the number of such graduates having successfully passed such examination; and

4. any recommendations the committee may have with respect to the future conduct of such program and regulation of the same by the board.

C. In discharging the responsibilities provided for by this Section, the committee shall have authority to:

1. periodically request and obtain necessary and appropriate information from hospitals or other institutions located in this state which are affiliated with and at which are conducted a nontraditional respiratory care education and training programs, from the coordinators of such programs, and from students enrolled in such programs; and

2. periodically conduct visits of the hospitals or other institutions at which such programs are conducted in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19: (June 1993).

Subpart 3. Practice

Chapter 55. Respiratory Therapists and Respiratory Therapy Technicians

Subchapter A. General Provisions

§5503. General Definitions

A. As used in this Chapter, unless the context clearly states otherwise, the following terms shall have the meanings specified:

The Act, Respiratory Therapy Practice Act or the Act— Acts 1985, No. 408, as amended, R.S. 37:3351-3361.

Applicant—a person who has applied to the board for licensure as a licensed respiratory therapist or a licensed respiratory therapy technician.

Board—the Louisiana State Board of Medical Examiners.

Certified Respiratory Therapy Technician—one who has been certified by the National Board for Respiratory Care.

Chest Pulmonary Therapy (CPT)—chest percussion, postural drainage, chest clapping, chest vibrations, bronchopulmonary hygiene and cupping.

License—the lawful authority of a respiratory therapist or a respiratory therapy technician to engage in the health specialty of respiratory therapy in the state of Louisiana, as evidenced by a license duly issued by and under the official seal of the board.

Licensed Respiratory Therapist—a person who is licensed by the board to practice respiratory therapy only under the qualified medical direction and supervision of a licensed physician.

Licensed Respiratory Therapy Technician—a person who is licensed by the board to provide respiratory therapy only under the qualified medical direction and supervision of a licensed physician.

Medical Gases—gases commonly used in a respiratory care department in the calibration of respiratory therapy equipment (nitrogen, oxygen, compressed air and carbon dioxide), in the diagnostic evaluation of disease (carbon monoxide, nitrogen, carbon dioxide, helium and oxygen) and in the therapeutic management of disease (nitrogen, carbon dioxide, helium, oxygen and compressed air).

National Board for Respiratory Care—the official credentialing board of the profession, or its successor.

Physician—a person who is currently licensed by the board to practice medicine in the state of Louisiana.

Registered Respiratory Therapist—one who has been registered by the National Board for Respiratory Care.

B. Masculine terms wherever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 19: (June 1993).

Subchapter C. Supervision of Students

§5515. Supervision of Student

A. A person pursuant to a "course of study" leading to registry or certification in respiratory therapy shall engage in the practice of respiratory therapy only under the supervision of a licensed respiratory therapist, licensed respiratory therapy technicians or a physician who actively practices respiratory care, as provided in this Section.

B. A licensed respiratory therapist, licensed respiratory therapy technician, or a physician who undertakes to supervise a student shall:

1. undertake to concurrently supervise not more than four students;

2. personally evaluate every patient prior to the provision of any respiratory therapy treatment or procedure by a student;

3. assign to a student only such respiratory therapy measures, treatments, procedures and functions as such licensed respiratory therapist, licensed respiratory therapy technician, or physician has documented that the student by education and training, is capable of performing safely and effectively;

4. provide continuous and immediate on-premises direction to and supervision of a student and be readily available at all times to provide advice, instruction, and assistance to the student and to the patient during respiratory therapy treatment given by a student;

5. not permit a student to perform any invasive procedure or any life-sustaining or critical respiratory care, including therapeutic, diagnostic or palliative procedures, except under the direct and immediate supervision, and in the physical presence of, the supervising therapist, technician, and/or physician; and

6. provide and perform periodic evaluation of every patient administered to by a student and make modifications and adjustments in the patient's respiratory therapy treatment plan, including those portions of the treatment plan assigned to the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 19: (June 1993).

Delmar Rorison
Executive Director

RULE

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

Early, Periodic, Screening Diagnostic Testing and Treatment (EPSDT) Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule under the Administrative Procedure Act, R.S. 49:950 et seq.

RULE

Medicaid of Louisiana requires that KIDMED medical screening claims for Medicaid beneficiaries between the ages of four months and 20 years be received by Louisiana KIDMED within 60 calendar days of the date of service in order to be processed and the provider be reimbursed by Medicaid of Louisiana. Claims not received by Louisiana KIDMED within this time limit may be denied.

Disapproval of this rule change by HCFA will automatically cancel the provisions of this rule and the previous policy would then be the effective policy.

J. Christopher Pilley
Secretary

RULE

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

Facility Need Review Program

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule.

This rule changes the Policies and Procedures for Facility Need Review. These changes relate to three different areas:

1) The month of issuance of the nursing facility occupancy report, referenced in Section 12502, is proposed to be changed. Since the department has begun gathering occupancy data in accounting for provider fees and the Facility Need Review process also gathers occupancy data, in order to avoid duplication of effort and additional reporting, the date is being changed. This change has been adopted by emergency rule (*Louisiana Register*, January 1993, Vol. 19, No.1, p.8).

2) In order to insure that ICF/MR beds approved for Medicaid reimbursement be used to meet the intended service need, DHH proposes requiring that before any Medicaid recipient is admitted to an ICF/MR for services in a bed approved to meet a specific disability need identified in a request for proposals issued by the DHH, prior approval of the person to be admitted to the facility be first obtained by the provider from the regional Office of Mental Retardation/Developmental Disabilities. Accordingly, Section 12501 F and Section 12502 A are being changed to reflect this concern. This change has been adopted through two emergency rules, one relating specifically to beds downsized from residential facilities (*Louisiana Register*, Dec. 1992, Vol.18, No. 12, pp.1347-1348), and the other relating specifically to new beds (*Louisiana Register*, this issue).

3) In order to insure that ICF/MR beds approved for Medicaid reimbursement because of special needs and circumstances are developed without undue delay, that appeal process is being revised.

RULE

The Policies and Procedures for Facility Need Review are being revised as follows:

12501. Subsection F. Revocation of Approvals/Availability of Beds for Title XIX Recipients, page 5, the following shall be added as number 4.

When the Office of Mental Retardation/Developmental Disabilities advises Facility Need Review that a Group or Community Home bed for the mentally retarded/developmentally disabled which was approved for Title XIX reimbursement to meet a specific disability need identified in a request or solicitation for proposals issued by the department, is not being used to meet the need identified in the request, based on the facility serving a Medicaid recipient in the bed without prior approval from that office, approval of the bed shall be revoked.

12502 Subsection A. Community and Group Home Beds for the Mentally Retarded

5.g. shall read as follows:

At the end of the 60-day review period, each applicant will be notified of the department's decision to approve or disapprove the application. Applicants will be given 30 days from the date of receipt of notification by the department in which to file an appeal (refer to section 12505 c., Appeal Procedures).

5.h. strike the words "and judicial review"
12502 under Subsection A. 5. the following paragraph shall be inserted:

Prior approval of all Medicaid recipients for admission to facilities in beds approved to meet specific disability needs identified in a request or solicitation for proposals issued by the department is required from the Office of Mental Retardation/Developmental Disabilities before admission.

12502 Subsection A. 6. Exception for beds approved from downsizing large residential ICF/MR's (16 or more beds) page 8, the following shall be added as letter e.

Prior approval of all Medicaid recipients for admission to facilities in beds approved through downsizing to meet a specific disability need identified in a request or solicitation for proposals issued by the department is required from the Office of Mental Retardation/Developmental Disabilities before admission.

12502 Subsection B. Nursing Facilities/Beds

The last sentence in 6.b.(1), page 10 shall read: "The LTC-2 is issued by the department in the fourth month following the end of each calendar quarter."

Disapproval of this rule change by HCFA will automatically cancel the provisions of this rule and the previous policy would then be the effective policy.

J. Christopher Pilley
Secretary

RULE

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

Hospice Services

In accordance with the provisions of the Administrative Procedure Act, R.S.49:950 et. seq., the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule in the Medicaid Program.

Section 1905(o)(3) of the Social Security Act requires states to cover certain costs for dually eligible Medicare-Medicaid beneficiaries who elect to receive hospice care while residing in a nursing facility (NF). Hospice agencies who are certified for Medicare reimbursement, licensed in Louisiana, and have a contractual agreement with a nursing facility to provide hospice care to that facility's residents will be enrolled as Medicaid hospice care providers. For qualified beneficiaries who choose this option, payment to the nursing facility for

daily services will be discontinued and payment in the same amount will be made instead to the hospice program.

I. Admission Criteria

A. The Medicaid eligible resident must be dually eligible for Medicare and Medicaid reimbursement.

B. The attending physician must confirm a prognosis of six months or less. The prognosis of the terminal illness must be in terms of days, weeks or months.

C. The competent resident (or for the non-competent resident, the family member, in the order described by Louisiana law) must elect the hospice benefit.

D. The goal of hospice care must be palliative and not curative.

E. The resident must be under the care of an attending physician who consents to the hospice admission and who will continue to assume responsibility for medical care.

F. The resident must live in a nursing facility within the hospice service area.

G. The final determination of medical eligibility for admission to hospice will be made by the Health Standards Section of the Louisiana Department of Health and Hospitals, Bureau of Health Services Financing.

II. Responsibility of Participating Providers

A. The nursing facility and the hospice must have a contractual agreement outlining the specific responsibilities of each entity which shall include but is not limited to:

1. eligible residents;
2. services to be furnished by the hospice;
3. services to be furnished by the nursing facility;
4. cooperation in professional management;
5. financial responsibility;
6. provider of first choice;
7. public relations;
8. compliance with governmental regulations;
9. terms of agreement;
10. indemnification and limit of liability.

The format for this contract may be specified by the Department of Health and Hospitals at a later date.

III. Medicaid Enrollment for Hospice Providers

A. The hospice provider must be licensed and certified by the Department of Health and Hospitals, Bureau of Health Services Financing in accordance with federal regulations and state law prior to submitting an application for Medicaid enrollment.

B. The provider shall request a Title XIX Medicaid enrollment packet from the Health Standards Section Provider Enrollment. The following information shall be returned to that office as soon as it is completed:

1. two copies of the Provider Agreement Form completed and signed by the person legally designated to enter into the contract with DHH; and
2. one copy of the Provider Enrollment Form (PE 50) completed and signed by the administrator or authorized representative.

IV. Medicaid Reimbursement

A. When a dually-eligible resident elects the Medicare hospice benefit and the hospice and the nursing facility have a written contract under which the hospice agrees to be responsible for the professional management of the resident's

hospice care and the NF agrees to provide room and board to the resident, the Medicaid program will pay the hospice an amount equal to the amount allocated under the state plan for room and board in the NF. Medicaid payment to the NF is discontinued. In this context, the term "room and board" includes performance of personal care services including:

1. assistance in the activities of daily living;
2. socializing activities;
3. administration of medication;
4. maintaining the cleanliness of resident's room; and
5. supervision and assistance in the use of durable medical equipment and prescribed therapies.

B. It continues to be the responsibility of the NF to collect the beneficiary's patient liability income (PLI) to be applied to the Medicaid per diem.

V. Federal Regulations and State Requirements

A. The NF must continue to meet all federal regulations at 42 CFR 483 for certification and state requirements for licensure.

B. The hospice must continue to meet all federal regulations at 42 CFR 418 for certification and state requirements for licensure.

C. The resident who is receiving hospice services in the NF will be subject to surveys for both the Long Term Care and hospice programs.

VI. Admission Review

A. When the hospice benefit is elected by the dually eligible resident currently residing in the NF:

1. The NF must:
 - a. discontinue billing Medicaid on the date that hospice is elected; and

- b. notify the Health Standards Regional Office and respective parish office by OFS Form 148 that resident is being placed in the hospice category on effective date.

2. The hospice must submit to Health Standards Regional Office for review:

- a. the attending physician's referral confirming the patient's prognosis of a life expectancy of six months or less, and approving the hospice admission;
 - b. the nursing assessment by the hospice RN;
 - c. an individualized plan of care; and
 - d. OFS Form 148 indicating the start of care date.

B. When the hospice benefit is elected by the dually eligible resident prior to admission to NF the hospice provider must follow the procedure for admission outlined in item two above. The NF must submit the Form 148, 90L and PASARR as outlined in the Standards for Payment for Nursing Facilities, Section XI.

RULE

Effective July 1, 1993, Medicaid of Louisiana will reimburse Medicare certified hospice providers licensed in Louisiana for hospice services to those patients in nursing facilities who are dually eligible for benefits from Medicare and Medicaid who choose to receive hospice care for a terminal illness. Under those circumstances, payment to the nursing facility is discontinued, and payment in an amount equal to the nursing facility per diem is paid to the hospice program, which must then reimburse the nursing facility for room and board.

Disapproval of this rule change by the HCFA will automatically cancel the provision of this rule and the previous policy would then be the effective policy.

J. Christopher Pilley
Secretary

RULE

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

Inpatient Psychiatric Services - Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., to adopt the following rule in the Medicaid Program.

RULE

The Department of Health and Hospitals, Bureau of Health Services Financing has amended the methodology for reimbursement of inpatient psychiatric services to implement the following change. The statewide prospective per diem rate for reimbursement of inpatient psychiatric hospital services in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital shall be recalculated utilizing a base of 1991 allowable costs in accordance with Medicare principles of reimbursement. These rates will be updated annually effective January 1 of each year by increasing the previous year's per diem rate by the Health Care Financing's (HCFA) target rate percentage for non-prospective payment system hospitals/units for the applicable year.

Disapproval of this rule change by HCFA will automatically cancel the provisions of this rule and the previous policy would then be the effective policy.

J. Christopher Pilley
Secretary

RULE

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

Long Term Care Services for Medically Needy

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule under the Administrative Procedure Act, R.S. 49:950 et seq.

RULE

Medicaid of Louisiana includes Long Term Care Services provided by enrolled nursing facilities under the Medically Needy Program.

Disapproval of this rule change by HCFA will automatically cancel the provisions of this rule and the previous policy would then be the effective policy.

J. Christopher Pilley
Secretary

RULE

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

Medicaid Providers Furnishing Medical Information

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule under the Administrative Procedure Act, R.S. 49:950 et seq.

RULE

The Bureau of Health Services Financing requires as a condition of enrollment and participation under Medicaid of Louisiana that all providers furnish the Department of Health and Hospitals, the Bureau of Health Services Financing and Attorney General's Medicaid Fraud Control Unit or their authorized representatives a copy of any medical record(s) or information applicable to claims for payments and that the provider bear any costs for duplication and or mailing of such document(s) to the requesting agency.

Disapproval of this rule change by HCFA will automatically cancel the provisions of this rule and the previous policy would then be the effective policy.

J. Christopher Pilley
Secretary

RULE

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

Non-emergency Medical Transportation

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medicaid Program in accordance with the Administrative Procedures Act, R. S. 49:950 et seq.

RULE

The following additional regulations are implemented in the

non-emergency medical transportation program for non-profit providers.

A. Enrollment Requirement

A \$5000 performance bond, letter of credit or cashier's check payable to the Bureau of Health Services Financing is required for profit providers and not applicable to organizations which meet state and federal qualifications for non-profit status.

B. Reimbursement Methodology

All non-profit organizational providers will be reimbursed according to a dual methodology which includes a set amount for each person transported and a per mile rate. The provider is to be compensated a set "pick-up" fee for each person who is transported for a medical appointment regardless of the number of persons transported. In addition, the provider is to be reimbursed for all actual vehicle miles traveled transporting Medicaid beneficiaries to and from their medical appointments. Non-profit providers will be paid for all actual Title XIX miles traveled per trip based on a per mile rate.

Disapproval of this change by HCFA will automatically cancel the provisions of this rule and the previous policy would then be the effective policy.

J. Christopher Pilley
Secretary

RULE

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

Nurse Aide Decertification

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule in the Medicaid Program in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

RULE

The Bureau of Health Services Financing is incorporating the following provisions within the policies and procedures of the nurse aide registry. All allegations of abuse, neglect and/or misappropriation of a resident's property by a nurse aide must be included in the documentation maintained by the registry. In addition, a nurse aide convicted of abuse, neglect or misappropriation of a resident's property shall be decertified permanently. Pending action against a nurse aide involving allegation of abuse, neglect or misappropriation of resident's property shall be noted on the Nurse Aide Registry.

Disapproval of this rule change by HCFA will automatically cancel the provision(s) of this rule and the previous policy would then be the effective policy.

J. Christopher Pilley
Secretary

RULE

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

Physician Visits for Medicaid Beneficiaries Under 21

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule in the Medicaid Program in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Effective July 1, 1993, the Bureau of Health Services Financing will adopt the following rule governing the provision of concurrent care services by physicians for Medicaid beneficiaries up to age twenty-one as mandated by Section 1905 of the Omnibus Budget Reconciliation Act of 1989.

General Provisions

Concurrent care is defined as the provision of services by more than one physician to the same patient at the same time. Medicaid payment for concurrent care for beneficiaries to the age of 21 will be allowed provided such care is reasonable and necessary for the improved health status of the patient. In order to qualify for concurrent care, a beneficiary must suffer from a condition(s) or have a diagnosis(es) which requires the services of a physician(s) whose specialty, in the majority of cases, is different from that of the primary care physician. Additionally, the beneficiary's condition or ailment must be of such severity and/or complexity that the medical community would consider the rendering of concurrent care to be reasonable and warranted. Also, the request by the primary care physician for the provision of concurrent care services must be upheld by peer review.

In all cases, concurrent care must be medically necessary, unduplicative and reasonable as established by statistical norms. It must be expected, also, that peer review must uphold the standard and type of care which are provided.

Medicaid of Louisiana has adopted for all Louisiana Medicaid beneficiaries the American Medical Association's latest definitions of new and established patient as contained in the publication of the *Physicians' Current Procedural Terminology* (CPT). The Bureau of Health Services Financing follows the Evaluation and Management definition of services and applicable procedure codes in accordance with the latest publication of the *Physicians' Current Procedural Terminology*. The limitations of this policy will be in accordance with existing Medicaid policies and procedures as stipulated in the *Professional Services Provider Manual*, *Provider Updates*, *Community Care Manual* and remittance advice to providers.

Medicaid of Louisiana has adopted the specialty and sub-specialty designations recognized by the American Medical Association. The specialty or sub-specialty which the physician identifies for himself is the specialty designation assigned to that physician on the provider file of the Medicaid Management Information System for the processing of concurrent care claims.

Concurrent care by more than one provider of the same specialty will pend for medical review prior to reimbursement. In these cases, a request for, and a review of, the medical documentation will occur before the decision to authorize payment is made. In all cases, the documentation in the patient's hospital/medical record must substantiate the need for services rendered. All claims are subject to post-pay review.

Outpatient Concurrent Care

Outpatient concurrent care is to be reimbursed through the use of the "Office or Other Outpatient Services" procedure codes.

An emergency room visit and a hospital admit will be allowed on the same day but not by physicians who belong to the same group. An emergency room visit and critical care services will be allowed by the same physician on the same day.

Concurrent care of outpatients is not covered under any of the following circumstances.

1. A physician cannot be both a consultant and a concurrent care provider on the same case. If a consultant may become a concurrent care provider for a particular patient, he may bill for the initial consultation but not for additional consultations. If, after consultation, a physician assumes the role of surgeon on the case, neither follow-up care nor additional consultations will be reimbursed, as the surgical package policy supersedes this policy.

2. Concurrent care for simple outpatient surgical procedures and uncomplicated diagnoses is not covered under this policy.

3. Surgeons who have performed inpatient surgery on a patient will not be reimbursed for routine follow-up care as this care is included in the reimbursement for the surgery package.

4. An office visit and a hospital admit will not be reimbursable on the same day for the same beneficiary to the same provider.

Inpatient Concurrent Care

Medicaid payment for concurrent care of hospitalized beneficiaries will be allowed if such care is reasonable and necessary for the improved health status of the beneficiary. Providers will be reimbursed for inpatient concurrent care through the use of the "Hospital Inpatient Services" and the "Critical Care Services" procedure codes.

The beneficiary's hospital records must be available for review should review be necessary to substantiate the need for concurrent care. Concurrent care of beneficiaries in the intensive care areas of the hospital will be allowed. An emergency room visit and a hospital admit will be allowed on the same day.

The critical care codes must be used to report the total duration of time spent by a physician providing constant attention to a critically ill beneficiary. Other procedures which are not directly attendant to critical care management are not included in critical care and should be reported separately. Concurrent care of hospitalized patients is not covered under any of the following circumstances.

1. The policy on surgical packages supersedes this policy. Surgeons may not bill for follow-up care after surgery since follow-up care is included in the surgical package.

2. A consultant may become a concurrent care provider but he must not bill for follow-up consultations if he becomes a concurrent care provider or follow-up care if he assumes the surgeon's role.

3. The provision of concurrent care for simple surgical procedures and uncomplicated diagnoses is not allowed.

Consultations

General Provisions

A consultation is generally considered to be a service performed by a physician of a different specialty from that of the primary care physician. However, consultations by a provider of the same specialty as that of the attending or primary care physician will be allowed when circumstances are of an emergent nature as supported by diagnosis and the primary care physician needs immediate confirmation of a beneficiary's condition. Additionally, the condition(s) and diagnosis(es) of the beneficiary must be of such severity and/or complexity that consultation is needed. All requests for consultation, including follow-up consultation should be made by or through the primary care provider. A consultant renders an opinion and/or gives advice regarding evaluation and/or management of a specific problem. A consultant may also initiate diagnostic or therapeutic services at the request of the primary care physician. No provider may bill for a consultation conducted by telephone.

Consultations should not be rendered unless they are medically necessary, unduplicative, needed for adequate diagnosis and or treatment and reasonable, as established by statistical norms. It must be expected, also, that the physician's request for the consultant's opinion would be upheld by peer review. Additionally, the condition(s) and diagnosis(es) of the beneficiary must be of such severity and/or complexity that consultation is necessary. The beneficiary's medical records must be available for analysis if review becomes necessary, and the documentation contained therein must substantiate the need for said consultation.

The documentation must also substantiate:

1. the attending physician's request for the consultation; and

2. the consulting physician's recommendation of a course of action to the attending physician and his statement that he is initiating treatment at the request of the attending physician (this statement is to include his opinion and documentation of any services that were ordered or performed).

The following types of consultative services are not allowed under this policy:

1. consultations by a physician who treated the patient previously as either a primary care provider or a concurrent care provider within the last twenty-four months;

2. consultations on a patient with a simple diagnosis(es) or on a patient who requires non-complex care; and

3. confirmatory consultations.

The limitations indicated above are not intended to be all inclusive. Additional limitations and other Physician Program

parameters as contained in the *Professional Services Provider Manual, Provider Updates, Community Care Provider Manual* and remittance advice to providers are applicable to this policy.

Outpatient Consultations

The procedure codes listed under the heading "Office or Other Outpatient Consultations" in the latest *Physicians' Current Procedural Terminology* apply to this policy.

Inpatient Consultations

Inpatient consultations are to be reimbursed through the use of the "Initial Inpatient Consultations" and "Follow-up Inpatient Consultations" procedure codes.

Same Day Outpatient Visits

Two same-day outpatient visits per provider per specialty will be allowed. The medical necessity of the second same-day outpatient visit is considered to be justified when the primary care physician needs to evaluate the progress of an unstable beneficiary treated earlier in the day, when an emergency situation, such as an accident, necessitates a second visit on the same day as the first or when any other occasion arises in which a second visit within a 24-hour period is necessary to ensure the provision of medically necessary care to the beneficiary.

This policy is being implemented in conjunction with the outpatient concurrent care policy and addresses the care given by the physician to the beneficiary whom the doctor sees twice on the same day.

A second same-day outpatient visit is allowed if the provision of the second service has met the test of reasonableness as established by statistical norms of the provider's peer group. The beneficiary's medical records must be available for analysis should review be necessary, and the documentation contained therein must substantiate the need for the second same-day visit. All claims are subject to post-pay review. A same-day follow-up office visit for the purpose of fitting eyeglasses is allowable under the provisions of this policy. An outpatient visit and critical care services may be billed on the same day. An emergency room visit and critical care services are allowed on the same day.

Limitations

KIDMED medical screening or interperiodic medical screening code with a preventive medicine code are not reimbursable to the same physician on the same day. Second same-day outpatient visits are not covered in the following instances: 1) the beneficiary's diagnosis(es) is simple; 2) the beneficiary's condition requires non-complex care; and 3) routine same-day follow-up visits for stable patients.

Office, outpatient or hospital visits are not allowed the same day as a comprehensive nursing home assessment by the same attending provider. However, an office visit and a subsequent nursing facility visit are allowed on the same day by the same attending provider.

Disapproval of this rule change by HCFA will automatically cancel the provisions of this rule and the previous policy would then be the effective policy.

J. Christopher Pilley
Secretary

RULE

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

Reimbursement for Audiologists

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule in the Medicaid Program.

RULE

Effective July 1, 1993, Medicaid of Louisiana enrolls licensed audiologists as Medicaid providers who are eligible for direct reimbursement for audiology services. Audiology services are defined as diagnostic, screening, preventive, or corrective services for individuals with speech, hearing, and language disorders provided by or under the direction of an audiologist. A referral must be made by a licensed physician for these services.

The audiologist must meet the following qualifications:

1. Licensure. Be licensed by Board of Examiners for Speech Pathology and Audiology.
2. Certification
 - a. certificate of clinical competence from the American Speech-Language and Hearing Association (ASHA); or
 - b. completed the equivalent educational and work experience requirements for the certificate; or
 - c. completed the academic program and be acquiring supervised work experience to qualify for the certificate.

The *Physicians' Current Procedural Terminology (CPT)* codes currently approved for the reimbursement of audiology services to physicians will be utilized for audiologists. The current regulations of the Physician Program will govern the reimbursement and frequency of these services.

Disapproval of this rule change by HCFA will automatically cancel the provision(s) of this rule and the previous policy would then be the effective policy.

J. Christopher Pilley
Secretary

RULE

Department of Labor Office of Worker's Compensation

Safety Requirements (LAC 40:I.Chapter 9)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 23:1291, the Department of Labor, Office of Workers' Compensation, is hereby giving notice of its intent to amend the following safety rules with some changes technical in nature altering verbiage in some instances, and some changes substantive in nature,

amending provisions of the Class A safety plan with addition of an emergency preparedness program for the Class "A" plan and the Class "B" plan.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Chapter 9. Safety Requirements

§901. Statutory Requirements

A. Part IV, Subpart A, §1291(B)(4), Louisiana Statutes, as amended, requires every Louisiana employer of more than 15 employees to provide, if self-insured, or is provided by the carrier, if privately insured, plans for implementation of a working and operational safety plan. The plans shall be made available for inspection by the director upon request. The plan shall be privileged and confidential pursuant to R.S. 23:1293, provided that the operational safety plan may be subpoenaed from the employer who shall certify under oath that it is a duplicate of the plan submitted to the director.

B. In order to ensure adequate safety resources for Louisiana employers and employees, the director shall maintain a list of safety professionals/engineers from the private sector, which shall be available upon request by any Louisiana employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:778 (August 1985), repromulgated by the Department of Employment and Training, LR 17:176 (February 1991), amended by the Department of Labor, LR 19: (June 1993).

§903. Definitions

A. **Operational Safety Plan.** This document of undetermined length will present simply and clearly the program which the employer can follow to reduce accidents in the work place and incidences of industrial and occupational disease. The safety plan shall comply with applicable local, state and federal safety and health standards or appropriate industry standards. To assist in the development of the components of the safety plan, the employer may utilize: 1) an in-house safety staff; 2) insurance carrier field safety representative; or 3) private sector safety professionals/engineers as identified by a list maintained by the director. The components of a safety plan shall be outlined in §907.

B. **Professional Safety Experience.** The responsible charge of 75 percent or more of one's duties and functions is for the successful accomplishment of safety objectives such as the analysis, investigation, planning, execution of safety plans, feedback adjustments and the periodic audit of the program. Responsible charge does not imply supervisory responsibility.

*C. **Safety Professional/Engineer.** This is an active safety practitioner who possesses one or a combination of the following criteria.

1. Graduation from an accredited college or university with a Bachelor's degree in engineering or science, plus five years or more of professional safety experience, of which two or more years shall have been in responsible charge. A Master's degree will be accepted in lieu of one year of the

practitioners professional safety experience. An earned Doctoral degree will be accepted in lieu of two years of the practitioners professional safety experience.

2. An earned Associate degree from an accredited college or university in engineering or science plus eight years or more professional safety experience.

3. Ten years of professional safety experience in lieu of an engineering or science degree.

4. Professional Certifications

a. Certified safety professional

b. Certified hazard control manager

c. Certified industrial hygienist

d. **Safety professional/engineers.** To ensure adequate safety resources to the employer, the safety practitioner/engineer shall provide the following consultation services which will consist of, but not be limited to the following.

i. Review the safety performance of the employer's organization, activities and operations.

ii. Appraise the mechanical hazards, power transmission apparatus, material handling, unsafe work methods, hazardous processes and hazardous environments.

iii. Advise and assist in the detection of occupational health hazards and exposure.

iv. Provide assistance to the employer in the development of employee safety training programs.

v. Make recommendations for appropriate safety corrective actions to be taken.

vi. Assist in the development of an employer's safety plan in compliance with LWC-15.

*These requirements apply to individuals who are making application to the director for placement on the list of private sector safety professionals/engineers for safety services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:778 (August 1985), repromulgated by the Department of Employment and Training, LR 17:177 (February 1991), amended by the Department of Labor, LR 19: (June 1993).

§905. Availability of Safety Services

A. The director shall maintain a list from the private sector of safety practitioners who meet the criteria as set forth in the definition of a "Safety Professional/Engineer" in §903. This list shall be made available to any Louisiana employer upon request.

B. In-house safety staff shall be a full-time employee(s) whose primary function within the organization, includes work of progressive importance and achievement towards accident prevention.

C. Insurance carrier safety staffs are full-time employees whose primary functions include safety engineering services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:778 (August 1985), repromulgated by the Department of Employment and Training, LR 17:177 (February 1991), amended by the Department of Labor, LR 19: (June 1993).

§907. Classes and Components of Safety Plan

The two classes of operating safety plans and their minimum requirements shall be as follows:

A. Class "A" - The Class A Safety Plan is required when the employer's Workers' Compensation premium rate is over \$5 premium per \$100 of payroll for the major job classification or the job classification with the highest amount of payroll. The minimum requirements are as follows:

1. Management Policy Statement. This document shall be signed by the top executive of the company acknowledging management's responsibility and commitment to a safety plan and their intention to comply with all applicable local, state and federal safety requirements and appropriate industry standards. Management shall commit resources, responsibility and accountability to all levels of management and to each employee for the safety program.

2. Responsibility for safety shall be defined in writing for executive and middle level operating management, supervisors, safety coordinator and employees.

3. Inspections shall be made of all areas of the work place at least monthly by a supervisor at the site. A written report (check list or narrative) is to be completed for each inspection, with this report to be retained for a period of one year. The report will be designed to cover the identification of recognized unsafe conditions, unsafe acts and any other items inherent in a particular job. The form will include a space to indicate any corrective action taken. The responsibility for the correction of defects is to be designated by management.

4. An accident investigation of any job related injury that requires a visit to a clinic or physician shall be initiated by the injured employee's supervisor as soon as possible on the shift the accident occurs. The accident investigation report will include information required to determine the basic causes of the accident by asking the questions who, what, where, when and how. Corrective action to be taken and/or recommended to prevent a recurrence of a similar accident will be implemented. Complex accidents may require technical assistance to ensure an accurate investigation, however, the injured employee's supervisor should be included on the investigation team.

The accident investigation report shall include information on the injured person, his or her job, what happened, basic causes, corrective actions required, the time frame to make corrections and who will be responsible for seeing that corrections are implemented.

5. Safety meetings shall be held by a supervisor with all of his/her employees on a monthly basis. A record will be kept showing the topics discussed, date of meeting and the names of the persons attending.

Safety meeting topics will be designed to instruct the employee on how to perform his job productively, efficiently and safely. Hazard recognition and hazard control procedures; selection, use and care of personal protective equipment; job procedures review and good housekeeping are examples of the information employees should receive at a safety meeting.

A review of the recent work area inspection results, the workers' compliance with safety procedures, and the accident

investigations that occurred since the last safety meeting should be covered in the safety meeting.

6. Safety Rules. Management shall develop specific safety rules that apply to the operations being performed. The rules should be short, concise, simple, enforceable and stated in a positive manner. The safety rules are to be followed and adhered to by all management personnel and all employees. The rules shall be written with a copy provided to each employee and documented.

7. Training. Management shall implement a training program that will provide for orientation and training of each new employee, existing employees on a new job or when new equipment, processes or job procedures are initiated. The training provided will consist of, but not limited to, the correct work procedures to follow, correct use of personal protective equipment required and where to get assistance when needed. This training should be accomplished by the employee's supervisor but may be done by a training specialist or an outside consultant such as a vendor or safety consultant. Training shall be provided to all persons in operating supervisory positions in: conducting safety meetings, conducting safety inspections, accident investigation, job planning, employee training methods, job analysis and leadership skills.

8. Record Keeping. In addition to OSHA logs which are retained for five years (federal requirement), each firm shall maintain, other safety records for a period of one year from the end of the year for which the records are maintained (state requirement). These will include inspection reports, accident investigation reports, minutes of safety meetings, training records and the LDET-WC-1071A Form.

9. First Aid. Management shall adopt and implement a first aid program which will provide for a trained first aid person at each job site on each shift. A first aid kit with proper supplies for the job exposures will be maintained and restocked as needed. Emergency phone numbers for medical services and key company personnel must also be maintained.

10. Emergency Preparedness Program

a. Management shall develop a written emergency preparedness plan to ensure to the extent possible the safety of all employees, visitors, contractors and vendors in the facility at the time of emergency situations; such as but not limited to natural disasters, fire, explosions, chemical spills and/or releases, bomb threats and medical emergencies. Emergency shutdown and start-up procedures will be developed in industries having equipment that requires several steps to properly shutdown and secure. Employees shall be trained in these procedures to reduce the incidences of additional injuries, property damage and possible release of hazardous materials to the environment. Emergency plans shall comply with all governmental regulations, and state and local emergency response committee requirements.

b. All employees and contractors shall be trained in the facility's emergency plan. A facility training drill will be conducted at least annually to test the emergency plan. The emergency plan will be reviewed annually and revised as required. Employees shall be trained in the updated emergency plan. Monthly inspections of all access and egress

aisles and doors will be conducted to determine that they are clear, unobstructed and operable. Evacuation routes shall be posted in all work areas showing primary and secondary routes for employees' evacuation to a safe predetermined location for a head count.

B. Class "B" - The Class B Safety Plan is required when the employer's Workers' Compensation premium rate is \$5 premium or less per \$100 of payroll for the major job classification or the job classification with the highest amount of payroll. The minimum requirements are as follows:

1. Management Policy Statement. The same as Class "A."
2. Definition of Responsibility. The same as Class "A."
3. Inspections. The same as Class "A" except that inspections are required to be conducted quarterly.
4. Accident Investigation. The same as Class "A."
5. Safety Meetings. The same as Class "A" except that safety meetings are required to be conducted quarterly.
6. Safety Rules. The same as Class "A."
7. Training. The same as Class "A."
8. Record Keeping. The same as Class "A."
9. First Aid. The same as Class "A."
10. Emergency Preparedness Program. - Is the same as Class "A."

C. Note: The above items listed for Class "A" and Class "B" plans are considered to be the minimum requirements and should be referred to as such. Obviously, we would all like to see such items as planning, cost containment procedures, setting of objectives, performance evaluations, incentive programs, etc., included in an employer's safety plan.

D. The minimum requirements are in no way intended to require the revision of existing company safety plans that have demonstrated proven performance in the past. Any company that has a plan which meets or exceeds these minimum requirements may submit its plan to the director for review and acceptance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:778 (August 1985), repromulgated by the Department of Employment and Training, LR 17:177 (February 1991), amended by the Department of Labor, LR 19: (June 1993).

§909. Submission of Safety Plan

Safety plans shall be submitted to the director upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:778 (August 1985), repromulgated by the Department of Employment and Training, LR 17:178 (February 1991), amended by the Department of Labor, LR 19: (June 1993).

§911. Employee Notice

It shall be the employer's duty to advise employees and keep posted at some convenient and conspicuous point in his place of business a notice reading substantially as follows:

LOUISIANA DEPARTMENT OF LABOR
OFFICE OF WORKERS' COMPENSATION
ADMINISTRATION
POST OFFICE BOX 94040
BATON ROUGE, LOUISIANA 70804-9040

A. Notice of Compliance to Employees

1. You should report to your employer any occupational disease or personal injury that is work related, even if you deem it to be minor.

2. In case of occupational disease, all claims are barred unless the employee files a claim with his employer within six months of the date that:

- a. the disease manifests itself;
- b. the employee is disabled as a result of the disease;
- c. the employee knows or has reasonable grounds to believe that the disease is occupationally related.

In case of death arising from an occupational disease, all claims are barred unless the dependent(s) files a claim with the deceased employee's employer within six months of:

- a. the date of death;
- b. the date the claimant has reasonable grounds to believe that the death resulted from an occupational disease.

3. In case of personal injury or death arising out of an in the course of employment, an injured employee, or any person claiming to be entitled to compensation either as a claimant or as a representative of a person claiming to be entitled to compensation, must give notice to the employers within 30 days of the injury. If notice is not given within 30 days, no payments will be made under the law for such injury or death.

4. The above mentioned claims should be filed with the employer at the address shown below.

5. In the event you are injured, you are entitled to select a physician of your choice for treatment. The employer may choose another physician and arrange an examination which you would be required to attend.

6. In order to preserve your right to benefits under the Louisiana Workers' Compensation Law, you must file a formal claim with the Office of Workers' Compensation Administration within one year after the accident if payments have not been made or within one year after the last payment of weekly benefits.

7. This notice shall be given by delivering it or sending it by certified mail or return receipt requested to:

Employer Representative

Employer Name

Address

City

State and Zip

Inaccuracies in this notice of disease, injury, or death regarding the time, place, nature, or the cause of injury or otherwise will not be held against the employee unless the employer can show harm from being misled about the facts.

8. Failure to give notice may not harm the employee if the employer knew of the accident or if the employer was not prejudiced by the delay or failure to give notice. (Refer to Section 1304 and Section 1305 of the Title 23 of the Louisiana Revised Statutes for the exact wording.)

9. If you desire any information regarding your rights and entitlement to benefits as prescribed by law, you may call or write to the Office of Workers' Compensation Administration at the above address, or telephone (504) 342-7555 or toll-free (800) 824-4592.

10. This notice should be posted conspicuously in and about employer's place(s) of business.

11. If the employer is insured, then include the following:

a. name and address of insurance company.

12. If the employer fails to keep such a notice posted, the time in which the notice of injury shall be given shall be extended to 12 months from the date of the injury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1302.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:778 (August 1985), repromulgated by the Department of Employment and Training, LR 17:178 (February 1991), amended by the Department of Labor, LR 19: (June 1993).

§913. Lost Time Injury Reports

Within 10 days of actual knowledge of injury to an employee which results in death or in lost time in excess of one week after the injury, the employer shall report same to the carrier, if any, and to the Office on form LDET-WC-1007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1306.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:778 (August 1985), repromulgated by the Department of Employment and Training, LR 17:179 (February 1991), amended by the Department of Labor, LR 19: (June 1993).

Alvin J. Walsh
Director

RULE

Department of Natural Resources Office of Conservation

Automatic Custody Transfer (LAC 43:XIX.Chapter 23)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-G.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation: General Operations

Subpart 9. Statewide Order No. 29-G

Chapter 23. Automatic Custody Transfer

§2301. Scope

This Order provides for rules and regulations governing

unprotected application for measurement and transfer of custody of liquid hydrocarbons by the use of methods other than customary gauge tanks from fields in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, July 15, 1959, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§2303. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meanings when found in this Order:

Automatic Custody Transfer—the liquid hydrocarbon is automatically measured as it is transferred from the producer to the carrier.

District Manager—the head of any one of the districts of the state of Louisiana under the Office of Conservation, and, as used, refers specifically to the manager within whose district the field or fields are located.

Office—the Office of Conservation of the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, July 15, 1959, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§2305. Order

A. From and after the effective date hereof, permission to measure and transfer custody of liquid hydrocarbons by use of methods other than customary gauge tanks may be obtained without the necessity of a public hearing in the absence of protest, as hereinafter provided and upon strict compliance with the procedure set forth herein.

B. No permission to use methods other than customary gauge tanks for measurement and custody transfer of liquid hydrocarbons will be granted without public hearing unless and until the following required data shall have been filed with the district manager in duplicate which shall include the following described information:

1. detailed schematic diagram of the mechanical installation to be used with an adequate explanation of the flow of liquid hydrocarbons and indicating locations of locking devices and seals to provide assurance against or evidence of tampering;

2. cosigned statement by producer and carrier that in their opinion the transfer of liquid hydrocarbons through the use of the proposed method will provide reasonably accurate measurement and will not create inequities;

3. a list of all known interested parties, including operators and royalty owners, affected by the application.

C. Notice of the filing of an application for measurement and transfer of custody through the use of methods other than customary gauge tanks shall be published in the official journal of the State of Louisiana, and mailed to the interested parties, reference §2305.B.3 above.

D. Upon the basis of application as herein provided, no permission for measurement and the transfer of custody of liquid hydrocarbons through the use of methods other than

customary gauge tanks will be granted, if, in the judgment of the commissioner, the data and information submitted does not warrant the approval of the application, or if any party protests the application by the filing of written protest with the commissioner within 15 days following the first publication of the notice of the application; however, in either of the foregoing events, the application may be set for public hearing at the election of the applicant or the commissioner of conservation.

E. The applicant shall provide a suitable means of calibrating each meter used for measurement of liquid hydrocarbons in order that its accuracy in operation can be proven, such calibration to be done before or at the time the meter is initially installed and at such intervals or other times as the commissioner of conservation or his agent shall, after consideration of the inherent characteristics of the particular equipment, deem proper. The results of all meter calibrations required by this order shall be certified as being true and correct by the party performing the calibrations. These results shall be available upon request to the commissioner of conservation or his duly authorized representative.

F. Should the application be approved, the custody transfer installation shall be permitted to operate so as to transfer, as produced, but subject to the limitations hereinafter set forth, the liquid hydrocarbons produced from the well or wells served by such installation. The limitations on the operation of such installation are as follows:

1. the daily production rate from any well or wells must not cause waste;
2. unless otherwise permitted, no production from the well or wells in excess of the total monthly allowable may be transferred during a calendar month;
3. the production from any given well in any one day shall not be increased more than 25 percent of the legally permissible liquid hydrocarbons production from such well or wells.

G. This Order shall be in addition to all statewide orders, rules and regulations affecting the production and measurement of liquid hydrocarbons, as heretofore promulgated and when in conflict therewith shall prevail. In case of any conflict between this Order and any special orders hereafter issued on specific fields, said special orders shall govern.

H. The provisions of §2305.F of this Order shall apply to automatic custody transfer installations previously approved and to that extent shall supersede previously issued orders authorizing said installations.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, July 1959, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

H. W. Thompson
Commissioner

RULE

Department of Natural Resources Office of Conservation

Hearings; Unit and Survey Plat Requirements (LAC 43:XIX.Chapter 39 and 41)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends the Rules of Procedure for Hearings, and Unit and Survey Plat Requirements.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation: General Operations Subpart 17. Rules of Procedure For Hearings and Unit and Survey Plat Requirements

Chapter 39. Hearings

§3901. Scope

This order provides rules of procedure for conducting hearings before the commissioner of conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3903. Definitions

The words defined herein shall have the following meanings when used in these rules. All other words so used and not herein defined shall have their usual meanings unless specially defined in Title 30 of Louisiana Revised Statutes of 1950.

Date—the postmarked date of a letter or the transmittal date of a telegraphic or wireless communication.

District Manager—the manager of any one of the districts of the State of Louisiana under the Office of Conservation, and, as used, refers specifically to the manager within whose district the field or fields affected by the subject matter of the proposed hearing are located.

Interest—shall not mean the rights of a top lessee or any other reversionary right.

Interested Owner—any owner as owner is defined in Title 30 of Louisiana Revised Statutes of 1950, who is known to the applicant after reasonable search to presently own an interest within the area of, or proximate to, the tracts directly affected by the application.

Interested Party—any person as person is defined in Title 30 of Louisiana Revised Statutes of 1950, other than an interested owner or a represented party as defined herein, who presently owns an interest within the area of, or proximate to, the tracts directly affected by the application.

Pertinent Data—with respect to any unit proceedings, all basic factual information available from wells drilled or drilling which can reasonably be utilized in determining the unit configuration, including but not limited to, (a) electric logs, porosity logs and dipmeter logs, (b) tests, completion and production data, and (c) core data. All data that will be employed at a hearing shall be considered pertinent data.

Represented Party—any person as person is defined in Title 30 of Louisiana Revised Statutes of 1950, who is known

to the applicant after reasonable search to presently own an interest within the area of, or proximate to, the tracts directly affected by the application and who is also known to the applicant to have either a consultant or attorney representing him in conservation matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3905. Applicability

A. These rules of procedure shall be applicable to all hearing applications which require 30 days notice as set forth in Section 6B of Chapter 1 of Title 30 of the Louisiana Revised Statutes of 1950, including applications relating to revisions of poolwide units created under Section 5C (Act 441 of 1960), provided that, except for the notice provisions contained in §3915.A.1, 2 and 3 herein, and except to the extent provided in §3921 herein, these rules of procedure shall not apply to applications relating to the initial creation of poolwide units under Section 5C (Act 441 of 1960) of Chapter 1 of Title 30 of the Louisiana Revised Statutes of 1950.

B. If the application relates to the initial creation of poolwide units under Section 5C (Act 441 of 1960), a copy of same shall be furnished each interested owner and represented party. If the required 75 percent in interest of owners and royalty owners in the reservoir shall have failed to join in the agreement covering the plan and terms of unit operation by the fifteenth day prior to the date of hearing, the applicant shall secure cancellation of the hearing and shall notify all interested owners, represented parties, and interested parties of the cancellation.

C. To the extent practicable, these rules of procedure also shall apply to hearing applications which require 10 days notice. The provisions in §§3907, 3911, 3913, 3915, 3917, 3919, 3921 and 3933, concerning pre-application notice, notice of opposition, pre-application conferences, other conferences, proposed units, unit revisions, counterplans and matters which are not deemed practicable for hearing applications which require 10 days notice shall not apply. The posting and publication of a copy of the notice of hearing shall be accomplished as soon as practicable after such notice has been issued by the commissioner. Any interested owner or represented party who has opposition to the application shall give immediate notice thereof to the commissioner, district manager and the applicant.

D. These rules of procedure shall in no way alter or change the right of any interested person, as provided in Paragraph F, Section 6 of Chapter 1 of Title 30, to have the commissioner of conservation call a hearing for the purpose of taking action in respect to a matter within the jurisdiction of the commissioner, nor the requirement that the commissioner, upon receiving the request, promptly call a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3907. Pre-application Notice

A. Except as provided by §3917, any person intending to apply for a hearing, prior to filing application, shall send a notice outlining the proposal to the commissioner (in duplicate) with a copy to the district manager and to each interested owner and represented party. Interested owners and represented parties need not be furnished the list described in §3907.B.1, but the applicant upon request shall furnish a copy of said list to the requesting party.

B. Each pre-application notice shall include or be accompanied by the, following:

1. A list of the names and addresses of all interested owners and represented parties to whom it is being sent.

2. A statement that a reasonable effort has been made to determine to whom the notices as required by this rule must be sent.

3. An explanation of the nature of the proposal and a copy of a unit plat for each sand, if units are involved, prepared in accordance with all applicable memoranda and the procedure for assigning nomenclature of Section II of Statewide Order No. 29-0, with any geological bases for any unit boundary labeled thereon. A reasonable effort shall be made to prepare the plat in sufficient detail to enable affected parties to determine the location of their lands.

4. A day, time and place for a conference which need be held only if notice of a desire to confer with respect to the application is given as herein after provided. Any such conference shall be held within the State of Louisiana (unless mutually agreed otherwise among all interested owners and represented parties) in a city reasonably convenient to the persons involved and shall be scheduled for not less than 20 calendar days following the date of the pre-application notice.

5. A definition of the sand proposed for unitization with such sand defined in each reservoir thereof by reference to well log measurements.

C. If an applicant has proof acceptable to the Commissioner that there is no necessity to confer about the proposal because there is no indication of opposition from any person to whom the preapplication notice must be sent, he may immediately proceed to file his application and need not schedule a conference nor comply with §3915.A.1 and 4 hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3909. Release of Pertinent Data

A. Pertinent data shall be made available to interested owners and represented parties sufficiently in advance of any conference to allow a reasonable time for review and interpretation thereof prior to such conference.

B. Reference to source, including commercial outlets, from which or whom such data can be obtained, at the cost of the requesting party, shall be included in notices and applications required by these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and

promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3911. Opposition - Pre-application Notice

If any interested owner or represented party desires to confer about the applicant's proposal as set forth in the pre-application notice, he shall, within 10 calendar days after the date of said notice, advise the applicant of his desire to confer, and the applicant shall, within 15 calendar days after the date of the pre-application notice, advise in writing the commissioner, the district manager and all other persons to whom the pre-application notice was sent that the conference will be held. Any interested owner and represented party may attend and participate in the conference even though not requesting it. If the applicant does not timely receive notice of a desire to confer from any party receiving the pre-application notice, he may immediately proceed to file his application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3913. Procedure for Conferences

A. At any conference held pursuant to these rules, the applicant shall present the available and appropriate geological, engineering or other bases for his position supported by sufficient data and detail for the conferees to have reasonable opportunity to discuss and attempt to resolve their differences in good faith.

B. Any opponent or party supporting the applicant, who has had an opportunity to study the matter and who has developed the geological, engineering or other bases for his opposition or support, shall present his position in sufficient detail to permit the parties to attempt to resolve the differences in good faith.

C. If, however, any opponent or party supporting the applicant is not prepared to discuss the geological, engineering or other bases for his opposition or support at the conference, he shall later comply with the provisions of §3915 or §3917 and §3921 hereof.

D. At any conference held pursuant to these rules, any participant proposing to create or revise a unit or units shall exhibit a map or plat, reasonably prepared in sufficient size and detail to enable affected parties to determine the location of their lands.

E. Conferences held pursuant to these rules are designed to promote an open exchange of views among the parties; therefore, any reference to discussions among the parties as to geological, engineering, or other bases for a party's position at said conferences shall not be admissible in evidence at any hearing. Tape recordings and transcriptions made at any such conference also shall not be admissible in evidence.

F. Conference reports prepared pursuant to §§3915 and 3917 shall be limited to a statement of whether or not there is disagreement among the parties and shall contain no reference to individual geological, engineering or other opinions expressed at said conferences, but they shall indicate the issues that are likely to be controverted and the number of parties likely to present opposing plans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3915. Hearing Application

A. The hearing application may be filed immediately after the pre-application conference or as otherwise provided in §§3907 and 3911 and shall be filed with the commissioner (in duplicate) with a copy to the district manager and to each interested owner and represented party. Interested owners and represented parties need not be furnished the lists described in §3915.A.1 and 2, but the applicant upon request shall furnish copies of said lists to the requesting party. In addition to outlining the purpose thereof, the application shall include or be accompanied by the following:

1. a list of the names and addresses of interested owners and represented parties notified, as required by §3907.B.1;

2. a list of the names and addresses of all interested parties who are known to the applicant after reasonable search. In addition to the publication of the legal notice by the commissioner in the official state journal, the applicant shall provide for posting of a copy of the legal notice of the hearing and unit plat or plats in a prominent place in the area affected and publication of a copy of the legal notice in a newspaper published in the vicinity or general area of the affected field at least 15 days before the hearing. The applicant shall mail copies of the legal notice to all interested owners, represented parties and interested parties and a copy of the unit plat or plats shall be included with the legal notice, if said parties have not already been furnished same. Evidence to establish posting, publishing and mailing shall be submitted at the hearing;

3. a statement that a reasonable effort has been made to obtain a complete list of interested parties, interested owners and represented parties;

4. a statement that a conference has or has not been held, including a brief report on the conference, if held, and a list of the parties in attendance;

5. a unit plat, if units are involved, prepared in accordance with all applicable memoranda and the procedure for assigning nomenclature of Section II of Statewide Order No. 29-0, with any geological bases for any unit boundary labeled thereon and the other items required by statute or by the commissioner;

6. a definition of the sand proposed for unitization with such sand defined in each reservoir thereof by reference to well log measurements.

B. A request for rules and regulations for more than one sand shall be considered a separate application for each sand and the commissioner shall be furnished an extra copy of the application for each additional sand affected thereby. An application fee for each sand shall be filed with the application as established by Part XIX, Subpart 2 or successor regulation.

C. If, as a result of any conference, the applicant's proposal as set forth in a pre-application notice is revised, the revised proposal shall be explained in the application, and if units are involved and are revised, the revised unit plat shall be filed with the application.

D. If the application does not change or alter the units as proposed in the pre-application notice, additional plats need not be furnished to interested owners and represented parties.

E. If differences are not resolved or if any interested owner or represented party desires to oppose or support a proposal by the introduction of evidence at the hearing, then not less than 15 calendar days before the hearing, he must file with the commissioner and furnish to the district manager, the applicant and all persons who attended the pre-application conference his counterplan or supporting plan, including a plat of his proposed units, if units are involved, prepared in accordance with all applicable memoranda and the procedure for assigning nomenclature of Section II of Statewide Order No. 29-0, with any geological bases for any unit boundary labeled thereon, accompanied by a letter explaining any points of difference with the applicant's plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3917. Waiver of Pre-application Notice

A. If circumstances indicate that the 20 day delay required by the pre-application procedure in the filing of an application for a public hearing would result in undue hardship to the applicant, the commissioner may waive the pre-application notice requirements, and §3907 of these rules shall not apply.

B. However each such waiver must be expressly approved by the Office of Conservation, and in no instance shall the Office of Conservation approve a waiver under these rules unless there can be compliance with the 15 day provision of §3937.

C. The hearing application under this procedure shall be filed with the commissioner (in duplicate), with a copy to the district manager and to each interested owner and represented party. Interested owners and represented parties need not be furnished the lists described in §3917.C.2 and 3, but the applicant upon request shall furnish copies of said lists to the requesting party. In addition to outlining the purpose thereof, the application shall include or be accompanied by the following:

1. a statement to the effect that the Office of Conservation has waived the pre-application notice requirements and that §3907 of these rules shall not apply;

2. a list of the names and addresses of interested owners and represented parties who are being furnished with a copy of the application;

3. a list of the names and addresses of all interested parties who are known to the applicant after reasonable search. In addition to the publication of the legal notice by the commissioner in the official state journal, the applicant shall provide for posting of a copy of the legal notice of the hearing and unit plat or plats in a prominent place in the area affected and publication of a copy of the legal notice in a newspaper published in the vicinity or general area of the affected field at least 15 days before the hearing. The applicant shall mail copies of the legal notice to all interested owners, represented parties and interested parties and a copy of the unit plat or plats shall be included with the legal notice, if said parties

have not already been furnished same. Evidence to establish posting, publishing and mailing shall be submitted at the hearing;

4. a statement that a reasonable effort has been made to obtain a complete list of interested parties, interested owners and represented parties;

5. a day, time and place for a pre-hearing conference which shall be scheduled for not less than 10 calendar days after the date of the application. Any such conference shall be held within the state of Louisiana (unless mutually agreed otherwise among all interested owners and represented parties), in a city reasonably convenient to the persons involved;

6. a unit plat, if units are involved, prepared in accordance with all applicable memoranda and the procedure for assigning nomenclature of Section II of Statewide Order No. 29-0, with any geological bases for any unit boundary labeled thereon, and the other items required by statute or by the commissioner. A reasonable effort shall be made to prepare the plat in sufficient detail to enable affected parties to determine the location of their lands;

7. a definition of the sand proposed for unitization with such sand defined in each reservoir thereof by reference to well log measurements.

D. A request for rules and regulations for more than one sand shall be a separate application for each sand, and the commissioner shall be furnished an extra copy of the application for each additional sand affected thereby. An application fee for each sand shall be filed with the application as established by Part XIX, Subpart 2 or successor regulation.

E. If any interested owner or represented party desires to confer about the applicant's proposal, he shall be represented at the pre-hearing conference provided for above. The pre-hearing conference shall be conducted in accordance with §3913.

F. Immediately after the pre-hearing conference, the applicant shall furnish the commissioner and the persons to whom the application was sent a brief report on the conference and a list of the parties in attendance.

G. If, as a result of the pre-hearing conference, the applicant's proposal as set forth in the application is revised, the applicant shall notify the commissioner, the district manager and all parties to whom the application was sent of the revision and furnish them with a copy of the revised unit plat, if units are involved, and with an explanation of the revision.

H. If differences are not resolved or if any interested owner or represented party desires to oppose or support a proposal by the introduction of evidence at the hearing, then not less than five calendar days before the hearing, he must file with the commissioner and furnish to the district manager, the applicant and all persons who attended the conference his counterplan or supporting plan, including a plat of his proposed unit, if units are involved, prepared in accordance with all applicable memoranda and the procedure for assigning nomenclature of Section II of Statewide Order No. 29-0, with any geological bases for any unit boundary labeled thereon, accompanied by a letter explaining any points of difference with the applicant's plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3919. Revisions After Application

If, after the application is filed, the applicant's proposal is revised, the applicant shall promptly notify the commissioner, the district manager and all parties to whom the application was sent, of the revision and furnish to them a copy of any revised plan and unit plat, if units are involved, and shall, if requested, hold a conference to discuss the revised proposal prior to the hearing. If there are differences among the applicant, interested owners and represented parties as to the applicant's revised proposal, and the differences are resolved as a result of any conference, the applicant shall file the revised plan and plat promptly with the commissioner and furnish a copy to the district manager and to all parties to whom the application was sent. No revised proposal may be considered at the hearing unless notice of the revision has been sent to the commissioner, the district manager and to all parties to whom the legal notice was sent, at least five days prior to the hearing. The applicant shall present both the original application proposal and the revised proposal at the hearing, with evidence to support the revision. The time provisions of §§3915 and 3917 shall not apply to revised proposals filed less than 20 days prior to the day of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3921. Additional Requirements for Opposition to or Support of Application

A. If any opponent or party supporting the applicant did not present the geological, engineering or other bases for his opposition or support at the preapplication conference, pre-hearing conference, or such other conferences provided by these rules, or if there has been a change in the bases for his opposition or support, such opponent or supporting party shall disclose to the parties in attendance at such conference the geological, engineering or other bases for his opposition or support by mailing to them on or before the date set for filing a counterplan copies of his structure map and such other geological and engineering interpretations of the data as were disclosed by the applicant pursuant to §3913.

B. If any interested owner or represented party desires to add one or more units to an applicant's plan, such interested owner or represented party shall, within five days after receiving the applicant's pre-application notice, secure waiver of pre-application notice and file his application under §3917 for the additional units so proposed, scheduling the required conference at the same time, date and place as the pre-application conference scheduled by the initial applicant.

C. With respect to any hearing application relating to the initial creation of poolwide units under Section 5C (Act 441 of 1960) of Chapter 1 of Title 30 of the Louisiana Revised

Statutes of 1950 any party who has received notice of the hearing and who wishes to introduce evidence in opposition to such application shall file with the commissioner and furnish to the district manager and interested owners and represented parties, at least 10 calendar days prior to the date of the hearing, a letter explaining the opposition to the applicant's plan, including a plat, if appropriate, and at the request of any party, shall immediately disclose to the requesting party the geological, engineering or other bases for his opposition in a manner convenient to the parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3923. Commissioner's Conference

The commissioner shall have the right to call a pre-hearing conference at any time prior to the hearing, if in his opinion such a conference would resolve or narrow the issues in controversy or would assist in the conduct of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3925. Timeliness of Filings

All notices and filings provided for herein shall be presumed as given timely when the date or actual date of receipt, if hand delivered, of the copy received by the commissioner complies with appropriate delays herein provided. Copies to interested owners and represented parties shall be deposited on the same day in the United States mail, properly stamped and addressed, or, if telegraphic or wireless communication is used, dispatched on that day by the transmitting party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3927. Notice of Continued Hearing

When a hearing is opened and continued, the notice given for the original hearing shall be applicable to the continued hearing, if the hearing officer at the time of granting the continuance designates the new time, date and place of the continued hearing. In all other instances of a continued hearing, the applicant shall at least fifteen days before the hearing provide notice of the continued hearing by posting such notice in a prominent place in the area affected, by publishing such notice in a newspaper published in the vicinity or general area of the affected field and by mailing such notice to all interested owners, represented parties and interested parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3929. Rules of Hearing Conduct and Procedure

A. The applicant shall first present the entire geological, engineering or other bases in support of his proposal. Any interested owner or represented party who supports the applicant and complied with §§3915, 3917 or 3921 shall next present the entire geological, engineering or other bases in support of the applicant's proposal.

B. Any interested party wishing to present evidence supporting the applicant's proposal shall do so immediately after the applicant and supporting parties have completed their presentations.

C. Opponents who have complied with §3915, §3917 or §3921, in the order determined by the commissioner, shall then present the entire geological, engineering or other bases for their opposition. After all opponents have made their presentations, the applicant may present rebuttal geological, engineering or other testimony, but strictly limited to a refutation of the matters covered by the opponents. Rebuttal testimony should not be used to prove matters that should have been proven on direct examination.

D. Any witness shall be subject to cross-examination by the commissioner or any member of his staff and by no more than two representatives of a party. Cross-examination shall be conducted in accordance with the following guidelines:

1. Cross-examination should be limited to questions concerning the testimony and exhibits presented by the witness, and the witness should not be required to make measurements or calculations or comparisons between his exhibits and those presented by any other witness.

2. Matters peculiarly within the knowledge of the cross-examiner or his witnesses should be presented by them on direct examination, and there should be no attempt to establish such matters by cross-examination.

3. Cross-examination shall be conducted in a polite and courteous manner without reference to personalities of the witness or the party represented by the witness.

E. After the applicant and any opponents have made their presentations, any party shall be afforded an opportunity to make a statement. If such a statement includes technical data, the party shall be subject to being sworn and cross-examined.

F. The applicant, any opponent, or any supporting party may make opening or closing statements concerning their positions, but such statements shall not include technical matters which have not been presented by sworn testimony. The applicant shall have the right to make the last closing statement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3931. New Evidence

If new pertinent data becomes available to any person after proceedings have been initiated hereunder, such evidence shall be made available immediately to all interested owners and represented parties by notice of its availability and by release in accordance with §3909. Such evidence may be used by any person at the hearing and may be the basis for revision of units or other proposals previously made by the applicant or

any opponent, but the commissioner in his discretion may determine that additional time should be afforded for consideration thereof. The commissioner in his discretion may also establish a time limit beyond which new evidence may not be employed in the present proceedings. In this event application for a new hearing to consider the new evidence shall be made as soon as possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3933. Coverage of Rules

A. Any interested owner or represented party who is not notified by an applicant, as set forth in §3907 or §3917, as appropriate, and who does not attend the conference requested pursuant to §3911 or the conference scheduled pursuant to §3917, whichever is applicable, shall not be bound by the time periods set forth in §§3915 and 3917. The time periods set forth in §§3715 and 3717 shall be modified in the discretion of the commissioner as the circumstances justify.

B. Any attorney or consultant engaged at any time by an interested party shall immediately notify the applicant, interested owners and represented parties of his representation and thereafter said interested party shall be considered a represented party and shall comply with these rules of procedure. In this circumstance, §3921 shall be applicable if a conference were held, and the time periods set forth in §§3915 and 3917 may be modified in the discretion of the commissioner as the circumstances justify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3935. Penalty For Non-Compliance

A. Failure to comply with the provisions of or the spirit of these rules of procedure shall prevent an application from being advertised or heard, or shall prevent an opponent or supporting party from presenting evidence at the hearing, but an order issued by the commissioner shall not be invalid by operation of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3937. Time of Commencement

A. Unless circumstances indicate that undue hardship would otherwise result, every applicant shall commence proceedings under these rules of procedure so as to permit the application to be docketed, advertised, heard and properly considered for at least 15 days before the order is issued.

NOTE: If at all possible, any application hereunder should be received in the Baton Rouge office of the Office of Conservation at least 45 days before the application is to be fixed for hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

Chapter 41. Unit and Survey Plats

§4101. Unit Plats

A. The unit plat attached to any pre-application notice and/or any application and/or any unit plat presented at a public hearing shall properly identify the geologically significant wells which control the unit boundaries and shall show the distance of each such well from the unit boundary which it controls, and shall also show the property, lease or governmental subdivision lines which serve as unit boundaries and the section, township and range in which the unit or units are situated. The affected tracts shall be identified on the plat by the names of the fee and lease owners, based on the best available information.

B. If a geographical unit is proposed, the unit plat attached to any pre-application notice and/or any application and/or any unit plat presented at a public hearing, shall show the property, lease or governmental subdivision lines which are used as unit boundaries and they shall be identified as such, based on the best available information.

C. Each unit plat shall have a graphic scale shown thereon and copies of the base map upon which the unit is shown shall be made available to any interested party who requests it.

D. All participants at any pre-application conference shall make every effort to agree as to the best available base map and, if there is agreement, all parties shall thereafter use said map.

E. Any unit plat attached to a counter-plan shall follow all of the requirements set forth above and shall be on the same scale as that of the unit plat attached to the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by Department of Conservation, July 1, 1973, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§4103. Survey Plats

A. Survey plats presented to the Office of Conservation for approval after the issuance of an order shall properly identify all of the geologically significant wells and these wells shall be located on the ground based on the Lambert Plane Coordinate System or other recognized control, such as section corners, USC & GS monuments, etc. The survey plat shall show the distance of each geologically significant well from the unit boundary line which it controls and all geologically significant wells shall be located on the plat in correct relation to each other.

1. If a geologically significant well has been abandoned and cannot be found on the ground, the location as shown on the permit plat shall be used.

2. The affected tracts shall be identified on the survey plat by the names of the fee and lease owners, based on the best available information. Further, each unit plat shall have an inset or attachment showing the number, name, acreage (or other basis of participation) and the unit percentage participation of each tract.

B. If geographical units are adopted by a unit order, there shall be shown on the survey plat the property, lease or governmental subdivision lines which are used as unit boundaries and they shall be identified as such, based on the best available information.

C. The surveyed unit plat shall be based on the Louisiana Lambert Plane Coordinate System where practicable. If an orientation other than the Lambert Plane Coordinate System is used, the point of beginning for the unit outline shall be defined on the plat by relating the point to a known monument or section corner and the basis of the bearing orientation used for the survey shall be specifically defined.

D. Unit boundaries shall be defined by using Lambert coordinates or courses and distances with the length of each course dependent upon the sinuosity of the outline of the boundary.

E. If a unit order creates more than one unit the survey plat shall, if practicable, be a composite of all of the units, and if different unit operators are designated, the survey plat or plats shall be prepared through a coordinated effort of all designated operators. If not practicable to use a single composite survey plat for all of the units, a separate survey plat shall be prepared for each unit, with a composite plat showing all units.

F. When the survey plat is completed and before recordation thereof, as many copies as may be needed by the operator, plus two copies of the survey plat and a film overlay on the scale of the unit plat attached to the order, shall be submitted to the Office of Conservation in Baton Rouge for approval. There shall be placed on or attached to each survey plat submitted for approval the following certificate signed by the surveyor:

1. The requirements for Unit Plats and Survey Plats adopted by the commissioner of conservation have been complied with in all respects.

a. Each producing unit shall be surveyed and the survey plat submitted for approval in accordance with the foregoing within 90 days after the issuance date of the unit order. If a unit is not producing when created, a survey plat thereof shall be submitted within 90 days after the date production commences.

G. Exceptions to the provisions hereof may be granted by the Commissioner of Conservation, upon the showing of good cause therefor, without the necessity of public hearing or formal order.

H. These requirements shall apply to any unitization proceedings initiated on and after the first day of July 1973.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Natural Resources, Office of Conservation, October 1983, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

H. W. Thompson
Commissioner

RULE

Department of Natural Resources Office of Conservation

Multiple Completions (LAC 43:XIX.Chapter 13)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-C.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation: General Operations

Subpart 5. Statewide Order No. 29-C

Chapter 13. Multiple Completions

§1301. Scope

This Order provides rules and regulations governing the unprotested multiple completion of wells productive of hydrocarbons from multiple zones in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended June 21, 1960, September 1, 1960, June 15, 1962, March 1, 1967, September 1, 1971, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§1303. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meaning when found in this Order:

Common Source of Supply—shall comprise and include the area which is underlain, or which, from geological or other scientific data or from drilling operations or other evidence, appears to be underlain by a common accumulation of oil or gas or both; provided that if any such area is underlain or appears from geological or other scientific data or from drilling operations or other evidence to be underlain by more than one common accumulation of oil or gas, or both, separated from each other by strata of earth and not connected with each other, then such area, as to each said common accumulation of oil or gas, or both, shall be deemed a separate common source of supply.

District Manager—the head of any one of the Office of Conservation districts of the state and, as used, refers specifically to the manager within whose district the well or wells are located.

Multiple Completion—the completion of any well so as to permit simultaneous production from two or more common sources of supply with such common sources of supply completely segregated.

Office—the Office of Conservation of the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended June 21, 1960, September 1, 1960, June 15, 1962, March 1, 1967, September 1, 1971, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§1305. Order

A. On and after the effective date hereof, a permit to multiply complete a new or existing well in separate common sources of supply, where the proposed completions are in compliance with all applicable Office of Conservation orders and meet with the approval of the commissioner of conservation, may be obtained by submitting a complete application to drill, as outlined in Part XIX, Subpart 1 for each proposed completion concurrent with drilling and/or workover operations on the first completion, or at such other time as a desire to make a multiple completion is known, together with the prescribed fees in accordance with the procedure hereinafter outlined:

1. in the instance where a dual or a triple completion is applied for, the completions must be in separate sources of supply which have been approved for multiple completions elsewhere in the field. Where one or both of the completions are in separate sources of supply not previously approved elsewhere in the field, the application shall be advertised as provided for hereinafter under §1305.B.6.

2. in the instance where a quadruple, etc. completion is applied for, the completions must be in separate sources of supply in a common fault segment wherein the sands proposed for multiple completion have, in fact, already been multiply completed in other wells within the same fault segment;

3. all of the above concerns itself with the multiple completion of oil pools only. Where the application involves the multiple completion of a gas pool(s) with an oil pool(s), the restrictions set forth in §1305.A.1 and 2 above shall apply only to the oil pool(s).

B. The following procedure will be followed in submitting the required data for each multiple completion:

1. the applicant shall file the following with the appropriate district manager:

a. two copies of Form MD-10-R;

b. three copies of location plat (as prescribed by Part XIX, Subpart 1, Chapter 1, Section 103);

c. an application fee as established by Part XIX, Subpart 2 or successor regulation;

2. the district manager shall forward all originals and fees to the commissioner of conservation with his comments and appropriate copies to Louisiana Geological Survey;

3. after completion of the above well, the applicant shall file the following with the appropriate district manager for multiple completion(s):

a. three copies of Form A.D.C. No. 1;

b. three copies of Completion Report (Form Comp.);

c. two copies of electric log or portion thereof of the subject well showing clearly thereon the subsurface of the separate common sources of supply in which the applicant seeks permission to multiply complete the well;

d. two copies of diagrammatic sketch of the mechanical installation;

e. two copies of packer leakage test (Form P.L.T. No. 1);

f. two copies of packer setting certificate (Form P.S.C. No. 1);

4. the district manager shall forward all originals to the commissioner of conservation with his comments and appropriate copies to Louisiana Geological Survey;

5. any application for recompletion of an existing multiple completion shall comply with §1305.B.3 above;

6. in instances where one or more completions are in separate common sources of supply not previously approved for multiple completions, the commissioner of conservation shall give notice of the granting of such permit by a publication in the official journal for the state of Louisiana.

C. An allowable will be granted for each completion of a multiply completed well upon the filing of all information, as prescribed in §1305.B.3 above, and after a permit to drill has been issued for each zone.

D. Should the multiple completion application be denied or a valid written protest be received by the Office of Conservation within 15 days following the publication of the notice as required by §1305.B.6 hereof, the office will notify the applicant of such denial or objection. The operator may continue to produce at least one zone of the multiple completion. However, any allowable(s) previously assigned the remaining completion(s) shall be canceled by the Office of Conservation immediately.

1. A valid written protest shall mean a protest which, in the opinion of the commissioner of conservation, makes a public hearing on the application necessary prior to deciding the issue.

2. If the applicant requesting a multiple completion is unable to satisfy the objecting party, the applicant may apply for a public hearing for the purpose of having the matter decided.

E. In the event the commissioner of conservation approves the multiple completion as requested, the following list of requirements shall be complied with:

1. each multiple completed well shall be tested upon completion and annually thereafter in the following matter:

a. all completions shall be shut-in for a sufficient length of time to allow wellhead pressures to become stabilized and for a minimum of two hours thereafter, and a record made of the wellhead pressure buildup in each completion during the shut-in period. At the end of this shut-in period one of the completions shall be produced at such a rate and under such conditions as may be designated by the district manager, or his representative, for a period of six hours while the other completions are kept shut-in, and a record shall be made of the pressures of all completions during the test period. Upon completion of the initial test, the procedure shall be rotated and a following test carried out as outlined above with the completion that was produced during the previous test shut-in;

b. under unusual circumstances and conditions of the well being tested, this procedure may be altered providing the desired information is obtained.

2. the operator shall submit, in duplicate, to the appropriate district manager Form P.L.T. No. 1.

F. Should the zones approved for multiple completion become intercommunicative, the operator shall immediately repair and separate the zones.

G. Each separate reservoir shall be considered a separate well as to permits, allowables, fees and for all other purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended June 21, 1960, September 1, 1960, June 15, 1962, March 1, 1967, September 1, 1971, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

H. W. Thompson
Commissioner

RULE

Department of Natural Resources Office of Conservation

New Pools (LAC 43:XIX.Chapter 25)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-H-1.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation: General Operations

Subpart 10. Statewide Order No. 29-H-1

Chapter 25. New Pools

§2501. Scope

Order terminating Statewide Order No. 29-H, effective May 24, 1960, which adopted the basis of determination of allowable oil production and complementary spacing regulations for oil wells in any new pool, as defined therein.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, May 24, 1960, amended January 1, 1980, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§2503. Order

A. Statewide Order No. 29-H, effective May 24, 1960, be and is hereby terminated.

B. The allowable assignment for each oil well, including those wells previously assigned allowables based on the provisions of Statewide Order No. 29-H, should be based on the Statewide Crude Oil Depth Bracket Allowable Schedule adopted by Part XIX, Subpart 16, effective January 1, 1978.

C. The spacing provision requirements for wells in pools developed or being developed under Statewide Order No. 29-H should henceforth be regulated in accordance with the requirements as set forth in Chapter XIX, Subpart 7.

D. Any special order of the Office of Conservation which has adopted the spacing provision requirements of Statewide Order No. 29-H should be amended by reference and such provision requirements should be considered expunged coincident with the termination of Statewide Order No. 29-H, and simultaneously therewith, the spacing provision requirements of Chapter XIX, Subpart 7 should be considered adopted.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of

Conservation, May 24, 1960, amended January 1, 1980, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

H. W. Thompson
Commissioner

RULE

Department of Natural Resources Office of Conservation

Oil and Gas Commingling (LAC 43:XIX.Chapters 15 and 17)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-D.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation: General Operations Subpart 6. Statewide Order No. 29-D and Supplement Chapter 15. Commingling of Oil and Gas Production Onshore

§1501. Scope

This Order provides rules and regulations governing the unprotested applications for commingling and the use of methods other than gauge tanks for allocation of production from fields in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended February 25, 1957, June 1, 1962, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§1503. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meanings when found in this Order:

District Manager—the head of any one of the districts of the state of Louisiana under the Office of Conservation, and, as used, refers specifically to the manager within whose district the field or fields are located.

Office—the Office of Conservation of the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended February 25, 1957, June 1, 1962, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§1505. Order

A. From and after the effective date hereof, permission to commingle gas and/or liquid hydrocarbons and to use methods other than gauge tanks for allocation of production may be obtained without the necessity of a public hearing in the absence of protest, as hereinafter provided and upon strict compliance with the procedure set forth herein.

B. No permission to commingle gas and/or liquid

hydrocarbons and to use methods other than gauge tanks for allocation of production will be granted without public hearing unless and until the following required data and information shall have been filed with the district manager, said filings to be made in duplicate and to include the following described information:

1. diagrammatic sketch of the mechanical installation to be used with an explanation of the flow of the gas and/or liquid hydrocarbons;

2. signed statement that, in the opinion of the applicant, the commingling of gas and/or liquid hydrocarbons and the use of methods other than gauge tanks for allocation of production will provide reasonably accurate measurement, will not create inequities, and that the owner of any interest will have the opportunity to recover his just and equitable share of the reservoir content;

3. a list of all known owners, including operators and royalty owners, affected by the application.

C. Notice of the filing of an application to commingle and to use methods other than gauge tanks for allocation of production shall be published in the official journal of the state of Louisiana, and mailed to the interested owners, reference §1505.B.3 above.

D. Upon the basis of application as herein provided, no permission for the commingling of gas and/or liquid hydrocarbons and the use of methods other than gauge tanks for allocation of production will be granted, if, in the judgment of the commissioner, the data and information submitted does not warrant the approval of the application, or if any party protests the application by the filing of a written protest with the commissioner within 15 days following the first publication of the notice of the application; however, in either of the foregoing events, the application may be set for public hearing at the election of the applicant or the commissioner of conservation.

E. Should the application be for the approval of the use of liquid meters in lieu of gauge tanks and should the application for same be approved, the applicant shall provide a suitable means of testing each meter in order that the accuracy of any meter in operation can be proven, such testing to be done at least monthly and at such other times as the commissioner of conservation or his agent shall deem proper. The applicant shall indicate in the remarks column of each current R-1 Report that the appropriate meter testing and/or calibration tests have been conducted. The applicant shall retain the actual reports of such tests and such reports shall be kept on file and available for inspection by any agent of the Office of Conservation or any party at interest for a period of not less than three years.

1. Permission, in writing, from the Office of Conservation must be obtained for all by-pass or other lines that will permit flow around the regular meter, and each such line must have a meter that will permit individual well measurement.

F. Should the application be for the approval of the use of well tests, split stream tests, full stream tests or other method of determining GPM of the full well stream in lieu of gauge tanks and should the application for same be approved, such testing shall be done at least monthly.

1. Applications of this nature shall only be approved when the applicant files with the commissioner of conservation an executed copy of an agreement in which all royalty and working interest owners in the leases affected have voluntarily agreed to the proposal.

2. Should approval be given, the applicant shall indicate in the remarks column of each current R-1 Report that appropriate monthly well tests have been conducted. The applicant shall retain the actual reports of such tests and such reports shall be kept on file and available for inspection by any agent of the Office of Conservation or any party at interest for a period of not less than three years.

G. The results of all tests required by this Order shall be certified as being true and correct by the party performing the tests.

H. This Order shall be cumulative of, and in addition to all statewide orders, rules and regulations affecting the drilling and production of gas and/or liquid hydrocarbons, as heretofore promulgated and when in conflict therewith shall prevail. In case of any conflict between this order and the special orders on specific fields, said special orders on specific fields shall govern.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended February 25, 1957, June 1, 1962, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

Chapter 17. Commingling of Oil and Gas Production Offshore

§1701. Scope

This Order provides rules and regulations governing the commingling and the use of methods other than gauge tanks for allocation of production, and the establishment of permissive minimum standards for the commingling of production and allocating the commingled production to the individual wells in the offshore areas of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended February 25, 1957, June 1, 1962, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§1703. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meanings when found in this Order:

Deficient Wells—with reference to this particular order, wells producing more than 25 percent BS&W, and/or incapable of producing the current monthly depth bracket allowable.

District Manager—the head of any one of the districts of the state and under the Office of Conservation, and as used, refers specifically to the manager within whose district the well or wells are located.

Office—the Office of Conservation of the State of Louisiana.

Productivity Rate—the rate of which the well is producing into the common storage.

Top Allowable Wells—proratable wells capable of producing the current monthly depth bracket allowable.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended February 25, 1957, June 1, 1962, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§1705. Order

A. From and after the effective date hereof, permission to commingle gas and/or liquid hydrocarbons and to use methods other than gauge tanks for allocation of production in the offshore areas of Louisiana may be obtained without the necessity of a public hearing in the absence of protests, as hereinafter provided and upon strict compliance with the procedure set forth herein, and upon strict compliance with the permissive minimum standards as set forth in §1705.D below.

B. The provisions of Part XIX, Subpart 6, Chapter 15, §1505.B, with reference to the filing of required data and information, shall be incorporated in this supplement order by reference.

C. Notice of the filing of the application to commingle and to use methods other than gauge tanks for the allocation of production, shall be mailed to the State Mineral Board of the State of Louisiana, and where the field or fields made subject to the application is seaward of the Zone I line as defined in the State of Louisiana - United States Agreement of October 12, 1956, a notice shall be mailed to the supervisor of the United States Geological Survey.

D. Should the application be for the approval of the use of well tests in lieu of gauge tanks, and should the application for same be approved, such testing shall be done in compliance with the permissive minimum standards as set forth herewith:

1. all top allowable wells shall be tested a minimum of four hours at least once a month to determine productivity rate;

2. deficient wells shall be tested a minimum of four hours at least twice a month to determine productivity rate;

3. wells having any erratic producing characteristics that cause variable rates of flow while producing on a continuous choke size, shall be tested a minimum of four hours at least weekly to determine productivity rate;

4. if at any time between, the regular testing periods, as outlined above, the choke size of any well is changed, the time and date of change shall be recorded and a productivity rate test conducted after the well has stabilized on the new choke. Production allocation would be made according to these various productivity rates for the time they were in effect;

5. if at any time the choke in a well is changed because of wear, a test shall be conducted before the choke is changed and another one after the well has stabilized on the new choke. The average rate between the previous productivity rate test and the productivity rate test conducted immediately after the choke change should be used to determine production for this period only back to the first day of the current month;

6. if the producing characteristics of a well change between the regular testing periods, such as: the beginning or increase in water percentage; a change in gas-oil ratio, especially above the 2000/1 limit; or, considerable change in tubing pressure, etc., then tests shall be made at no longer

than one week intervals until production again stabilizes;

7. periodic spot checks should be made by members of the office, especially on unstable wells, water producing wells, and high gas-oil ratio wells;

8. daily checks on individual well head pressures shall be recorded and maintained by the operator of each well which has been granted permission to commingle in the offshore areas provided weather permits;

9. if any operator feels that some other interval of testing is appropriate he may request an exception to the above in writing addressed to the district manager outlining his problems and suggested interval of testing. The commissioner may, upon recommendation of the district manager and his staff, grant such exception as he deems appropriate by special administrative order without a public hearing.

E. Should approval be given, the applicant shall indicate in the remarks column of each current R-1 Report that appropriate monthly well tests have been conducted. The applicant shall retain the actual reports of such tests and such reports shall be kept on file and available for inspection by any agent of the Office of Conservation or any party at interest, for a period of not less than three years.

F. The results of all tests required by this Order shall be certified as being true and correct by the party performing the tests.

G. This Order shall be cumulative of, and in addition to all statewide orders, rules and regulations affecting the drilling and production of gas and/or liquid hydrocarbons in the offshore areas of Louisiana, as heretofore promulgated and when in conflict therewith shall prevail.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended February 25, 1957, June 1, 1962, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

H. W. Thompson
Commissioner

RULE

Department of Natural Resources Office of Conservation

Oil Reports (LAC 43:XIX.Chapter 9)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 25.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation: General Operations

Subpart 3. Statewide Order No. 25

Chapter 9. Reporting

§901. Scope

An Order providing rules and regulations governing and

requiring the keeping of records and the filing of reports by producers, transporters, storers, and refiners of oil, and concerning the production, transportation, storing and refining of oil in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, January 1, 1941, amended September 1, 1941, March 1, 1961, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§903. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meanings when found in this Order:

Barrel or Barrel of Oil—forty-two United States gallons of oil at a test of 60 degrees Fahrenheit, with deductions for the full percent of basic sediment, water and other impurities present, ascertained by centrifugal or other recognized and customary tests.

Field—the general area which is underlaid or appears to be underlaid by at least one pool or reservoir of oil as designated by monthly proration schedules issued by the Office of Conservation of the State of Louisiana.

Lease Tank—the tank or other receptacle into which oil is produced either directly from a well or from a well through gas separator, gun barrel or similar equipment.

Month and Calendar Month—the period or interval of time from 7 a. m. on the first day of any month of the calendar to 7 a. m. of the first day of the next succeeding month of the calendar.

Person, Producer, Oil, Illegal Oil, and Product—the meaning prescribed for each of said words as defined in R.S.30:3.

Refiner—every person who has any part in the control or management of any operation by which the physical or chemical characteristics of oil or products are changed, but exclusive of the operations of passing oil through separators to remove gas, placing oil in settling tanks to remove basic sediment and water, dehydrating oil, and generally cleaning and purifying oil.

Storer—every person as herein defined who stores, terminals, retains in custody under warehouse or storage agreements or contracts, oil which comes to rest in his tank or other receptacle under control of said storer, but excluding the ordinary lease stocks of producers.

Transporter—includes any common carrier by pipe line, barge, boat or other water conveyance or truck or other conveyance except railroads, and any other person transporting oil by pipe line, barge, boat or other water conveyance, or truck and other conveyance.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation January 1, 1941, amended September 1, 1941, March 1, 1961, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§905. Applicability

A. The provisions of this Order shall extend and apply to

all oil produced from each and every well within the state of Louisiana and all oil transported, stored, or refined within the state of Louisiana, and to every producer, transporter, storer and refiner in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation January 1, 1941, amended September 1, 1941, March 1, 1961, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§907. Form R-4

A. The Producer's Certificate of Compliance and Authorization to Transport Oil from Lease, Form R-4 Revised or most current revision thereof, is hereby adopted and made a part of this Order by reference.

B. Each producer of oil in the state of Louisiana, and each producer of condensate from a gas well, where produced in liquid form at the wellhead by ordinary production methods in the state of Louisiana, shall execute under oath, in quadruplicate, and file with the Office of Conservation, Baton Rouge, Louisiana, on or before the 15th day of September, 1941, a Producer's Certificate of Compliance and Authorization to Transport Oil From Lease, Form R-4 Revised or most current revision thereof, setting forth fully therein the data and information indicated by such form covering each lease in the state of Louisiana from which oil or condensate are produced.

C. After the effective date hereof, whenever there shall occur a change in:

1. operating ownership of any lease,
2. well name or lease name,
3. transporter from any lease,

a new Producer's Certificate of Compliance and Authorization to Transport Oil From Lease, Form R-4 Revised or most current revision thereof, shall be executed and filed in accordance with the instructions appearing on such form; except that in the case of temporary change in transporter involving less than the allowable for one month, the producer may, in lieu of filing a new certificate, notify by letter the Office of Conservation, Baton Rouge, Louisiana, and the transporter then authorized by certificate on file with the Office of Conservation of the estimated amount of oil to be moved by the temporary transporter and the name of such temporary transporter. A copy of such notice shall also be furnished such temporary transporter. In no instance shall the temporary transporter involve any greater quantity of oil or condensate than the estimated amount shown in said notice.

D. The Producer's Certificate of Compliance and Authorization to Transport Oil From Lease, Form R-4 Revised or most current revision thereof, when properly executed by the operator and approved by the Office of Conservation, shall constitute authorization to the approved transporter to transport oil or condensate from the lease named therein and shall remain in force and effect until a change occurs, as previously outlined, or is suspended or canceled by the Office of Conservation.

E. For each drilling permit that shall be altered, amended or changed after its initial issuance, Form MD-10-R-A shall

be executed and filed with the Office of Conservation, said Form MD-10-R-A being hereby declared the permanent record of the Office of Conservation for the purpose of identifying the operator of all oil or gas wells in the state of Louisiana; and it is hereby expressly provided that said Form MD-10-R-A shall be subject to the fee for alteration, change or amendment as established by Part XIX, Subpart 2 or successor regulation.

F. Where a transporter disconnects from a particular lease or ceases to remove oil therefrom and another transporter connects to such lease or begins to take oil therefrom, during a month, the transporter who ceases to take oil shall furnish to the connecting transporter a certified statement under oath, showing: the legal quantity of oil on hand 7:00 a. m. the first day of such month; the scheduled allowable to the date disconnected; and the quantity of oil moved from that particular lease during the current month. In such case the producer shall furnish to the connecting transporter a certified statement under oath showing the lease stock on hand 7 a. m. the date of new connection. No connecting transporter shall move oil from any such lease until after it shall have received such statements, except with the written permission of the commissioner of conservation or his authorized agent.

G. Each producer is prohibited from delivering illegal oil to any transporter, and each transporter is prohibited from removing any illegal oil from producer's lease tanks. Each transporter shall maintain necessary records of lease allowables and quantities of oil removed from the leases to which he is connected, whereby he can determine the calculated quantity of legal oil on hand at the close of each calendar month with respect to such leases. The calculated quantity of legal oil on hand with respect to any lease shall be determined for each succeeding month by adding to the quantity of legally produced oil on hand at the first of the month, the scheduled allowable quantity of oil for the respective lease for the current month, as established by the commissioner of conservation, less the quantity of oil removed from the respective lease tanks during the current month. If the calculated balance so determined is less than the actual gauged quantity on hand as reported by the producer on Monthly Producer's Crude Oil and/or Condensate Report, Form R-1 Revised or most current revision thereof, the transporter shall not remove during the following month any part of the oil on hand on the first day of the month in excess of the calculated legal balance so established. If the actual quantity of oil on hand with respect to a particular lease equals or is less than the quantity of legal oil established by the above method, the transporter may remove any part or all of such quantity of oil during the current month. Where the actual quantity of oil on hand with respect to a particular lease is less than the calculated quantity of legal oil established by the above method, the transporter, in determining the quantity of legal oil for the next succeeding month, shall substitute the actual quantity on hand for the calculated quantity on hand. Where there is more than one transporter moving oil from the same lease, the producer and transporters are required to furnish to each other information as to the quantity of oil on hand, the quantity transported from lease tanks and any additional information necessary to establish to the satisfaction

of each person involved the legal status of the oil produced.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation January 1, 1941, amended September 1, 1941, March 1, 1961, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§909. Form R-1

A. The Monthly Producer's Crude Oil and/or Condensate Report, Form R-1 Revised or most current revision thereof, is hereby adopted and made a part of this Order by reference.

B. Each producer of oil in the state of Louisiana, and each producer of condensate from a gas well, where produced in liquid form at the wellhead by ordinary production methods or as *Calculated Theoretical Condensate*, defined as the amount of condensate (allocated back to leases) that normally would be separated by conventional methods from natural gas well volumes flowing full stream directly to a plant without any condensate separation having been made at lease or a plant, shall furnish for each calendar month a Monthly Producer's Crude Oil and Condensate Report, Form R-1 Revised or most current revision thereof, setting forth complete information and data indicated by such forms respecting oil produced from every lease operated by said producer in the state of Louisiana, and respecting condensate produced from gas wells at the wellhead in liquid form by ordinary production methods from each lease operated by said producer in the state of Louisiana. Such report for each month shall be prepared and filed according to instructions on the form on or before the twenty-fifth day of the next succeeding month.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation January 1, 1941, amended September 1, 1941, March 1, 1961, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§911. Form R-2

A. The Transporter's and Storer's Monthly Report, Form R-2 or most current revision thereof, is hereby adopted and made a part of this Order by reference.

B. Each transporter of oil within the state of Louisiana shall furnish for each calendar month a Transporter's and Storer's Monthly Report, Form R-2 or most current revision thereof, containing complete information and data indicated by such form respecting stocks of oil on hand and all movements of oil by pipeline within the state of Louisiana and all movements of oil by water craft, or by trucks or other conveyances except railroad, from leases to storers or refiners; between transporters within the state; between storers and refiners within the state.

C. Each storer of oil within the state of Louisiana shall furnish for each calendar month a Transporter's and Storer's Monthly Report, Form R-2 or most current revision thereof, containing complete information and data indicated by such form respecting the storage of oil within the state of Louisiana.

D. The transporters and storers reports for each month shall be prepared and filed according to instructions on the

form, on or before the twenty-fifth day of the next succeeding month.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation January 1, 1941, amended September 1, 1941, March 1, 1961, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§913. Form R-3

A. The Refiner's Monthly Report, Form R-3 or most current revision thereof, is hereby adopted and made a part of this Order by reference.

B. Each refiner of oil within the state of Louisiana shall furnish for each calendar month a Refiner's Monthly Report, Form R-3 or most current revision thereof, containing the information and data indicated by such form, respecting oil and products involved in such refiner's operations during each month. Such report for each month shall be prepared and filed according to instructions on the form on or before the twenty-fifth day of the next succeeding month.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation January 1, 1941, amended September 1, 1941, March 1, 1961, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§915. Units and Method for Calculation of Quantities of Oil in Tanks

A. All quantities included in the reports provided for in this Order shall be reported in barrels computed from 100 percent tank tables and based upon actual physical gauges.

B. All reports provided for in this Order shall be verified by affidavit in the form or forms indicated, and any reports not so verified shall not be taken as filed in compliance with this Order.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation January 1, 1941, amended September 1, 1941, March 1, 1961, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§917. Record Keeping

All producers, transporters, storers and refiners within the state of Louisiana shall make and keep appropriate books and records covering their operations in Louisiana from which they may be able to make and substantiate the reports required by this Order.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation January 1, 1941, amended September 1, 1941, March 1, 1961, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§919. Effect on Overall Authority of the Commissioner of Conservation

This Order shall not be taken or construed to limit or restrict the authority of commissioner of conservation to

require the furnishing of such additional reports, data or other information relative to the production and processing of gas in this state as may appear to him to be necessary or desirable, either generally or specially, for the prevention of waste and the conservation of natural resources in this state; nor to limit or restrict the authority of the commissioner of conservation to waive the filing of any report or reports otherwise required hereunder in any special instance wherein the commissioner of conservation finds that such waiver is necessary to prevent undue hardship or imposition.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation January 1, 1941, amended September 1, 1941, March 1, 1961, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

H. W. Thompson
Commissioner

RULE

Department of Natural Resources Office of Conservation

Statewide Order 31-A (LAC 43:XIX.Chapter 33)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby amends Statewide Order No. 31-A.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation: General Operations

Subpart 14. Statewide Order No. 31-A

Chapter 33. Record Keeping and Report Filing

§3301. Scope

An Order providing rules and regulations governing and requiring the keeping of records and the filing of reports respecting the producing, taking, transporting, processing, cycling, and otherwise handling of natural gas within the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 7, 1941, amended January 1, 1942, December 1, 1955, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3303. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meanings when found in this Order:

Field, Month, and Calendar Month—shall have the meaning prescribed for each of said words, respectively, in Part XIX, Subpart 3, §903 promulgated by the commissioner of conservation on December 16, 1940.

Gas Gatherer—anyone who gathers gas other than his own

in a field or from several fields for delivery to a transporter or gas processing plant.

Person, Producer, Gas, and Products—shall have the meaning prescribed for each of said words as defined in R.S. 30:3.

Stripper Well—shall have the ordinary meaning as that term is generally understood in the oil and gas industry, but shall not be construed to include naturally flowing or artificial gas-lift oil wells.

Transporter—shall have the ordinary meaning as that term is generally understood in the oil and gas industry, but shall not be construed to include producers operating field gathering systems and direct transportation lines to ultimate consumers.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 7, 1941, amended January 1, 1942, December 1, 1955, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3305. Applicability

The provisions of this Order shall extend and apply to all gas produced from oil wells or gas wells within the state of Louisiana, excepting gas vented from stripper oil wells.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 7, 1941, amended January 1, 1942, December 1, 1955, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3307. Forms R-5-P and R-5-T

A. The Monthly Producer's Natural Gas Report Form R-5-P or most current revision thereof, is hereby adopted and made a part of this Order by reference.

B. The Monthly Transporter's Natural Gas Report Form R-5-T or most current revision thereof, is hereby adopted and made a part of this Order by reference.

C. All gas produced from oil wells and from gas wells within the state of Louisiana, excepting gas vented from stripper oil wells, shall be reported monthly on said Report Forms R-5-P or most current revision thereof and R-5-T or most current revision thereof. Every producer shall make Report Form R-5-P or most current revision thereof. Where, however, gas from any well is taken by any person other than the producer, the producer may authorize such person to make the report in his name, which report shall include all gas produced from said well. Every transporter shall make Report Form R-5-T or most current revision thereof. The producer or agent of the producer, and the transporter thus required to report shall execute under oath and file in the manner hereafter directed on or before the last day of each calendar month, Report Form R-5-P or R-5-T respectively, or most current revision thereof, setting forth fully the data and information indicated by such forms, and shall be complete as to data covering the calendar month next preceding the date of filing. Such reports for each month shall be prepared and filed in accordance with the instructions on the forms. The first report due under this Order shall be for the calendar

month of January, 1942, which shall be filed on or before the last day of February, 1942.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 7, 1941, amended January 1, 1942, December 1, 1955, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3309. Form R-6

A. The Monthly Gasoline and/or Cycling Plant Report Form R-6 or most current revision thereof, is hereby adopted and made a part of this Order by reference.

B. Each operator of a gasoline plant, cycling plant, or any other plant at which gasoline, butane, propane, condensate, kerosene, oil or other liquid products are extracted from natural gas within the state of Louisiana, shall furnish for each calendar month a Monthly Gasoline and/or Cycling Plant Report Form R-6 or most current revision thereof, containing the information indicated by such form respecting natural gas and products involved in the operation of each plant during each month. Such report for each month shall be prepared and filed according to instructions on the form on or before the last day of the next succeeding month.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 7, 1941, amended January 1, 1942, December 1, 1955, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3311. Affidavits

All reports provided for in this Order shall be verified by affidavit in the form or forms indicated, and any reports not so verified shall not be taken as filed in compliance with this Order.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 7, 1941, amended January 1, 1942, December 1, 1955, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3313. Record Keeping

All persons required by the provisions of this Order to keep the reports provided for herein shall make and keep appropriate books and records covering their operations in Louisiana from which they may be able to make and substantiate such reports.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 7, 1941, amended January 1, 1942, December 1, 1955, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3315. Gas Gatherer

A. Gas gatherer, as that term is defined in §3303 above, shall report the amounts of gas handled and disposed of on Office of Conservation Monthly Producer's Natural Gas Report, Form R-5-P or most current revision thereof. The gas

which has been produced in the field shall be reported on Form R-5-P or most current revision thereof under the section of the report entitled Production. The gas which has been gathered in the same field along with gas which has been gathered in nearby fields and transported to that field shall be reported on the same Form R-5-P or most current revision thereof under the section entitled Acquisitions. Indicated in this section shall be the company from whom the gas was received, the field from which the gas was produced and the amount of gas received.

B. In the event the gatherer has produced no gas in the field from which he is gathering, then he shall indicate in the production section of Form R-5-P or most current revision thereof that he has no gas production. His acquisitions in that field shall be listed in the acquisitions section.

C. The total gas production of the gas gatherer shall then be added to the total acquisitions.

D. He shall then indicate in the disposition section of Form R-5-P or most current revision thereof, the manner in which the total amount of gas produced and acquired was disposed.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 7, 1941, amended January 1, 1942, December 1, 1955, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§3317. Effect on Overall Authority of the Commissioner of Conservation

This Order shall not be taken or construed to limit or restrict the authority of the commissioner of conservation to require the furnishing of such additional reports, data or other information relative to the production and processing of gas in this state as may appear to him to be necessary or desirable, either generally or specially, for the prevention of waste and the conservation of natural resources in this state; nor to limit or restrict the authority of the commissioner of conservation to waive the filing of any report or reports otherwise required hereunder in any special instance wherein the commissioner of conservation finds that such waiver is necessary to prevent undue hardship or imposition.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 7, 1941, amended January 1, 1942, December 1, 1955, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

H. W. Thompson
Commissioner

RULE

Department of Natural Resources Office of Conservation

Substitute Unit Wells (LAC 43:XIX.Chapter 29)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-K.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation: General Operations

Subpart 12. Statewide Order No. 29-K

Chapter 29. Substitute Unit Wells

§2901. Scope

This Order provides rules and regulations governing the unprotected applications for designation of substitute unit wells.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, May 4, 1964, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§2903. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meanings when found in this Order.

Commissioner—the Commissioner of Conservation of the State of Louisiana.

District Manager—the manager of any one of the districts of the state of Louisiana under the Office of Conservation, and, as used, refers specifically to the manager within whose district the field or fields affected by the special order, as hereinafter defined, are located.

Interested Party—any owner, as owner is defined in Title 30 of the Louisiana Revised Statutes of 1950, who is known to the applicant after diligent search to own an interest within the unitized sand and any person, as person is defined in Title 30 of the Louisiana Revised Statutes of 1950, other than an owner, who is known to the applicant after diligent search to own an interest in the unitized sand and who is also known to have either a consultant or an attorney representing him in conservation matters.

Special Order—any order of the commissioner and any amendments or supplements thereto which created the unit for which the designation of a substitute unit well is requested.

Substitute Unit Well—any well already drilled to, or to be drilled to, completed or recompleted in the unitized sand which in the interest of good conservation practices should be designated to take the place of and become the unit well as determined by the special order.

Unitized Sand—the sand covered by the special order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, May 4, 1964, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§2905. Order

A. On and after the effective date hereof the commissioner may, in the absence of protest, designate by supplemental order a substitute unit well for any unit without the necessity of a public hearing upon proper showing that such substitute unit well is desirable and in the interest of sound conservation and that the location thereof complies in all respects with applicable special and statewide orders.

B. Future applications after the effective date hereof for the designation of a substitute unit well shall be made to the commissioner with copy to the district manager and to interested parties and such application shall include the following:

1. statement of reason explaining the need or desire for the designation of the substitute unit well;
2. plat showing the unit and the location of the proposed substitute unit well;
3. list of the names and addresses of all interested parties notified of the application; and
4. an application fee established by Part XIX, Subpart 2 or successor regulation.

C. Notice of the filing of the application for designation of a substitute unit well shall be published in the official journal of the state of Louisiana giving notice that unless a written protest is filed with the commissioner within 15 days following the publication of notice of the application, the commissioner may grant the request for the designation of the substitute unit well without the necessity of a public hearing.

D. Upon the basis of the application as hereinabove provided and the notice set forth herein, the commissioner may supplement a special order designating a substitute unit well as proposed. However, no designation of a substitute unit well shall be granted without a public hearing if, in the judgment of the commissioner, the location of the proposed substitute unit well is not in compliance with the provisions hereof or if any person protests the application by filing a written protest with the commissioner within 15 days following the publication of notice of the application. In either of the foregoing events, the application shall be set for public hearing at the election of the applicant or the commissioner.

E. This Order shall be in addition to all statewide orders, rules and regulations affecting the location, drilling, completion, or recompletion of wells as heretofore promulgated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, May 4, 1964, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

H. W. Thompson
Commissioner

RULE

**Department of Natural Resources
Office of Conservation**

Termination of Units (LAC 43:XIX.3101 and 3105)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-L-1.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation: General Operations

Subpart 13. Statewide Order No. 29-L-1

Chapter 31. Termination of Units

§3101. Scope

This order establishes rules and regulations for termination of any unit established by the commissioner of conservation pursuant to the authority of Title 30 of the Louisiana Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), repromulgated LR 19: (June 1993).

§3103. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meaning when found in this order.

District Manager—the manager of any one of the districts of the State of Louisiana under the Office of Conservation, and refers specifically to the manager within whose district the pool for which the unit sought to be terminated is located.

Interested Owner—any owner, as owner is defined in Title 30 of Louisiana Revised Statutes of 1950, who is known to the applicant after diligent search to own an interest within the pool for which the unit sought to be terminated was established.

Interested Party—any person, as person is defined in Title 30 of Louisiana Revised Statutes of 1950, who owns an interest in the pool for which the unit sought to be terminated was established.

Pool—an underground reservoir containing a common accumulation of crude petroleum or natural gas or both. Each zone of a general structure which is completely separated from any other zone in the structure is covered by the term pool.

Represented Party—any person, as person is defined in Title 30 of the Louisiana Revised Statutes of 1950, who is known to the applicant after diligent search to own an interest in the pool for which the unit sought to be terminated was established and who is known to have either a consultant or attorney representing him in conservation matters.

Unit—all units established for a particular pool, by order of the commissioner of conservation pursuant to authority of Subsection B of Section 9 or Subsection B or C of Section 5 of Title 30 of the Louisiana Revised Statutes of 1950.

Well—all wells drilled within the confines of the unit for which termination is sought.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), repromulgated, LR 19: (June 1993).

§3105. Order

A. On and after the effective date hereof, a supplemental order terminating any unit established by the commissioner may be issued after written application and upon proper showing in the manner provided herein, and in the absence of protest without the necessity of a public hearing, when with respect to the pool for which the unit was established, a period of one year and 90 days has elapsed without:

1. production from the pool; and
2. the existence of a well proven capable of producing from the pool; and
3. drilling, reworking, recompletion, deepening or plugging back operations having been conducted on a well to secure or restore production from the pool.

B. Each application for unit termination shall be filed with the commissioner with a copy to the district manager, each interested owner and represented party and shall include the following:

1. a plat showing the unit for which termination is being sought with each well located thereon, together with order number and effective date of the order of the commissioner establishing said unit. Each well shall be identified on such plat by operator of record, serial number and well name and number or by reference to an appropriate attachment;

2. a signed statement indicating the status of each well. Should there exist a well which has not been plugged and abandoned in accordance with Part XIX, Subpart 1, Section 137, sufficient geological, engineering, or other data with detailed explanation thereof to clearly demonstrate that said well is not capable of producing from the pool;

3. a signed statement indicating that with respect to the pool for which the unit was established, to the best of applicant's knowledge a period of one year and 90 days has elapsed without:

- a. production from the pool; and
- b. the existence of a well proven capable of producing from the pool; and
- c. drilling, reworking, recompletion, deepening or plugging back operations having been conducted on a well to secure or restore production from the pool.

4. a list of all interested owners and represented parties to whom a copy of the application has been sent;

5. an application fee established by Part XIX, Subpart 2 or successor regulation.

C. Notice of the filing of the application of unit termination shall be published in the official journal of the State of Louisiana giving notice that unless a written protest is filed with the commissioner within the 30-day period from the date of publication of notice, the commissioner may issue a supplemental order for such unit termination. In the event written objection is filed within said 30-day period, the applicant may apply for a public hearing for consideration of the application.

RULE

Department of Natural Resources Office of Conservation

Tubingless Completions (LAC 43:XIX.Chapter 27)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-J.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation:

General Operations

Subpart 11. Statewide Order No. 29-J

Chapter 27. Tubingless Completions

§2701. Scope

This Order provides rules and regulations governing unprotested applications in the use of tubingless completions in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1961, amended May 1, 1963, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§2703. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meanings when found in this Order.

District Manager—the head of any one of the districts of the state of Louisiana under the Office of Conservation, and, as used, refers specifically to the manager within whose district the field or fields are located.

Office—the Office of Conservation of the State of Louisiana.

Tubingless Completion—the completion of any well so as to permit the passage of production from one separate underground source through one production casing set in the well.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1961, amended May 1, 1963, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

§2705. Order

A. From and after the effective date hereof, permission to complete and produce wells without the use of tubing may be obtained from the district manager without the necessity of a public hearing in the absence of protests, and upon strict compliance with the procedure set forth herein.

B. No permission to complete and produce wells without the use of tubing will be granted without a public hearing unless and until the data and information required by the district manager shall have been filed in his office; said filings to be made in duplicate and to include the following information:

D. In the event a well deemed not capable of producing from the pool on the effective date of unit termination reestablishes production from the pool, or subsequent to the effective date of unit termination a determination is made that one of the other requirements as set forth in §3105.A was not met, the procedures set forth below shall be adhered to:

1. the commissioner of conservation shall mail legal notice to the district manager, original applicant, and to all interested owners and represented parties shown on the applicant's list in addition to the publication of legal notice in the official state journal, such notice to contain an explanation of factual situation regarding the unit termination and current productive status of the pool; and

2. such notice shall provide that unless written protest is received, within 30 days from the date of publication of notice, the commissioner of conservation shall issue a supplemental order rescinding the unit termination order; and

3. in the event a written protest is timely filed, the party filing said protest shall have a period of 15 days from the date of such protest in which to file an application for a public hearing pursuant to Subsection B of Section 6 of Title 30 of Louisiana Revised Statutes of 1950 requesting an order sustaining the unit termination. If the party filing the protest fails to timely file application for public hearing the commissioner shall issue a supplemental order as deemed appropriate without a public hearing.

E. That the effective date of any supplemental order issued hereunder can not be prior to the expiration of the legal advertisement period, reference §3105.C hereof. Consequently, any activity described in §3105.A hereof, including the issuance of a permit to drill a well within the confines of the unit for which termination is sought, occurring between the date of the signed statement, reference §3105.B.3 hereof and the expiration of the legal advertisement period, shall result in application denial.

F. Any supplemental order issued hereunder approving the application shall terminate all units created for the pool and shall be filed for record as provided in Section 11.1 of Title 30 of Louisiana Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), amended, LR 19: (June 1993).

H. W. Thompson
Commissioner

APPLICATION FOR TUBINGLESS COMPLETION
IN THE _____ FIELD.

Date: _____ Serial No.: _____
Field Name: _____ Parish: _____ Dept. Dist: _____
Operator: _____ Lease: _____ Well No.: _____

1. This application is for:
 - a. A proposed well
 - b. A well now being drilled
 - c. A well now drilled to total depth
2. The following facts are submitted:
 - a. Name of reservoir:
 - b. Approximate top of pay section:
 - c. Approximate bottom of pay section:
 - d. Approximate perforations:
 - e. Type of production (oil or gas):
 - f. Reservoir pressure: _____ psig at _____ feet subsea.
 - g. Reservoir pressure gradient: _____ psi per foot (from above).
 - h. Anticipated method of production following initial completion (flowing or artificial lift):
 1. Electric Log does not indicate any commercial productive sand above proposed top of cement.
3. The following are attached:
 - a. Diagrammatic sketch of proposed tubingless completion installation.
 - b. Plat showing location of well.
4. Has the district manager of the Office of Conservation granted tubingless completion in this field prior to this application? _____
5. Does all geological and engineering data now available indicate that this well and/or pool contains limited reserves to the extent that a normal completion is not feasible from the standpoint of economics? _____
6. List all other operators in the field where this well is located together with correct mailing address of each and evidence that each such operator has approved the tubingless completion applied for:
7. Is the fluid to be produced conducive to corrosion to the extent that any resulting corrosion will destroy the effective seal of the production casing during the producing life of this well?
8. If the answer to Item 7 above is Yes, what steps are proposed to combat or circumvent this corrosion problem?

By _____
Operator

Date Approved: _____
District Manager

C E R T I F I C A T E

This is to certify that, to the best of my knowledge and belief, the information contained in this application is true and correct.

Signed _____

Title _____

Representing _____

Form-T.C.-1

C. If an applicant for a tubingless completion installation is unable to obtain the approval of all of the other operators in the field then such an applicant must apply for a public hearing following the usual 10-day advertisement period after furnishing a list of all known parties, including operators and royalty owners, affected by the application, all in accordance with Title 30 of the Louisiana Revised Statutes of 1950, as amended.

D. All approved applications shall be subject to the applicant's conforming with the following requirements:

1. Conductor Pipe

a. The use and removal of conductor pipe during the drilling of any oil or gas well shall be at the option of the operator. Conductor pipe is that pipe ordinarily used for the purpose of supporting unconsolidated surface deposits.

2. Surface and Intermediate Casing

a. All fresh water sands shall be cased off by the surface or first intermediate casing in accordance with provisions of Part XIX, Subpart 1.

3. Producing Oil String

a. Producing or oil string is that casing used for the purpose of segregating the horizon from which production is obtained and affording a means of communication between such horizon and the surface.

b. The producing string of casing shall consist of new or reconditioned casing tested at mill tent pressure or at 1.25 times the maximum anticipated bottomhole pressure, whichever is greater. The producing string of casing shall be set at a sufficient depth to cut off all gas formations above the oil-saturated horizon in which the well is to be completed. The position of the oil horizon shall be determined by coring, testing or electrical logging, or other satisfactory method, and the producing string of casing shall be bottomed and cemented at a point below the gas/oil contact, if determinable and practicable. The producing string of casing shall be of sufficient size and completed with the proper amount of tension so as to allow the running of conventional bottomhole pressure bombs, temperature survey units and all instruments of similar nature to the depth of the producing horizon.

c. Cement shall be by the pump and plug method, or another method approved by the office. Sufficient cement shall be used to fill the calculated annular space behind the casing to such a point as, in the opinion of the district manager, local conditions require to protect the producing formations and all other oil and gas formations occurring above, but in every case, no less cement shall be used than the calculated amount necessary to fill the annular space to a point 500 feet above the top producing zone. The calculated amount of cement required shall be determined by a hole caliper survey or 1.5 times the theoretical volume required to fill this annular area.

d. The amount of cement to be left remaining in the casing, until the requirements of §2705.D.3.e below have been met, shall be not less than 20 feet. This shall be accomplished through the use of a float collar or other approved or practicable means, unless a full-hole cementer, or its equivalent, is used.

e. Cement shall be allowed to stand a minimum of 12 hours under pressure and a minimum total of 24 hours before initiating test or drilling plug in the producing or oil string. *Under pressure* is complied with if one or more float valves are employed and are shown to be holding the cement in place, or when other means of holding pressure are used. When an operator elects to perforate and squeeze or to cement around the shoe, he may proceed with such work after 12 hours have elapsed after placing the first cement.

f. Before drilling the plug in the producing string of casing in wells drilled to 3,000 feet or less, the casing shall be tested with a pressure equivalent to 1,500 psi surface pressure

RULE

**Department of Public Safety and Corrections
Office of the Management and Finance**

Automated Copy Fees (LAC 55:XI.101 and 103)

applied with water in the casing, and in wells drilled deeper than 3,000 feet, the casing shall be tested with a pressure equivalent to 3,000 psi surface pressure applied with water in the casing. If, at the end of 30 minutes, the pressure gauge shows a drop of 10 percent of the test pressure or more, the operator shall be required to take such corrective measures as will insure that the producing string of casing is so set and cemented that it will hold said pressure for 30 minutes without a drop of more than ten percent of the test pressure on the gauge.

g. If the commissioner's agent is not present at the time designated by the operator for inspection of the casing tests of the producing string, the operator shall have such tests witnessed, preferably by an offset operator. An affidavit of the test, on the form prescribed by the Office of Conservation, signed by the operator and witness, shall be furnished to the district office of the Office of Conservation shown that the test conformed satisfactorily to the above mentioned regulations before proceeding with the completion. If test is satisfactory, normal operations may be resumed immediately.

h. If the test is unsatisfactory, the operator shall not proceed with the completion of the well until a satisfactory test has been obtained.

i. A temperature survey shall be run in the producing string prior to perforating if returns were lost during cementing or unusual circumstances were noted during the primary cementing operation to assure all interested parties that the cement has been displaced a sufficient height outside the producing casing.

j. If a kill string is recommended by the district manager for the prevention of underground waste and the operator does not concur, such requirement pertaining to the installation of a kill string shall be resolved by the conservation commissioner and his staff after due consideration and review. The conservation commissioner and his staff shall also determine the minimum setting depth, size, and quality of the kill string, if required.

k. No permit to make a tubingless completion in a corrosive or extreme pressure (gradient in excess of .5 psi per foot of depth or surface tubing pressure in excess of 4,500 psig) field shall be granted unless preventive measures for the corrosion or extreme pressure problems have been resolved and approved by the district manager.

E. This Order shall be cumulative of and in addition to all Statewide Orders, rules and regulations affecting the drilling and production of gas and/or liquid hydrocarbons heretofore promulgated, and when anything in this Order is in conflict therewith, then the provisions of this Order shall govern. In case of conflict between this Order and any special orders issued on specific fields, said special orders on specific fields shall govern.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation March 1, 1961, amended May 1, 1963, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

H. W. Thompson
Commissioner

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Public Safety and Corrections has updated its pricing policy beginning with fiscal year 1992-93 for contractual agreements to purchase computerized data from the motor vehicle, drivers license and alcoholic beverage control files. This rule also describes new policies affecting the purchase of in-house and adhoc reports.

Title 55

PUBLIC SAFETY

Part XI. Management and Finance

Chapter 1. Fees

§101. Initial and Contract Requests

All initial inquiries will be directed to the director of information services within the office of management and finance. Rates may be updated each fiscal year or as legislative statutes change. For one-time requests, a minimum deposit of 75 percent of the estimated cost is required before any work shall commence. For contractual agreements which require multiple updates over a period of time, the customer must provide a bond, a certified check or other negotiable instrument made payable to the Department of Public Safety (such as a "CD") equivalent to three billing cycles of the estimated cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:853B(1), 32:727E, 32:393.1C.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 19: (June 1993).

§103. Automated Copy Fees

A. Pricing policy for motor vehicle data extracted on a daily basis under contractual agreement which includes title, registration, renewal and other non-specific data is \$25 per thousand records.

B. The pricing policy for drivers license, motor vehicle and alcoholic beverage control master records utilizing standard utility programs available for one-time extracts is as follows:

1. State, parish and municipal governments requesting less than 25,000 records:

- a. 5,000 or less records \$100;
- b. 10,000 or less records \$200;
- c. 15,000 or less records \$300;
- d. 20,000 or less records \$400;
- e. 25,000 or less records \$500.

2. State, parish and municipal governments requesting greater than 25,000 records:

- a. basic processing fee \$500;
- b. first 50,000 records \$.01 each;
- c. next 100,000 records \$.005 each;
- d. next 850,000 records \$.0025 each;
- e. all additional records \$.00125 each.

3. All non-governmental bodies:

- a. basic processing fee \$500;
- b. first 50,000 records \$.03 each;
- c. next 100,000 records \$.02 each;
- d. next 850,000 records \$.01 each;
- e. all additional records \$.005 each.

RULE

**Department of Public Safety and Corrections
Office of State Police**

**Breath-Alcohol Ignition Interlock Device
(LAC 55:I.Chapter 6)**

4. Cost of supplies (paper, postage, etc.)--actual cost.
C. Pricing policy for online driver history data is \$6 per history record as per statute. Pricing policy for online master records (all types) is \$2 per transaction.

D. Pricing policy for contractual agreements which require multiple updates over a period of time is as follows:

- 1. cost of programmer/analyst work is \$50 per hour;
- 2. setup cost for data control and operations, as applicable is \$30 per hour;
- 3. flat rate charge of \$.03 per record;
- 4. cost of supplies.

E. Pricing policy for customized one time request is as follows:

- 1. cost of programmer/analyst work is \$50 per hour;
- 2. cost of data control and operations is \$30 per hour;
- 3. record pricing policy reflected in subsection A;
- 4. cost of supplies.

F. Pricing policy for online access or continually updated reports that does not currently exist will be developed and provided by written estimate upon a written request from a customer.

G. Pricing policy for continually updated in-house reports requested by non-governmental bodies is \$100 for the first report and \$25 for each additional report per update or per week. There is an additional \$.03 per record charge.

H. Pricing policy for continually updated in-house reports requested by governmental bodies is \$100 for the first report and \$25 for each additional report per update or per request.

I. Pricing policy for copies of other preprinted in-house statistical reports is \$1 per page plus postage for current information. Copies of non-current reports (past years) are \$25 each.

J. Pricing policy for batch access of drivers license and motor vehicle records extracted specifically for address verification or similar purposes where specific input data is required is \$1000 per run plus \$.03 per record with a maximum of 15,000 records per run.

K. Copies of an individual's own public record requested by an indigent citizen of Louisiana shall be furnished free of charge. All other individual requests will be furnished as per state statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:853B(1), 32:727E, 32:393.1C.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 19: (June 1993).

Linda Dawkins
Undersecretary

The Department of Public Safety and Corrections, Public Safety Services, Office of State Police, hereby adopts the following rule covering the standards for departmental approval of breath-alcohol ignition interlock devices and the proper use and installation of such devices. These rules were made necessary by the enactment of R.S. 32:378.2 and R.S. 15:306 and 15:307 by the legislature in the 1992 Regular Session.

TITLE 55

PUBLIC SAFETY

Part I. State Police

Chapter 6. Ignition Interlock Devices

§601. Introduction

A. General Background. In the 1992 Regular Session, the legislature addressed the use of ignition interlock devices on vehicles available to persons convicted of driving while intoxicated. In Act 352 of the 1992 session, the legislature found it to be economically and technically feasible to have an ignition interlock device installed on a vehicle in such a way as to keep the vehicle from being started if the operator's blood-alcohol content is measurable and exceeds a level set herein. In this Act, enacting R.S. 32:378.2 and Act 982, enacting R.S. 15:306 and 15:307, the legislature authorized the courts to impose the use of such devices as a condition of probation after conviction of driving while intoxicated.

B. Purpose. The purpose of these rules is to promulgate a set of standards for the proper use of ignition interlock devices (R.S. 32:378.2[J]), a set of rules and regulations for the proper approval, installation and use of such devices (R.S. 15:307[C]), adopt a warning label to be affixed to said devices warning of criminal and civil penalties for misuse of such devices (R.S. 32:378.2[L] and R.S. 15:307[E]) and otherwise to declare substantive and procedural matters related to the functions and duties of the Department of Public Safety and Corrections under the Act to which reference is made above, as well as under its general authority set forth in R.S. 40:1304.

C. Interpretation. These rules shall be interpreted so as to favor the safety of the public and the findings of the legislature that ignition interlock devices are designed to supplement other conditions of probation and punishment of those convicted of driving while intoxicated. Usual rules of statutory construction on gender, time and similar matters shall apply. References to statutory standards, regulations, governmental agencies, companies, organizations, officials and similar persons or things shall be read as referring to and including any amendments or successors thereto.

D. Conflicts. Rules or language apparently or actually in conflict shall be read in accordance with the interpretative favor required in Subsection C above with the view of maximizing the effectiveness of every provision. In the

absence of a rule specifically addressing a particular matter, there shall be applied reasonable, just and equitable procedures and substantive decisions which are predictable from the spirit and intent of the legislative enactments and these rules. The basis for such equitable procedures and substantive decisions shall be articulated in writing and given effect in a manner which protects the safety of the public while recognizing the lack of a prior specific regulatory provision.

AUTHORITY NOTE: Promulgated in accordance with 57 FR, No. 67, 49 FR 48854, R.S. 32:378.2, R.S. 15:306, R.S. 15:307.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police LR 19: (June 1993).

§603. Definitions

Approved Ignition Interlock Device—an ignition interlock device, as defined in R.S. 32:378.2(M) and R.S. 15:307(A), which meets or exceeds the standards of the National Highway Traffic Safety Administration as published in Volume 57, No. 67 of the *Federal Register* for Breath-Alcohol Ignition Interlock Devices, as extant or subsequently amended, or for which any exemptions from specific provisions of same have been granted by the department and is certified by the manufacturer and accepted by the department.

Approved Manufacturer—a manufacturer in good standing with the department who has furnished the necessary background information, demonstrated the necessary capability and who has received written approval of the department to supply approved ignition interlock devices in Louisiana. A manufacturer shall not be regarded as an approved manufacturer if approval has been withdrawn as to any matters concerning the supply of ignition interlock devices.

Court—the judge who sentences a person convicted of driving while intoxicated, and as a condition of probation, imposes the use of an ignition interlock device. This also includes the clerical and professional staff of such judge.

Department—the Department of Public Safety and Corrections, together with any of its agents or employees acting pursuant to the duties imposed by the statutes or other laws, as well as law enforcement authority, and under these regulations.

Manufacturer's File On Driver—a folder of other approved filing system containing copies of all documents required to be furnished by a probationary driver to the manufacturer, together with copies of all inspection reports, maintenance records, records of driver failure to meet with checkup appointments and deadlines, any reports to the court and all other documents related to the manufacturer's contacts with a probationary driver.

Manufacturer's Proof of Installation—a standard form, approved by the department, prepared and executed by the manufacturer or his designated representative who installs an approved ignition interlock device in a vehicle to be used in accordance with the provisions of the statutes and these regulations and submitted to the court or a probation officer designated by the court, within 30 days of the installation of the ignition interlock device.

N.H.T.S.A.—the federal agency known as the National Highway Traffic Safety Administration or any successor agency.

Probationary Driver—a Louisiana motorist who has been

convicted of driving while intoxicated and given a probationary sentence which includes the requirement that he not operate a motor vehicle during his period of probation unless his vehicle is equipped with a functioning and approved ignition interlock device.

AUTHORITY NOTE: Promulgated in accordance with 57 FR, No. 67, 49 FR 48854, R.S. 32:378.2, R.S. 15:306, R.S. 15:307.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police LR 19: (June 1993).

§605. Manufacturers

Each manufacturer seeking approval shall submit to the department the following documents and items of information:

1. a copy of the corporate charter, and if the manufacturer is a corporation chartered outside of Louisiana, a certificate from the Louisiana secretary of state authorizing the transacting of business in Louisiana;

2. a statement providing the names, titles, addresses and phone numbers of all officers of the corporation or personnel of the manufacturer who are charged with knowledge of the operations and business of the manufacturer in Louisiana, together with a job title and description for each such officer of personnel;

3. a copy of each policy of liability insurance in force covering product liability and operations of the manufacturer in Louisiana;

4. a copy of a letter of instruction to the insurance company issuing the policy of product liability coverage for the manufacturer instructing said company to notice the department for any lapse in coverage for said policy;

5. a security bond in the face amount of \$1 million with a solvent surety company carrying at least an "A" rating with the commissioner of insurance for the state of Louisiana providing financial protection to any person or entity harmed by the malfunction of any approved ignition interlock device of the manufacturer which is used in Louisiana. This security bond may be utilized in lieu of the providing of a policy of product liability insurance referred to in Paragraph 3 above;

6. Copies of all forms, documents, manuals or other written materials of the manufacturer utilized in the training of personnel or probationary drivers, in the administration of its maintenance and inspection programs or marketing of its product, along with any audio/visual aids so utilized. The manufacturer shall not utilize any such materials not provided to the department or approved by the department in administering its program and/or its product in Louisiana. Required documentation shall include the manual for training of the installers, manuals for the servicing and maintenance of the ignition interlock device and manuals or other aids provided to probationary drivers.

AUTHORITY NOTE: Promulgated in accordance with 57 FR, No. 67, 49 FR 48854, R.S. 32:378.2, R.S. 15:306, R.S. 15:307.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 19: (June 1993).

§607. Regulation of Manufacturers

A. Good faith compliance with statutory regulation is required as a condition of continued good standing and approval of a manufacturer and his devices and operations. Neglect of good faith compliance, along with

tardy, inaccurate or incomplete reports or record keeping, unavailability of key persons to receive communications from the department or failure to appear before the department for consultations, discussions or clarifications, may give rise to written administrative warnings. Although the intent of this procedure is to provide a less formal method of mutually exploring the respective positions of the department and the manufacturer, this procedure can be utilized in conjunction with more formal methods requiring minutes, etc.

B. Under the general authority of R.S. 15:307(C), the department may impose probationary conditions upon a manufacturer who fails to adhere to the requirements of law. Probations will be imposed in the following manner:

1. Written warning will be provided to a manufacturer at the address provided to the department regarding any neglect or non-compliance with the statutory regulations.

2. If after a reasonable delay the manufacturer fails to comply with the statutory regulations, the department may issue another warning to the manufacturer or impose written probationary conditions upon said manufacturer. The department may withdraw approval of a manufacturer for an indefinite period of time until at least the manufacturer corrects all statutory non-compliance. Any withdrawal of approval shall be in writing and shall state the reasons for said withdrawal and shall be mailed to the manufacturer at the address provided to the department by the manufacturer. The manufacturer shall then notify all installers of its equipment in Louisiana of the withdrawal of approval in writing. The withdrawal of approval may be only partial as to a particular part of the manufacturer's program in those situations where deficiencies of the manufacturer only affect limited activities, persons or situations and where there is no general neglect of all facets of the manufacturer's operation in Louisiana.

C. All written notices to the manufacturer by the department shall be by certified mail, return receipt requested. All such notices shall be sent to the permanent business address of the manufacturer provided to the department by the manufacturer. Ineffective delivery of such written notices shall be deemed the fault of the manufacturer provided that the item is properly addressed to the last-provided permanent business address of the manufacturer. In any event that notice is not actually made due to fault attributed to the manufacturer, notice will be presumed to have been properly given.

AUTHORITY NOTE: Promulgated in accordance with 57 FR, No. 67, 49 FR 48854, R.S. 32:378.2, R.S. 15:306, R.S. 15:307.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 19: (June 1993).

§609. Manufacturer's File On Driver

The manufacturer, or his designated representative in Louisiana, shall maintain in a file unique to each probationary driver legible copies of the following documents:

1. order of the sentencing court setting forth the terms and conditions of probation;
2. certificate of installation and acknowledgement by probationary driver;
3. ignition interlock monitoring reports;
4. if the probationary driver is utilizing a third-party

owned vehicle, written permission from the owner of said vehicle to install the approved ignition interlock device;

5. any physical evidence of tampering or attempted tampering with the ignition interlock device discovered by the manufacturer or his designated representative.

AUTHORITY NOTE: Promulgated in accordance with 57 FR, No. 67, 49 FR 48854, R.S. 32:378.2, R.S. 15:306, R.S. 15:307.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 19: (June 1993).

§611. Driver's License and Proof of Insurance

Within seven days of the date the court imposed a probationary sentence upon a probationary driver, the probationary driver shall submit his current Louisiana driver's license to the department for the imprinting of the court's restriction on said license. The probationary driver shall also furnish to the department proof of liability insurance coverage pursuant to R.S. 32:871, et seq. The department shall charge the probationary driver the sum of \$5.50 as a handling fee for the above services.

AUTHORITY NOTE: Promulgated in accordance with 57 FR, No. 67, 49 FR 48854, R.S. 32:378.2, R.S. 15:306, R.S. 15:307.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 19: (June 1993).

§613. Ignition Interlock Standards

A. Any breath-alcohol ignition interlock device submitted to the department for approval as an approved ignition interlock device shall be accompanied by the certificate of an independent testing laboratory approved by the Applied Technology Division of the Office of State Police indicating that the device meets or exceeds the standards of the National Highway Traffic Safety Administration for such devices as published in Volume 57, No. 67 of the *Federal Register*, as currently extant or subsequently amended, or for which any exemptions from specific provisions of same have been granted by the department. A complete and certified copy of the testing protocol and the results thereof of the independent testing laboratory shall also accompany any breath-alcohol ignition interlock device submitted for approval.

B. In order to obtain approval of the department as an approved ignition interlock device, the manufacturer shall amply demonstrate that said unit meets or exceeds the above federal standards and fulfills the statutory requirements as to:

1. safe operation of the vehicle in which the unit is installed;
2. lack of interference with normal use of the vehicle;
3. protection against compromise or circumvention and preservation of evidence of such activity;
4. resistance to tampering;
5. ability to work reliably and accurately in an unsupervised environment;
6. ability to initiate a "restart" of the vehicle's ignition within one minute after the ignition has been turned off without requiring another breath-alcohol analysis;
7. measurement of a person's breath-alcohol concentration by delivery of a deep lung sample directly into the device;
8. disablement of the ignition system of the vehicle if the breath-alcohol concentration of the sample introduced into the

device exceeds .03 grams of alcohol per 210 liters of breath;

9. disablement of the ignition system of the vehicle if the ignition interlock device has not been calibrated and serviced within a period of 67 days subsequent to its installation or last calibration or inspection, whichever is sooner;

10. recordation of each time the vehicle is started, the time of each start, how long the vehicle was operated and any instances of tampering or attempted tampering with the unit;

11. visibly indicate to the user and any qualified person:

- a. the unit is on;
- b. the unit has enabled the ignition system of the vehicle in which it is installed;
- c. the unit is in need of service or calibration;
- d. failure of the BAC threshold and the reading obtained by the unit on the breath sample introduced;
- e. any other indication required by the department. The unit may augment visible signals or indications with audible ones.

f. In addition to the above standards, the department may require the unit submitted for approval to meet or exceed other requirements deemed necessary to insure the safety of the public or mandated by the above-specified Federal BAIID regulations.

C. The manufacturer shall also supply for each approved unit sent to Louisiana for installation a sufficient supply of warning labels, one of which shall be affixed to each unit at all times it is installed which shall not be less than 1/2 inch in height by three inches in length and carry the following language: "WARNING! ANY ACTUAL OR ATTEMPTED TAMPERING OR CIRCUMVENTION OF THIS DEVICE CAN SUBJECT YOU TO CRIMINAL AND CIVIL LIABILITY." The manufacturer shall also supply to all authorized installers of its approved ignition interlock devices a sufficient supply of self-adhesive labels, one of which shall be affixed to the rear of each vehicle in which an approved interlock device is installed at a level not lower than that of the license plate on each vehicle and visible in daylight at a range of not less than 50 feet, triangular in shape and measuring 3 1/2 inches on each side, white in color, with red letters indicating "I.I.D." The manufacturer shall submit to the department samples of all such required labels at the time of submission of the ignition interlock device for approval.

AUTHORITY NOTE: Promulgated in accordance with 57 FR, No. 67, 49 FR 48854, R.S. 32:378.2, R.S. 15:306, R.S. 15:307.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 19: (June 1993).

§615. Installation and Inspection

Pursuant to the requirements of R.S. 32:378.2(H) and R.S. 15:306(C), all approved ignition interlock devices installed shall be inspected and calibrated at least each 60 days, or at such other intervals required by the court. Each installation and inspection shall be at the cost of the probationary driver, which shall not exceed the sum of \$30 each. The manufacturer, or his designated representative installer, shall furnish to the sentencing court a copy of each inspection or calibration performed on each approved ignition interlock device within 14 days of the monitoring.

AUTHORITY NOTE: Promulgated in accordance with 57 FR, No. 67, 49 FR 48854, R.S. 32:378.2, R.S. 15:306, R.S. 15:307.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 19: (June 1993).

§617. Notice of Probation Revocation

The sentencing court shall supply to the department notice of any revocation or modification of the probation of any probationary driver. Notice of same shall be sent to the Department of Public Safety and Corrections, Office of Motor Vehicles, Legal Compliance Section, Box 64886, Baton Rouge, LA 70896.

AUTHORITY NOTE: Promulgated in accordance with 57 FR, No. 67, 49 FR 48854, R.S. 32:378.2, R.S. 15:306, R.S. 15:307.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 19: (June 1993).

Paul Fontenot
Deputy Secretary

RULE

Department of Social Services Office of Family Support

Food Stamps (LAC 67:III.1992 and 1993)

The Department of Social Services, Office of Family Support, has amended LAC 67:III.1992 and 1993 in the Food Stamp Program.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter J. Determining Household Eligibility and Benefit Levels

§1992. Issuing Benefits

A. State Office ATP Issuing Procedures. The regular monthly Authorization to Purchase (ATP) cards will be mailed on 14 mailing dates. Mail codes which identify the mailing sequence will be computer-assigned to all households.

B. ATP Card Expiration Dates. Regular ATP cards assigned mail codes 11 through 14 will expire the month following their month of issuance. All ATP cards that are issued on, or after, the fifteenth day of a month will also expire the following month. These expiration dates are subject to federal approval of annual waiver requests.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 274.2 (c)(1) and 274.3.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:1268 (November 1992), amended LR 19: (June 1993).

§1993. Replacement of Benefits

A. - D. ...

E. REPEALED

AUTHORITY NOTE: Promulgated in accordance with F. R. 54:6989 et seq., 7 CFR 273.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:629 (August 1989), amended by the Department of Social Services, Office of Family Support, LR 19: (June 1993).

Gloria Bryant-Banks
Secretary

RULE

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

**Individual and Family Grant Program
(LAC 67:III.6501 and 6502)**

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 10, Individual and Family Grant Program.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 10. Individual and Family Grant Program

Chapter 65. Application, Eligibility, and Furnishing Assistance

Subchapter C. Need and Amount of Assistance

§6501. Maximum Grant Amount

A. The maximum grant amount in the IFG Program for Federal Fiscal Year October 1992 through September 1993 is \$11,900.

* * *

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131, P.L. 93-288 and F.R. 57:45794.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:744 (September 1989), amended by the Department of Social Services, Office of Family Support, LR 17:474 (May 1991), LR 17:766 (August 1991), LR 17:888 (September 1991), LR 18:939 (September 1992), LR 18:1352 (December 1992), LR 19:167 (February 1993), LR 19:606 (May 1993), LR 19: (June 1993).

§6502. Flood Insurance

* * *

B. For Federal Fiscal Year October 1992 through September 1993, the dollar value of the required flood insurance policy for housing and personal property grants where the applicant resides in a flood zone is \$7,000 building and \$4,900 contents for a homeowner, and \$11,900 contents for a renter.

* * *

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131 and P.L. 93-288.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:744 (September 1989), amended by the Department of Social Services, Office of Family Support, LR 17:474 (May 1991), LR 17:766 (August 1991),

LR 17:888 (September 1991), LR 18:939 (September 1992), LR 18:1352 (December 1992), LR 19:167 (February 1993), LR 19:606 (May 1993), LR 19: (June 1993).

Gloria Bryant-Banks
Secretary

RULE

**Department of Social Services
Office of The Secretary**

Child Care Providers (LAC 67:I.103 and 104)

The Department of Social Services, Office of the Secretary hereby adopts the following rule in the Child Care and Development Block Grant Program.

Title 67

SOCIAL SERVICES

Part I. Office of the Secretary

Chapter 1. Child Care Assistance Program

§103. Child Care Providers

* * *

D. A quality incentive will be paid to each child care provider that achieves NAEYC certification. The incentive will be paid once each calendar quarter, and will be equal to 10 percent of all payments received by that provider from the certificate portion of the Child Care and Development Block Grant for services provided during the prior calendar quarter.

* * *

F. The Child Care Assistance Program will provide cash assistance to child care providers to pay for repairs and improvements that are necessary to comply with DSS licensing or registration requirements. The program will pay for one-half of the cost of such a repair or improvement, up to the following maximums, which are based on the capacity of the child care provider.

<u>Number of Children</u>	<u>Maximum Grant</u>
Up to 20	\$ 50
21-40	\$100
41-60	\$150
61-80	\$200
81-100	\$250
101-120	\$300
Over 120	\$350

A provider can receive no more than one such grant in any fiscal year. To apply, the provider must submit an application form along with verification that the repair or improvement is needed to meet DSS licensing or registration requirements and an estimate of the cost of the repair or improvement.

* * *

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, 45 CFR Part 99, 45 CFR Part 255 and 45 CFR Part 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1269 (November 1992), LR 19: (June 1993).

§104. Payment

* * *

D. Payments to providers will be a percentage of either the provider's actual charge or the state maximum rate for authorized services, whichever is less. In no case will payment be made for absences of more than 10 working days by a child in any calendar month. Payment will also not be made for an extended closure by a provider of more than four consecutive days in any calendar month.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, 45 CFR Part 99, 45 CFR Part 255 and 45 CFR Part 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1269 (November 1992), LR 19: (June 1993).

Gloria Bryant-Banks
Secretary

RULE

**Department of Transportation and Development
Office of Real Estate**

Right-of-Way Disposal Fee (LAC 70:XVII.301)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development has adopted the following rule entitled "Disposal of Excess Highway Right-of-Way," in accordance with the provisions of R.S. 48:221.

Title 70


**DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT
Part XVII. Real Estate**

**Chapter 3. Disposal of Excess Highway Right-of-Way by
Department of Transportation and
Development**


§301. Policy

A. It shall be the policy of the Department of Transportation and Development to require a \$100 processing fee from any person or entity desiring to purchase state-owned properties. When a request for purchase is received, an application form will be sent to the requestor requiring the \$100 processing fee, together with acquisition data, map or survey, and other pertinent information concerning the desired property. If the property in question is approved for disposal, this \$100 processing fee will be credited toward the purchase price of the property. In the event the disposal is not approved or a sale is not consummated, the \$100 processing fee is non-refundable.

B. Purpose. The requirement of a processing fee is necessary to cover the cost of research and processing involved in disposal of immovable property.



STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
P. O. Box 94245
Baton Rouge, Louisiana 70804-9245



EDWIN W. EDWARDS
GOVERNOR

JUDE W. P. PATIN
SECRETARY

Dear _____:

Thank you for your letter expressing interest in excess property owned by the Department of Transportation and Development.

Please complete the attached application, entitled "Request To Dispose Of Excess Right Of Way," and return it to the Department with the required documentation and a processing fee of \$100, in the form of cashier's check, certified check, or money order. The fee is required to cover research and processing expenses incurred by the Department and is non-refundable, if the property is not approved for disposal or if a sale is not consummated. However, if the property is available for sale by the Department and a sale is consummated, the processing fee will be credited toward the purchase price at the time of closing.

As soon as we receive the required documentation and processing fee from you, we will process your request and advise you of the Department's determination concerning the disposal of this property.

Sincerely,

Real Estate Agent

Attachment

AN EQUAL OPPORTUNITY EMPLOYER
A DRUG FREE WORKPLACE

REQUEST TO DISPOSE OF EXCESS RIGHT OF WAY
LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

I. Applicant

NAME _____

ADDRESS _____ CITY _____ STATE _____ ZIP CODE _____

(A/C) _____ HOME PHONE _____ (A/C) _____ BUSINESS PHONE _____

Were you the owner of the property when it was acquired by the Department? (Check one) Yes No

II. Copy of Act of Sale whereby DOTD acquired property.

III. Legal description of the property which you are requesting disposal of:

(On the reverse side, provide a sketch of the property you believe to be excess, indicating any property you own adjacent to desired property.)

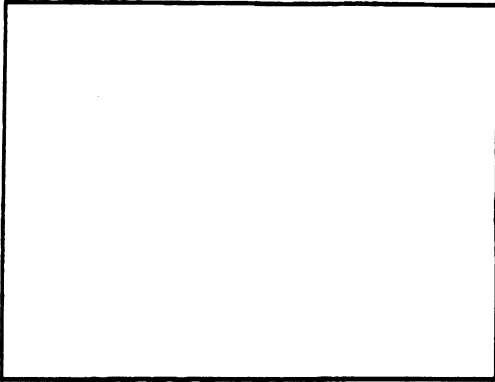
IV. List the name, address and telephone number of all abutting owners to the property which may be excess (show the location of these ownerships on the sketch on reverse side.)

Owner: _____	Owner: _____
_____	_____
Owner: _____	Owner: _____
_____	_____

Upon completion of all Sections of this application, please mail to:

REAL ESTATE SECTION
DOTD
P. O. BOX 94245
BATON ROUGE, LA 70804-9245

N



(Depict the location, i.e., 2 miles east of the intersection of US 91 and SE 31 on SE 31 and other information which would be helpful.)

Provide any additional information you believe is relevant: _____

- 3. Eliminate the supplemental emergency accident benefit.
4. Increase the emergency room deductible (waived if admitted) from \$50 per occurrence to \$100 per occurrence.
5. Limit the payment for prescription drugs prescribed by a physician and dispensed by a licensed pharmacist as follows:
a. subject to a separate \$100 annual deductible;
b. benefit payment based upon the generic equivalent, when available;
c. benefit payments not subject to stop loss (i.e. benefit payments for prescription drugs will never reach 100 percent).
6. Increase the hospital inpatient deductible from \$25 per day to \$50 per day for the first five days of confinement (waived at PPO hospitals).
7. Implement a maximum fee schedule for outpatient surgical facility charges.
8. Provide benefits for psychiatric and substance abuse diagnoses in a totally managed care setting under a per capita payment system at existing benefit levels.
9. Implement a Point-of-Service (POS) payment differential for non-use of a PPO doctor or facility.
a. PPO doctors and medical facilities will be paid (after deductibles) at 90 percent up to \$5,000 of eligible expenses.
b. If the needed medical service or prescription drug is available from a PPO provider in the area where the service is to be performed or drug dispensed and the covered person chooses not to use the preferred provider, benefits will be paid (after deductibles) at 70 percent up to \$5,000 of eligible expenses.
c. If the needed medical service or prescription drug is not available from a PPO provider in the area where the service is to be performed or the drug dispensed, benefits will be paid (after deductibles) at 80 percent up to \$5,000 of eligible expenses.
d. In all cases (except benefits for prescription drugs), benefits will be paid at 100 percent after incurring \$5,000 of eligible expenses during the year.
10. Cover as an eligible expense services provided by certified midwives and certified nurse midwives.

AMENDMENT NUMBER ONE

Amend the Plan Document Schedule of Benefits to read as follows:

SCHEDULE OF BENEFITS

Table with 2 columns: Benefit Description and Amount. Includes rows for Lifetime Maximum (\$750,000), Annual Automatic Restoration (\$4,000), Deductibles (Inpatient, Emergency room, Professional and other eligible expenses), and family unit maximum (\$900).

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:221.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19: (June 1993).

Jude W.P. Patin
Secretary

RULE

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

Plan Document Revisions

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program, effective July 1, 1993, has amended its Plan Document of Benefits as follows:

- 1. Implement a wellness benefit to cover the cost of one physical examination per year per covered person over 16 years old. This benefit would provide payment of up to \$100 per year, without deductible, for the cost of a physical, routine x-ray and laboratory work.
2. Delete the exclusion for the payment of birth control medication.

Prescription drugs prescribed by a physician and dispensed by a licensed pharmacist \$ 100
 Percentage payable after satisfaction of applicable deductibles:

Hospital Expenses:

	Preferred Provider Hospitals	All Other Hospitals
Hospital Room and Board, not to exceed the average semi-private room rate or the regional maximum, whichever is less	90%	70% in PPO area* 80% in non-PPO area
Intensive Care Unit not to exceed 2½ times the hospital's average semi-private room rate or 2½ times the regional maximum, whichever is less	90%	70% in PPO area* 80% in non-PPO area
Hospital miscellaneous charges	90%	70% in PPO area* 80% in non-PPO area
Hospital charges for inpatient surgery (facility charges only)	90%	70% in PPO area* 80% in non-PPO area

Other Expenses:

Prescription Drugs not to exceed the generic equivalent (when available) cost	90% (PPO)	70% in PPO area* 80% in non-PPO area
Prescription drugs shall never be eligible for 100% payment.		
Eligible expenses up to \$5,000 per calendar year, per person		70% in PPO area 80% in non-PPO area*
Eligible expenses in excess of \$5,000 per calendar year, per person		100%**
Professional medical services and outpatient hospital charges received through a Preferred Provider		90% of negotiated fee
Outpatient surgical facility charges, subject to maximum scheduled allowance	90%(PPO)	70% in PPO area* 80% in non-PPO area

- * A PPO provider will be paid (after deductibles) at 90%;
 - a. If the needed medical service or prescription drug is available from a PPO provider in the area where the service is to be performed or the drug dispensed and the covered person chooses not to use the preferred provider, benefits will be paid at 70 percent(after deductibles);
 - b. If the needed medical service or prescription drug

is not available from a PPO provider in the area where the service is to be performed or the drug dispensed, benefits will be paid at 80 percent (after deductibles).

** The \$5,000 eligible expense maximum shall not include any expenses for which 100 percent benefits are available in accordance with Section VII, Catastrophic Illness Endorsement (CIE). Other expenses not included or applied towards \$5,000 eligible expense maximum: 1) inpatient hospital expenses payable at 50 percent due to utilization review penalty, 2) expenses in excess of fee schedule, 3) 100 percent dental surgical benefits and adult physicals and well child care, and 4) prescription drug expenses in excess of the amount eligible for consideration.

Mental and Nervous/Substance Abuse:

By referral to contract therapist only

Lifetime Maximum \$ 50,000

Annual Maximum \$ 10,000

DENTAL SURGERY BENEFIT FOR SPECIFIED PROCEDURE

Percentage payable (Deductible waived) 100%

WELLNESS BENEFIT

Well Child Care (From discharge as a newborn through age 6)

Percentage payable (Deductible waived) 100%

Maximum benefit per calendar year per child

(limited to one office visit per year) \$35

Routine physical exams age 16 and above \$100/year

Limited to physical exam, routine x-ray and lab with no deductible

CATASTROPHIC ILLNESS ENDORSEMENT (Optional)

All eligible expenses are payable at 100 percent following diagnosis of any covered disease.

Maximums for any one disease or combination thereof per lifetime:

Option 1 -- \$10,000 Maximum

a) Seventy percent, or \$7,000 for inpatient hospital expenses

b) Thirty percent, or \$3,000 for outpatient and professional expenses

Option 2 -- \$5,000 Maximum

a) Seventy percent, or \$3,500 for inpatient hospital expenses

b) Thirty percent, or \$1,500 for outpatient and professional expenses

* If the Utilization Review Procedures as delineated in Article 3, Section III are not followed or the hospital admission or the procedure is not certified to be medically necessary, benefits otherwise payable will be reduced to 50 percent to a maximum penalty of \$2,000 per occurrence.

AMENDMENT NUMBER TWO.

Amend the provisions of Article 3, I, A, 2, as follows:

A R T I C L E 3

MEDICAL BENEFITS

I. COMPREHENSIVE MEDICAL BENEFITS

A. Definitions

The general definitions previously indicated in Article 1, Section I, of this document entitled *Definitions* are also applicable to this Article 3, Comprehensive Medical Benefits. In addition, the following definitions shall apply only to this Article 3, Section I, Comprehensive Medical Benefits.

1. *Deductible Amount*—those amounts indicated in the Schedule of Benefits.

2. *Out-of-Pocket Expenses*—the sum of (a) any eligible medical expenses used toward the satisfaction of any deductibles for that year, not including expenses incurred for non-confined alcoholism, that satisfied all or part of the deductibles; (b) 30 percent of all such eligible medical expenses which exceed the deductibles for that calendar year and for which benefits were paid at 70 percent; and (c) 20 percent of all such eligible medical expenses which exceed the deductibles for that calendar year and for which benefits were paid at 80 percent; and (d) 10 percent of such eligible medical expenses for which benefits were paid at 90 percent in accordance with Article 3, Section XI.

AMENDMENT NUMBER THREE.

Amend the provisions of Article 3, I, C as follows:

C. Benefits for Eligible Medical Expenses

When disease, illness, accident or injury requires the covered person to incur any of the eligible expenses defined herein, and such service or treatment is performed or prescribed by a physician while this coverage is in force with respect to such covered person, and after the deductible amounts as defined herein have been satisfied, the Program will pay, subject to applicable limitations of the Fee Schedule or the provisions as set forth in Article 3, Section II, F.

1. Seventy percent of the first \$5,000 of eligible expenses incurred at non-PPO facilities in an area where PPO contracts are in force and can provide the needed medical service or dispense the prescription drug.

2. Eighty percent of the first \$5,000 of eligible expenses incurred in areas where no PPO contracts are in place or cannot provide the needed medical service or dispense the prescription drug;

3. ninety percent of the first \$5,000 of eligible expenses in the event a covered person obtains professional medical services from a preferred provider who has agreed to accept a discounted fee pursuant to a contractual agreement approved by the Board of Trustees; and

4. except for prescription drugs, one hundred percent of eligible expenses in excess of \$5,000 for the remainder of the calendar year subject to the maximum amount as specified in the Schedule of Benefits.

AMENDMENT NUMBER FOUR

Amend the provisions of Article 3, I, F, 1 as follows:

F. Eligible Expenses

The following shall be considered eligible expenses, subject to applicable limitations of the Fee Schedule, under Comprehensive Medical Benefits when prescribed by a physician and medically necessary for the treatment of a covered person;

1. The hospital's daily charge for room and board, not in excess of the maximum as specified in the Schedule of Benefits;

AMENDMENT NUMBER FIVE

Amend the provisions of Article 3, I, F, 8 as follows:

F. Eligible Expenses

The following shall be considered eligible expenses, subject to applicable limitations of the Fee Schedule, under Comprehensive Medical Benefits when prescribed by a

physician and medically necessary for the treatment of a covered person;

8. Subject to the filing requirements of Article 4, Section IV, and the limitations and deductibles specified in the Schedule of Benefits, drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription and dispensed by a licensed pharmacist, except for dietary supplements, provided, however, that Vitamin B₁₂ injections for the treatment of Addisonian Type-A Pernicious Anemia shall not be considered a dietary supplement;

AMENDMENT NUMBER SIX.

Amend the provisions of Article 3, I, F, 25 as follows:

F. Eligible Expenses

The following shall be considered eligible expenses, subject to applicable limitations of the Fee Schedule, under Comprehensive Medical Benefits when prescribed by a physician and medically necessary for the treatment of a covered person;

25. The Program will cover eligible expenses related to the transplantation of an organ, including expenses for patient screening, organ procurement, transportation of the organ, transportation of the patient and/or donor, surgery for the patient and donor and immunosuppressant drugs as specified in the Schedule of Benefits. The following conditions must be met in order for this coverage to apply:

a. The transplantation must not be considered experimental or investigational by the American Medical Association.

b. The recipient must receive an opinion relative to the need for organ transplant surgery from two specialists board certified in the involved field of surgery. These specialists, who are not in practice together, must certify in writing that alternative procedures, services or courses of treatment would not be effective in the treatment of the patient's condition.

c. The recipient must be admitted to and the transplant surgery performed at a medical center which has an approved transplant program as determined by an appropriate governmental agency. Coverage for organ transplantation expenses will be subject to the same deductible, co-insurance, exclusions and other provisions which apply to other expenses that the Program covers. In no case will the plan cover expenses for the transportation of surgeons or family members of either the patient or donor.

AMENDMENT NUMBER SEVEN.

Amend the provisions of Article 3, I, F, by adding thereto another section, designated as 30, as follows:

F. Eligible Expenses

The following shall be considered eligible expenses, subject to applicable limitations of the Fee Schedule, under Comprehensive Medical Benefits when prescribed by a physician and medically necessary for the treatment of a covered person;

30. Outpatient surgical facility fees as specified in the maximum payment schedule for such facilities, as amended from time to time by the board.

AMENDMENT NUMBER EIGHT

Amend the provisions of Article 3, I, F, by adding thereto another section designated as 31 as follows:

F. Eligible Expenses

The following shall be considered eligible expenses, subject to applicable limitations of the Fee Schedule, under Comprehensive Medical Benefits when prescribed by a physician and medically necessary for the treatment of a covered person;

31. Without deductible, the expenses of one physical examination per year per covered person over 16 years old, up to a benefit payment of \$100 per year, including the cost of the physical exam, routine x-rays and laboratory services.
AMENDMENT NUMBER NINE

Amend the provisions of Article 3, I, F, by adding thereto another section designated as 32 as follows:

F. Eligible Expenses

The following shall be considered eligible expenses, subject to applicable limitations of the Fee Schedule, under Comprehensive Medical Benefits when prescribed by a physician and medically necessary for the treatment of a covered person;

32. midwifery services when performed by a certified midwife or a certified nurse midwife.

AMENDMENT NUMBER TEN

Delete the provisions of Article 3, II, D.

AMENDMENT NUMBER ELEVEN

Delete the provisions of Article 3, V, entitled Supplemental Emergency Accident Benefits.

AMENDMENT NUMBER TWELVE

Amend the provisions of Article 3, Section VIII as follows:
VIII. MEDICARE REDUCTION

Except as may otherwise be provided for by law, all benefits for services and supplies payable under all sections of this policy will be reduced when benefits are paid or payable through any present or future laws enacted by Congress of the United States including but not limited to Public Law 89-97, known and described as Medicare.

If the covered person has not chosen the full coordination of benefits option and paid a separate premium for this optional coverage, the charge for a service or supply will be reduced by whatever amounts are paid or payable by Medicare. The Program shall require written confirmation from the Social Security Administration or its successor that a plan member or his dependent is not eligible for Medicare coverage. All provisions of this contract, including all limitations and exceptions, will be applied to the balance, and benefits will be paid accordingly.

AMENDMENT NUMBER THIRTEEN

Amend the provisions of Article 3, XI, O as follows:

No benefits are provided under this contract for:

O. Charges for services, supplies, or treatment which are in excess of the maximum allowable under the Medical Fee Schedule, Outpatient Surgical Facility Fee Schedule or any other limitations set forth in the Plan;

AMENDMENT NUMBER FOURTEEN

Amend the provisions of Article 3, XI, W as follows:

No benefits are provided under this contract for:

W. Appetite suppressant drugs, dietary supplements, and vitamins; except Vitamin B₁₂ injections for the treatment of Addisonian Type-A Pernicious Anemia;

AMENDMENT NUMBER FIFTEEN

Amend the provisions of Article 3, XI, GG as follows:

GG. Routine physical examinations or active immunizations, except as provided in Article 3, Section (F) (28) and Article 3, Section (F)(31).

AMENDMENT NUMBER SIXTEEN.

Amend the provisions of Article 3, IX by adding thereto another subsection as follows:

KK. Any treatment or services for mental and nervous disorders or substance abuse provided outside the treatment plan developed by the Program's managed care contractor or by therapists with whom or at facilities with which the Program or its managed care contractor does not have a contract.

AMENDMENT NUMBER SEVENTEEN

Amend the provisions of Article 3, XI, as follows:

XI. PREFERRED PROVIDER PROGRAMS

The Board of Trustees may implement from time to time, at its sole discretion, Preferred Provider Organization arrangements or other agreements to discount payable fees. The board reserves to itself the right to negotiate the amount of the discount, the incentives to be offered to plan members and all other provisions which shall be a part of any discount fee arrangement.

In the event a covered person obtains professional medical services from an eligible provider who has agreed to provide such services at a mutually agreed upon discount from the maximum medical fee schedule adopted by the board, the program will pay, following satisfaction of all applicable deductibles, 90 percent of the first \$5,000 of eligible expenses and 100 percent of eligible expenses in excess of \$5,000 for the remainder of the calendar year subject to the maximum amount as specified in the schedule of benefits.

AMENDMENT NUMBER EIGHTEEN

Amend the provisions of Article 4, Section IV, as follows:

IV. FILING CLAIMS FOR PRESCRIPTION DRUGS

The Program may require a medical statement signed by a licensed physician, at least once a year, for expenses incurred on a continuing basis for prescription drugs and/or medical supplies.

AMENDMENT NUMBER NINETEEN

Amend the provisions of Article 4, Section V, as follows:

V. RIGHT TO SELECT PHYSICIAN OF CHOICE

Except for the treatment of mental and nervous disorders and substance abuse, and subject to any agreements for participation in a Health Maintenance Organization (HMO), Health Maintenance Plan (HMP), or other prepaid medical Plan, the covered person shall have the sole right to select his own physician, surgeon, and hospital; and the physician-patient relationship shall be maintained. However, the level of benefits payable under this plan may vary depending upon the utilization of preferred providers with whom the Program has managed care contracts.

James R. Plaisance
Executive Director

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Caddo Lake Black Bass (LAC 76:VII.167)

The Louisiana Wildlife and Fisheries Commission hereby adopts the following rule on black bass (*Micropterus spp.*) in Caddo Lake located in Caddo Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing §167. Black Bass Regulations, Caddo Lake

Harvest regulations for black bass (*Micropterus spp.*) on Caddo Lake located in Caddo Parish, Louisiana are as follows:

- Size limit: 14 inch-17 inch slot
Daily take: 10 fish of which no more than 4 fish may exceed 17 inches maximum total length.
Possession limit: On Water - Same as daily take.
Off Water - Twice the daily take.

A 14-17 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive.

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

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 19: (June 1993).

Bert H. Jones
Chairman

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Toledo Bend Reciprocal Agreement (LAC 76:VII.110)

The Louisiana Wildlife and Fisheries Commission does hereby amend the joint Louisiana/Texas Toledo Bend and Caddo Lake Sportfishing Reciprocal Agreement.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing §110. Toledo Bend Reciprocal Agreement

The daily creel limit, (daily take), for black bass (*Micropterus spp.*) is set at eight fish and the minimum total length is set at 14 inches in Toledo Bend Reservoir. The possession limit shall be the same as the daily take on water and twice the daily take off water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325(c), 326.3, 673.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:548 (August 1988), amended LR 17:278 (March 1991), LR 17:1123 (November 1991), LR 19: (June 1993).

Bert H. Jones
Chairman

NOTICES OF INTENT

NOTICE OF INTENT

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

St. Tammany Ban on Herbicides (LAC 7:XXIII.13139)

Notice is hereby given that the Department of Agriculture and Forestry, Office of Pesticide and Environmental Programs, intends to adopt and amend the following rules:

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 131. Advisory Commission on Pesticides Subchapter I. Regulations Governing Application of Pesticides

§13139. Restrictions on Application of Certain Pesticides

A.-L. ...

M. No person shall apply, use, or incorporate the use of any herbicide, as defined in LAC 7:XXIII.13103., including but not limited to, those registered with and/or approved by the U. S. Environmental Protection Agency or the Louisiana Department of Agriculture and Forestry, for the management, control, eradication or maintenance of weeds, grass, trees, shrubs, foliage, vegetation or other natural growth in any parish right-of-way, ditch, servitude, drainage area, roadside, road shoulder, green area, buffer zone, waterway, neutral ground or median in the unincorporated areas of St. Tammany Parish.

1. Definitions as used in this subsection M:

Ditch—natural or dedicated area which provides for the containment or flow of water from rain or adjacent drainage areas or waterways such as streams, creeks, ponds, lakes or rivers.

Drainage area—an area maintained for the purpose of

channeling or preventing accumulation of water from surrounding land.

Easement—a designated right to use the property of another for a specific purpose, i.e., drainage, utility easement.

Median/Neutral Ground—the area dividing or separating a roadway and not used for right of passage.

Right-of-Way—any public way, street, road, alley, easement, servitude or access, which was dedicated to or acquired by the St. Tammany Parish to provide means of access to abutting properties; whether paved, improved or unimproved, including those areas dedicated for proposed or future uses.

Roadside/Road Shoulder—natural or dedicated areas which are parallel, contiguous to, abut, adjoin, border, edge, connect or approach any public right-of-way, road, street or highway.

Servitude—a right-of-way through or across property belonging to another.

2. Exemptions herefrom are hand held manual pump sprayers up to a maximum three gallon capacity.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 19:

Subchapter BB. Pesticide Wastes

§ 13205. Appropriate actions

A. ...

B. When the commissioner has determined that there is a presence of pesticide wastes and that the pesticide wastes exceed promulgated federal or state standards, or when the commissioner determines that the concentrations of pesticides pose a threat or reasonable expectation of a threat to human health or to the environment, the commissioner shall take one or more of the following actions:

1.-5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 19:610 (May 1993), amended LR 19:

These rules comply with and are enabled by the Louisiana Pesticide Law, in particular R.S. 3:3203 and 3:3271.

All interested persons may submit comments, data, views or arguments on the proposed rule through July 30, 1993 to David Fields, Department of Agriculture and Forestry, 5835 Florida Blvd., Baton Rouge, LA 70806.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: ST TAMMANY BAN ON HERBICIDES

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs or savings to state or local government units are anticipated to result from the proposed rule amendments.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on state or local revenue collections is anticipated to result from the implementation of the proposed rule amendments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The proposed pesticide application rule amendment affect only St. Tammany Parish Police Jury and no persons or non-governmental groups are anticipated to experience costs or benefits. The pesticide waste rule amendment is merely technical and also will not affect competition and employment.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Since the proposed rule amendments on applications of certain pesticides affect only the St. Tammany Parish Police Jury, there will be no impact on competition and employment. The pesticide waste rule amendment is merely technical and also will not affect competition and employment.

Richard Allen
Assistant Commissioner

David W Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Marketing Market Commission

Poultry and Egg Standards (LAC 7:V.Chapter 15)

Under the authority of the State Market Commission, R.S. 3:401 et seq., the Louisiana Egg Commission, R.S. 3:551.1 et seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Agriculture and Forestry, Office of Marketing, Market Commission intends to amend, repeal and adopt in part the attached regulations pertaining to inspection and grading of poultry and eggs.

These rules comply with and are enabled by R.S. 3:405, 3:412 and 3:551.6.

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing Chapter 15. Market Commission-Poultry and Eggs Subchapter A. Certification of Official State Grades of Poultry, Poultry Products and Shell Eggs

§1503. Requirement for Certification of Poultry, Poultry Products, and Shell Eggs

A. The examination, acceptance and certification of poultry, poultry products, and shell eggs shall be in accordance with U.S. Department of Agriculture, A.M.S. (Agricultural Marketing Service), Poultry Grading Branch poultry and egg grading and inspection requirements.

B. Each master or shipping container of poultry and egg products shall be legibly labeled to show the net weight, U.S. grade, inspection mark, plant name and address, kind, class, and weight range.

C. A Louisiana certificate of condition and origin must be issued no more than seven days prior to delivery and must accompany each delivery of product to a state agency or political subdivision of the state. The certificate of condition examination and origin must contain:

1. the origin of the product, except as provided in LAC 7:1503(E) below;

2. the purchase order number of the purchasing agency;

3. verification of

a. wholesomeness of the product, i.e., no change in the product since initial inspection, and

b. compliance with the specifications of the purchase order.

D. The purchase order of the purchasing agency must indicate whether or not a vendor has claimed a preference based on provision of Louisiana agricultural products. When the purchase order of the purchasing agency does not indicate that the vendor has claimed a Louisiana agricultural products preference, no certification as to origin of the product will be made.

E. Each master or shipping container of poultry, poultry products, and shell eggs meeting the specifications of the purchase order shall be stripped on the outside of the container with non-glossy filament tape or equivalent. All tape used for sealing purposes must be approved by the State Department of Agriculture. The tape shall be placed so that it must be torn to open the container.

F. Each master or shipping container must be stamped with the U.S.D.A. contract compliance stamp and certificate number or U.S.D.A. Sample Grade stamp and date. The stamp imprint must be legible and placed partially on the container and partially on the tape on the end of the container.

G. All containers of Louisiana agricultural products must be stamped with a Louisiana agricultural products stamp.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:271 (June 1982), amended LR 19:

§1505. Time Limitation for Issuance of Certificate

A state of Louisiana condition examination and origin certificate must be issued not more than seven days prior to the scheduled delivery of the product to the purchasing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:272 (June 1982), amended LR 19:

§1511. Contractor's Obligations

A. Vendors requesting certification services under these regulations must provide such assistance as may be necessary to expedite the examination and certification of products and the taping of containers, including the provision of the necessary tape.

B. Vendors desiring certification services must notify the Department of Agriculture at least 24 hours in advance of need. Vendors who fail to give at least 24 hours advance notice of need shall be subject to a penalty of \$50, regardless of the time required for the services or the fees assessed.

C. The cost of all examination and certification services shall be paid by the vendor at the current U.S.D.A. rate for each hour required to conduct the examination, provided that no specific charge shall be made for certification of product when inspection is simultaneously performed.

D. Vendor must reimburse the Department of Agriculture for travel expenses of the inspector providing services, at the rate specified in state travel regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:272 (June 1982), amended LR 9:411 (June 1983), amended LR 19:

Subchapter B. Egg Grading and Marketing

§1513. Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, repealed LR 19:

§1515. Definitions

For the purpose of these regulations the following words, terms and phrases shall be construed to mean:

Ambient Temperature—the atmospheric temperature surrounding or encircling shell eggs.

Boiled Eggs—eggs that are hard or soft boiled, that are pickled, frozen, or by any other means preserved and sold commercially.

Broker—a person who never assumes ownership or possession of eggs, nor changes the grade or pack of eggs, but is engaged in the business of acting as agent, for a fee or commission, in the sale or transfer of eggs between producers, or dealer-wholesalers as sellers and dealer-wholesalers, processors, or retailers as buyers.

Candling—the practice of examining the interior of an egg by use of transmitted light for determining whether it is inedible, and for determining quality in grading edible eggs.

Case—30 dozen per case of shell eggs.

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

Consumer—any person using eggs for food, and shall include restaurants, hotels, cafeterias, hospitals, state institutions, schools, other places not specifically named such as bakeries, day care centers, nursing homes, etc. or any other establishment serving food to be consumed or produced on the premises, but shall not include the Armed Forces or any other federal agency or institution.

Dealer-wholesaler—any person engaged in the business of buying eggs from producers or other persons on his own account and selling or transferring eggs to other dealer-

wholesalers, processors, retailers, or other persons and consumers. A *dealer-wholesaler* further means a person engaged in producing eggs from his own flock and disposing of any portion of the production on a graded basis.

Denatured—rendering unfit for human consumption by treatment or the addition of a foreign substance such as lampblack, methylene dye, powdered charcoal or kerosene, in addition to crushing of the egg shells.

Department—the Louisiana Department of Agriculture and Forestry.

Egg Producer—any person, farm, corporation, or other entity that produces eggs.

Egg Products Inspection Act—Public Law 91-597, Egg Products Inspection Act, dated 12/29/70.

Eggs—the product of the domesticated chicken offered for sale for human consumption.

Federal Standards—the quality and weight requirements for grades as defined in the United States Standards for Shell that are now or may hereafter be established by the United States Department of Agriculture.

Frozen Egg Products—frozen whole eggs, frozen whites, or frozen yolks or any combination thereof to which have been added salt, sugar, or other food or noninjurious food additive.

Frozen Eggs, Frozen Egg Yolks, or Frozen Mixed Eggs—the food prepared by freezing liquid eggs.

Inedible and Unfit for Human Consumption—for eggs, this shall mean eggs described as black rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, egg showing blood rings, eggs containing embryo chicks (at or beyond the blood ring stage), leakers, and any eggs that are adulterated as such term is defined pursuant to the Food, Drug and Cosmetic Act.

Offered for Sale—eggs that are housed within any wholesale or retail place of business, or on or alongside of any loading or unloading platform in the state of Louisiana, or within a truck or other carrier that has come to rest within the state of Louisiana.

Packer—any person who grades, sizes, candles, and packs eggs for the purpose of resale.

Person—any individual, partnership, association, business trust, corporation or any organized group of persons, whether incorporated or not.

Possession—the fact of possession by any person engaged in the sale of a commodity is prima facie evidence that such commodity is for sale.

Processor—a person who operates a plant for the purpose of breaking or boiling eggs for freezing, drying, or commercial food manufacturing.

Producer—any person engaged in the business of producing eggs in Louisiana, either as an owner or as an officer or stockholder of a business engaged in producing eggs in Louisiana, or any person deriving a profit from such business.

Retailer—any person who sells eggs to a consumer.

Sell—to "offer for sale," "expose for sale," "have in possession for sale," "exchange," "barter," or "trade."

Standard—the quality specifications for a single egg, and a group of standards is combined to make a grade.

U.S.D.A.—the United States Department of Agriculture.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended LR 19:

§1516. Temperature Requirements

A. The temperature of shell eggs shall be held at an ambient temperature of 45° F or below at all times when being transported, stored, or displayed for sale except for brief periods of loading or unloading.

1. No shell egg handler shall possess any shell eggs that are packed into containers for the purpose of resale to the consumer unless they are labeled with the following statement: "keep refrigerated at or below 45° F."

2. Every person, firm, or corporation selling eggs for the purpose of resale to the consumer must store and transport shell eggs under refrigeration at an ambient temperature no greater than 45° F, and all containers of eggs must be labeled with the following statement: "keep refrigerated at or below 45° F." This includes retailers, institutional users, restaurants, nursing homes, dealer/wholesalers, food handlers, transportation firms, or any person who delivers to the retail or consuming trade.

B. Packers shall not be responsible for the interior quality of eggs if all recommended handling procedures in this Section are not followed by all parties following point of sale by packer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:

§1517. Sale or Offering for Sale of Eggs within Louisiana

A. No person, firm, or corporation shall sell, traffic in, or deliver to the retail or consuming trade, any eggs unfit for human consumption nor any eggs that do not meet Grade B requirements.

B. All eggs offered for sale in the state of Louisiana must be inspected by personnel of the Louisiana Department of Agriculture before being placed in retail outlets. If a particular lot of eggs does not meet the Louisiana grade standards the said lot may be seized by the inspector.

C. This Chapter shall be applicable to all retailers of eggs, except that retailers shall be permitted to sell eggs, identified as unclassified, when such eggs are purchased directly from producers who own less than 500 hens.

D. Invoices

1. Every person, firm, or corporation selling eggs to a retailer or manufacturer shall furnish an invoice showing the size, quality, and date of transaction of such eggs according to the standards prescribed by this Section together with the name and address of the person by whom the eggs were sold. This invoice shall be retained for two years.

2. Retailers shall be required to produce an invoice showing origin of eggs. These invoices must be kept for a period of two years. These invoices shall also show the name and address of the vendor, producer, packer, dealer-wholesaler or broker.

E. Containers

1. All containers shall show the name and address of the producer.

2. Any and all eggs offered for sale at retail shall be prepackaged, and shall be plainly marked as to grade and size with letters not less than three-eighths inch in height.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended LR 19:

§1519. Louisiana Standards, Grades and Weight Classes for Shell Eggs

A. Louisiana standards, grades and weight classes for shell eggs shall be as defined in the United States Standards that are now or may hereafter be established by the United States Department of Agriculture.

B. Louisiana Consumer Grades

The official Louisiana consumer grades for shell eggs are as follows:

Grade AA
Grade A
Grade B

C. Louisiana Weight Classes

Jumbo	Medium
Extra Large	Small
Large	Peewee

D. These grade are applicable to edible shell eggs in lot quantities rather than on an individual egg basis. A lot may contain any quantity of two or more eggs.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405 and R.S. 4:10.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended LR 19:

§1520. Inspections; Fees; Failure to Meet Standards

A. All eggs offered for sale in the state of Louisiana are subject to inspection by personnel of the Louisiana Department of Agriculture and Forestry.

B. There shall be a two cent per case assessment for all shell eggs graded or processed in the state of Louisiana. In addition, any plant outside of the state of Louisiana shipping eggs into Louisiana, for wholesale or retail, shall be charged the same assessment. This assessment shall be dedicated to the Louisiana Egg Commission.

C. An additional 18 cent per case inspection fee for all graded or processed shell eggs or egg products sold in the state of Louisiana, if the sale is to the consumer or if the purchase by the buyer is for the purpose of resale at the consumer level, or if by the dealer/wholesaler for the purpose of resale.

D. All egg products plants from outside the state of Louisiana shall be responsible for the fees due on all product entering the state of Louisiana. Additionally, at the discretion of the department, a dealer/wholesaler selling egg products in the state of Louisiana could be held liable for fees due in lieu of an egg products plant based on the following formula:

1. 36 pounds of frozen or liquid eggs shall represent a 30 dozen case of shell eggs.

2. nine pounds of dried eggs shall represent a 30 dozen case of shell eggs.

3. two containers of boiled eggs weighing 20 to 25 pounds each shall represent a 30 dozen case of shell eggs.

4. 50 pounds of cooked or diced eggs shall represent a 30 dozen case of shell eggs.

5. boiled/pickled eggs: case equivalent shall be determined by dividing the number of eggs in a container by 360.

E. Packers/producers shall be required to report and pay inspection fees on reported volume on a monthly basis. This shall be paid not later than the fifteenth of the following month. If a report is not received by the due date, a letter shall be sent to the packer/producer reminding them of the past due report. If the packer does not report within 10 days from date of the past due notice, the packer/producer's license shall be suspended and all eggs found shall be put off sale.

F. Report forms shall be supplied by the Louisiana Department of Agriculture and Forestry, Poultry and Egg Division. It shall be the responsibility of the packer to request these forms as they are needed.

G. Brokers and dealers-wholesalers shall be required to furnish evidence of origin by invoice on eggs which they handle. Wholesalers shall report volume of sales monthly on forms furnished by the department. On sale of eggs produced out-of-state, the last wholesaler/distributor that handles the eggs before they enter the retail market shall be responsible for paying all fees, if the out-of-state producer/packer has not paid such fees. Any fees collected from the out-of-state producer/packer that have been paid by the dealer/wholesaler shall be refunded to said dealer/wholesaler. In-state producers or packers are responsible for all fees of eggs they have sold in this state. Fees shall be paid not later than the fifteenth of the following month.

H. Brokers shall be required to furnish evidence of origin by invoice on eggs which they handle and sell in Louisiana. If eggs are nest run, then the packer buying such eggs shall be responsible for fees. If the eggs have been graded, then the packer who graded the eggs shall be responsible. However, if the state is not able to collect the fees from the out-of-state packer then the in-state packer shall be responsible for all fees. No fees shall be charged to place of origin on nest-run eggs; the packer buying the eggs shall be responsible for all fees.

I. Underpayment or overpayment found during audits are to be reported on the next monthly egg inspection report to the department.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:

§1522. Destination Tolerances; Additional Inspection Fees

A. No eggs shall be sold for resale to the consumers below U.S. Grade B, nor shall any eggs be sold as fresh eggs if the eggs are over 30 days of age.

B. Eggs not meeting destination tolerances of the grade designated on the container shall be subject to an additional inspection fee and shall have a Stop Sale place on them.

C. Eggs not meeting Grade B standards shall have a Stop

Sale issued, pay an additional inspection fee as set forth below, and be retained under U.S.D.A. provisions.

	Grade A Standards**	Grade B Standards*
1 - 10 cases	\$ 5.00	\$15.00
11 - 30 cases	20.00	30.00
31 - 99 cases	30.00	60.00
over 100 cases	40.00	80.00
*eggs failing to meet Grade B standards may be retained with a U.S.D.A. tag and a PY 518 Alleged Violations and Detention Notice.		
**eggs failing to meet Grade A standards, but meet Grade B standards shall be returned under a Louisiana Stop Sale, and shall be subject to an additional inspection fee.		

D. If an appeal grading is asked for and the inspector's decision is upheld, the party asking for the appeal grading shall pay all expenses incurred at the current federal rate. If the inspector's decision is reversed, the state shall absorb all expenses. Appeal grading shall be performed by the director or assistant director of the Poultry and Egg Division.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:

§1523. Labeling, Advertising and Displaying of Eggs

A. Terms, words, phrases, symbols, etc. used in the labeling and advertising of eggs such as fresh, newly laid, and yard eggs shall be applied only to eggs having not less than the minimum quality requirements of U.S.D.A. consumer Grade A or better and which have been so labeled as to grade and size.

B. Each carton or sleeve shall have on each individual container the following:

1. the grade and size;
2. the date when packed;
3. the name and address of packer/producer;
4. the Louisiana license number issued by the Louisiana Egg Commission (example: La000);

5. the phrase "keep refrigerated at 45° F or below";

C. Each case, regardless of size, of loose eggs shall have marked on one end:

1. the grade and size;
2. the name and address of packer/producer;
3. the date when packed;
4. the Louisiana license number (example: La000);
5. the phrase "keep refrigerated at 45° F or below" (this may be placed on the side or top of the case).

D. Eggs that are packed on flats (cartons that do not have tops or lids) and are shrink wrapped shall have the above information on a place card no smaller than 5 x 8 inches displayed immediately above the eggs so packed that are being offered for sale to the consumer. It is the responsibility of the retailer to see that such signs are posted.

E. License numbers shall have "La" preceding the number (example: La001).

F. All eggs advertised or displayed for sale for human

consumption shall designate the correct grade and size, and such designation shall also appear on the exterior of the container in which eggs are offered for sale.

G. Restaurants, hotels, and other dining places using eggs below Grade A quality shall be required to display a placard of heavy cardboard of not less than 8 x 11 inches, stating the quality and weight of the eggs used by the establishment, in a location where it can easily be seen by the customers, or in lieu thereof, place this information on the menu. If packers, jobbers, or dealer-wholesalers sell eggs below Grade A quality to restaurants, hotels, and other eating establishments, it shall be their responsibility to inform them to post such notices.

H. Grade and size of eggs must be identified in ads, papers, circulars, and point-of-sale materials.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended LR 19:

§1525. Exemption

Producers selling eggs of their own production on their own premises to individuals are exempt from the provisions of these regulations. No more than 30 dozen can be sold to one person at one time.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended LR 19:

§1528. Audits

A. All license holders are subject to yearly audits and must be audited at least once every two years to insure proper reporting of egg inspection fees and egg assessments to the Louisiana Egg Commission. Audits shall be performed by employees of the Louisiana Department of Agriculture and Forestry. Travel expenses incurred in conducting out-of-state audits are to be reimbursed to the Department of Agriculture and Forestry by out-of-state license holders.

B. The out-of-state daily allowance for meals and lodging, plus travel expense to and from locations of license holders shall be the maximum amount reimbursable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:

§1529. Violations

It is prohibited to:

1. prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport, sale in bulk or containers or advertise by sign, placard or otherwise any eggs for human consumption which are mislabeled, that are, or contain inedible eggs not denatured, or eggs that have been incubated;

2. use descriptive terminology for eggs that have not been graded and sized according to the standards set forth by the Louisiana Department of Agriculture and Forestry;

3. use descriptive terminology such as "fresh," "farm," "country," etc., or to represent the same to be "fresh" any eggs excepting those eggs that meet the minimum requirements of Grade A destination standards and are less than 30 days of age;

4. sell to the consumer eggs that are over 30 days of age.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended LR 19:

§1531. Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, repealed LR 19:

§1533. Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, repealed LR 19:

Subchapter C. Identification of Graded Dressed and Drawn (Ready-to-Cook) Poultry

§1535. Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, June 1954, repealed LR 19:

§1537. Definitions

Further Processing—when referring to poultry, means a poultry plant engaged in further processing of poultry - i.e., nuggets, patties, breaded products, etc.

Poultry—means any domesticated fowl, including chickens, turkeys, ducks, and geese.

Poultry Plant—a plant engaged in the business of slaughter or processing poultry for sale, either fresh or frozen.

R. T. C.—when referring to poultry, means "ready-to-cook," no further processing is necessary.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, June 1954, amended LR 19:

§1539. Application

A. No poultry may be offered for sale to the consumer unless it was slaughtered in a federally inspected plant or in a Louisiana plant that is state inspected to insure sanitation and to insure that the product is wholesome.

B. The specifications for poultry grade shall, at all times, be based upon *THE UNITED STATES QUALITY STANDARDS FOR POULTRY* formulated by the United States Department of Agriculture.

C. The Louisiana Department of Agriculture shall cooperate with the United States Department of Agriculture or any other agency in formulating cooperative programs for the furtherance of these regulations.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, June 1954, amended LR 19:

§1541. Labeling, Advertising and Displaying of Poultry

A. No poultry can be advertised for sale in newspapers, radio, store ads, or other means as Grade A, U.S. Grade A, or U.S.D.A. Grade A unless the product bears the U.S.D.A. Grade A shield. A store may advertise "cut-from grade A poultry" only if it is able to prove that the product was cut from Grade A whole poultry. It may not advertise "cut-from Grade A poultry" if it has in its place of business any like product that is not Grade A. (Example: it cannot advertise "8 piece cut chicken, cut from Grade A birds" if it has invoices, or whole product that was not Grade A.)

B. No retailer may mark product as grade A, A grade, or U.S. Grade A, either on the product or in placards above the product, or elsewhere in the store unless it has been graded and has a U.S.D.A. Grade Shield on the packaging, if individually wrapped. If the product was bulk packed, then the

retailer must have the label from the original master container and sales invoice to prove the product is A grade.

C. Wholesale

Whole birds, cut-up, and parts must be labeled or have imprinted or stamped on the individual wrappers the grade (if graded, the U.S.D.A. shield must also be on each container), part name or whole bird statement, name and address of the plant (including plant number except in the case of whole birds, the plant number may be on the clip), and U.S.D.A. legend.

D. Retail (not packaged, bulk)

In refrigerated cases with open displays of R.T.C. poultry, placards declaring the grade (if any) and part name or whole bird statement must be displayed immediately adjacent thereto. The size of the print used on such placard shall be large enough to be easily read.

E. Retail (packaged)

Packaged R.T.C. poultry offered for sale at retail must be labeled to show grade (if graded), part name or whole bird statement, net weight, and name and address of plant where produced. If packaged by the store, package must show store name.

F. All master containers in which dressed R.T.C. poultry, either loose or in smaller containers or individual wrappers, must also be labeled to show grade if any, part name, or whole bird statement, name and address of plant or dealer, and U.S.D.A. Legend (if from out-of-state).

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, June 1954, amended LR 19:

§1543. Violations

A. Any person, corporation or other organization violating the provisions herein may be fined not less than \$25 or more than \$500, as provided by Louisiana Revised Statutes of 1950, Title 3, Section 3:413.

B. Product mislabeled shall have a Stop Sale placed on it until it is properly labeled, as determined by an employee of the state Poultry and Egg Division.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405 and R.S. 3:413.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, June 1954, amended LR 19:

§1545. Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, June 1954, repealed LR 19:

§1547. Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, June 1954, repealed LR 19:

§1549. Authority to Enter Premises

Employees or agents of the Louisiana Department of Agriculture and Forestry are authorized to enter any store, vehicle, market, restaurant, state institution, school, nursing home, or any other business or place where eggs or poultry are bought, stored, sold, offered for sale or processed, or served as food to the public, and to make such inspections as needed of eggs to determine if the grades of such eggs conform to grades as labeled on the exterior of the

container. If such inspection determines that the eggs in the container do not conform to the grade as labeled on the exterior of the container, the Louisiana Department of Agriculture and Forestry employees or agents are authorized to examine the invoices and such other records needed to determine the cause and place of the violation of the regulation of this Chapter. The said agents or employees shall have the power to stop sale, and impound for evidence, any containers of eggs offered for sale which are in conflict with any provisions of this act. The party having possession of the eggs has the right to ask for an appeal grading.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:

All interested persons may submit written comments, data, views or arguments on the proposed rules through July 30, 1993 to James Pruitt, Department of Agriculture and Forestry, 5835 Florida Blvd., Baton Rouge, LA 70806.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: POULTRY AND EGGS**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Self generated funds of approximately \$450,000 per year will cover the estimated implementation cost to the state. No implementation costs to local governmental units are anticipated to result from the proposed rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Self generated funds of approximately \$450,000 per year will cover the estimated implementation cost to the state.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Egg producers, packers, dealer-wholesalers and brokers will be affected and will have to pay an inspection fee of \$0.18 per case and will have to submit one form per month to the department.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Food and Drug Administration has placed eggs on the list of potentially hazardous foods. The implementation of inspections for quality and temperature should reduce the potential health risk to the consumer and should also increase quality and demand for Louisiana inspected eggs. Additionally, Louisiana egg producers should be more competitive since other states have similar inspection fees that Louisiana producers have to pay when they sell out-of-state. Such out-of-state producers will now have to pay similar fees when they sell eggs in Louisiana.

Richard Allen
Assistant Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Real Estate Commission**

Agency Disclosure (LAC 46:LXVII.3401-3411)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1431, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Real Estate Commission intends to amend the following rules and regulations pertaining to agency disclosure.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

Chapter 34. Agency Disclosure

§3401. Definitions

In addition to the definitions established by §1431 of the Louisiana Real Estate License Law:

* * *

Buyer's Agent—a licensee who pursuant to a written buyer brokerage agreement alone, or as a subagent of a buyer's agent, finds and obtains a seller for real property.

Disclosed dual agent—a licensee who represents both the buyer and the seller in a real estate transaction with the prior knowledge and written consent of all parties.

Disclosed dual agency—an agency relationship in which the brokerage firm represents both buyer and seller in a real estate transaction with the prior knowledge and written consent of all parties.

Selling agent—a listing agent who acts alone, or a subagent, or a buyer's agent, who sells or finds and obtains a buyer for real property.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:26 (January 1992), amended LR 19:

§3403. Listing Agency Disclosure

Listing agreements for the sale or lease of real estate shall incorporate the following disclosure statement.

"Absent a written agreement to the contrary, a real estate agent is the agent or subagent of the seller/lessor under Louisiana law. As such, the listing agent acts as the agent for the seller. As such, the seller's agent owes a fiduciary duty of utmost care and loyalty to the seller, and may not disclose to a buyer information about what price or terms the seller will accept other than the price or terms listed. A seller's agent does owe a duty of fair dealing to a buyer, and a duty under Louisiana law to disclose the existence of any known material defects in the property."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:26 (January 1992), amended LR 19:

§3405. Disclosure Regarding Real Estate Agency Relationships

A. Real estate licensees shall utilize the "Disclosure Regarding Real Estate Agency Relationship" form (Appendix 1) in all real estate transactions involving the sale or lease of real property.

B. In the event there is a change in the agency relationship between a licensee and a prospective seller/lessor or a prospective buyer/lessee subsequent to disclosure having been made in accordance with this Chapter, the licensee shall execute a new Disclosure Regarding Real Estate Agency Relationship form to reflect the change in the agency relationship between the parties with respect to the proposed real estate transaction.

C. The licensee shall retain a copy of each form signed by a seller/lessor and/or a buyer/lessee or its representative in order to demonstrate compliance with this Section.

D. In any circumstance in which a seller/lessor or a buyer/lessee refuses to sign the disclosure form the licensee shall complete the form as required and attach a written declaration citing the reasons given by the seller/lessor or buyer/lessee for not signing the disclosure form.

E. This chapter does not apply to residential leases of one year or less where no purchase of real estate is contemplated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:26, (January 1992), amended LR 19:

§3407. Seller/Lessor Agency Disclosure

A. A real estate licensee dealing face to face with a prospective buyer/lessee shall provide the prospective buyer/lessee or its representative with a copy of the Disclosure Regarding Real Estate Agency Relationship form (Appendix 1) with the "Disclosure to Buyer/Lessee" completed and signed by the licensee before the time the first of the following events occur:

1. discussing any position the prospective buyer/lessee may wish to take in negotiating a contract to purchase, rent or lease a specific property, such as the amount of terms to be offered; provided, however, that a real estate licensee may qualify a prospective buyer/lessee to a price range or generally discuss prices and financing prior to making disclosure in accordance with this Section;
2. preparing a written offer to purchase, rent, or lease real property.

B. This Section does not apply to:

1. a real estate licensee who enters into a written agreement to represent a prospective buyer/lessee prior to the occurrence of either of the events cited in §3407.A. 1. and 2., above; or
2. to a real estate licensee acting as a principal and not as an agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:26 (January 1992), amended LR 19:

§3409. Buyer/Lessee Agency Disclosure

A. Unlisted Property

1. A real estate licensee representing a prospective buyer/lessee under a written buyer brokerage agreement involving real estate not listed for sale or lease with a licensed broker shall disclose to a prospective seller/lessor the licensee's agency relationship with the prospective buyer/lessee at the first contact regarding the transaction.

2. The licensee shall provide the prospective seller/lessor with a copy of the Disclosure Regarding Real Estate Agency Relationship form (Appendix 1) with the "Disclosure to Seller/Lessor" completed and signed by the licensee before discussing any position the prospective seller/lessor may take in negotiating a contract to purchase, rent, or lease the property.

B. Listed Property

1. A real estate licensee representing a prospective buyer/lessee under a written buyer brokerage agreement involving real estate listed for sale or lease with a licensed broker shall disclose to the listing broker or his representative the licensee's agency relationship with the prospective buyer/lessee at the first contact regarding the transaction.

2. The listing broker or his representative shall provide the prospective seller/lessor with a copy of the Disclosure Regarding Real Estate Agency Relationships form (Appendix 1) with the "Disclosure to Seller/Lessor" completed and signed by the listing broker or his representative prior to discussing any position the seller/lessor may take in negotiating a contract to sell, rent, or lease the listed property or presenting a written offer to purchase, rent, or lease the listed property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:26 (January 1992), amended LR 19:

§3411. Dual Agent/Agency Disclosure

A. A dual agent/agency relationship is established when a listing broker or his sponsored licensee executes a written buyer brokerage agreement with a prospective buyer/lessee which will result in any mention or discussions concerning real estate listed by an owner as being for sale or lease with a listing broker or with the listing broker's firm by a licensee sponsored by the licensed broker.

B. A listing broker or his sponsored licensee representing both a prospective seller/lessor and a prospective buyer/lessee in a proposed real estate transaction shall disclose to both the seller/lessor and the buyer/lessee the licensee's dual agent/agency relationship and obtain the written consent of both the prospective seller/lessor and the prospective buyer/lessee to the dual representation.

C. The listing broker or his sponsored licensee shall provide both the prospective seller/lessor and the prospective buyer/lessee with a copy of the Disclosure Regarding Real Estate Agency Relationships form (Appendix 1) with the "Disclosure to and Consent of Buyer/Lessee and Seller/Lessor to Dual Agent/Agency" signed by the licensee, the prospective seller/lessor and the prospective buyer/lessee prior to any discussion concerning the listed property with either the prospective seller/lessor or the prospective buyer/lessee or preparing a written offer to purchase, rent, or lease the listed property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:26 (January 1992), amended LR 19:

Note: The "Disclosure Regarding Real Estate Agency Relationship" form (Appendix 1) can be obtained from the Louisiana Real Estate Commission, Baton Rouge, LA. This form replaces all previous agency disclosure forms prescribed and promulgated by the commission.

Interested parties submit written comments until 4:30 p.m., July 20, 1993 to Stephanie C. Fagan, Office Coordinator, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898-4785 or to 9071 Interline Avenue, Baton Rouge, LA.

J.C.Willie
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: AGENCY DISCLOSURE**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated cost to the agency is approximately \$1000 for the printing of "master" copies of the newly prescribed disclosure form to be distributed to licensees for reproduction as needed.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Licensees will be provided one "master" copy of the prescribed disclosure form; however, licensees will incur the cost of reproducing the form as needed. Licensees and members of the general public will benefit from the more adequate disclosure and informed consent provided by the proposed language.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

J. C. Willie
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 - (Nonpublic), Standard 6.016.14

In accordance with the Revised Statutes R.S. 49:950 seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 741 (Nonpublic) Louisiana Handbook for School Administrators, Standard 6.016.14 as stated below:

Revised Standard 6.016.14

A nonpublic school principal, assistant principal, or headmaster must hold a master's degree in an area from an accredited institution or have principalship on his Louisiana teaching certificate. (The principal and/or assistant principal may be a teacher as well as the educational administrator of the school.)

Add as a Procedural Block:

Assistant principals, who do not meet minimum qualifications, may be retained in a school provided they were employed in that school during the 1992-93 school year as an assistant principal.

Add as a Procedural Block:

A list of these assistant principals is to be maintained in the State Department of Education. Upon retirement or replacement, these assistant principals must be replaced with properly qualified personnel under the nonpublic school standards. These individuals may not be transferred or employed by another school unless they meet the requirements stated in the above standard.

AUTHORITY NOTE: R. S. 17:6(A)(10)

HISTORICAL NOTE: LR 19:

Interested persons may submit comments on the proposed rule until 4:30 p.m., August 8, 1993 to: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: BULLETIN 741**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

After analyzing the Nonpublic Annual School Reports for 1992-93 school year, it was discovered that assistant principals were not being cited if they did not have a master's degree. This new change will be reflected in Bulletin 741 - Non-Public Standards. The cost to the state for implementation is \$100 for printing.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections at the state or local level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There should be no effect on costs or benefits to directly affected persons in non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Marlyn Langley
Deputy Superintendent for
Management and Finance

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Restricted Certificate for Speech, Language and Hearing Specialist

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

Types of Certificates for Speech, Language, and Hearing Specialists

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

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

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

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

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

**This policy may not be appealed.

* * *

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

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

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

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

AUTHORITY NOTE: R.S. 17:411

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR:19

Interested persons may submit comments on the proposed rule until 4:30 p.m., August 8, 1993 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: BULLETIN 746—RESTRICTED
CERTIFICATE FOR SPEECH, LANGUAGE AND HEARING
SPECIALIST**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately \$50 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This policy will allow eligible individuals to seek employment in local school systems and aid the system in providing the necessary speech, language and hearing services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The revision will provide additional speech, language, and hearing specialists who are eligible for employment in the local school systems.

Marlyn Langley
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1573-Complaint Management Procedures

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement Revised Bulletin 1573, Complaint Management Procedures.

Bulletin 1573 contains procedures, rules, and regulations controlling public complaints about the delivery of special education services. Bulletin 1573 may be seen in its entirety in the Office of the State Register, 1051 North Third Street, Capitol Annex, Room 512; in the Office of Special Educational Services, State Department of Education; and in the Office of the State Board of Elementary and Secondary Education, Education Building, Baton Rouge, LA.

Bulletin 1573 was also adopted as an emergency rule in the May 1993 issue of the Louisiana Register, since the bulletin must be submitted to the United States Department of Education by May 3, 1993, in order for the federal funds to be received by July 1, 1993.

AUTHORITY NOTE: IDEA-Part B, Section 1400, Sub-chapter II (CFDA 84.027A); R.S. 1941-1958.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19:

Interested persons may submit comments on the proposed rule until 4:30 p.m., August 8, 1993 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: BULLETIN 1573-COMPLAINT MANAGEMENT PROCEDURES

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated cost is \$448 for printing of Bulletin 1573: Complaint Management Procedures.
II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no additional estimated effect on revenue collection of state or local governmental units.
III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There is no estimated cost or economic benefit to persons or nongovernmental groups.
IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment from these revisions.

Marlyn Langley
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1882, Administrative Leadership Academy Guidelines, and Bulletin 746, Louisiana Standards for State Certification of School Personnel

In accordance with the Louisiana Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the following amendments to Bulletin 1882, Administrative Leadership Academy Guidelines, and Bulletin 746, Louisiana Standards for State Certification of School Personnel.

Bulletin 1882

Add to the section that addresses academy credit—credit requests:

- 1. If the activity involves two or more sessions over a period of several days, weeks and/or months and focuses on a single theme, it may be approved for credit.
2. The request must be submitted no later than six months after the completion of the activity (effective July 1, 1993). Academy credit for training activities completed prior to July 1, 1993, must be requested no later than January 1, 1994.

Revise the section on training:

- 1. replace the term LEAD with "principal internship";
2. delete the section on the Louisiana Principal Assessment Center (LPAC).

Bulletin 746

Under certification requirements for elementary school principals listed on pages 62 and 63, under "F" on page 63, amend to read:

F. Persons who have met the requirements of Items A through E-2 above are eligible for a provisional elementary school principal endorsement. Upon employment as a principal or assistant principal, an individual with a provisional principal endorsement must enroll in the two-year Principal Internship Program under the auspices of the Administrative Leadership Academy.

Under certification requirements for secondary school principal listed on pages 64 and 65, under "F" on page 65, amend to read:

F. Persons who have met the requirements of Items A through E-2 above are eligible for a provisional secondary school principal endorsement. Upon employment as a principal or assistant principal, an individual with a provisional principal endorsement must enroll in the two-year Principal Internship Program under the auspices of the Administrative Leadership Academy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761 - 3764; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19:

Interested persons may submit comments on the proposed rule until 4:30 p.m., August 8, 1993 to: Eileen Bickham,

Carole Wallin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: BULLETIN 1882, ADMINISTRATIVE
LEADERSHIP ACADEMY GUIDELINES, AND
BULLETIN 746, LOUISIANA STANDARDS FOR
STATE CERTIFICATION OF SCHOOL PERSONNEL**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be a cost of approximately \$833 to print 4,000 copies of Bulletin 1882 and to print two pages of Bulletin 746. The language concerning the Louisiana Principal Assessment Center is being removed from Bulletin 1882 but the Administrative Leadership Academy will continue the program.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no additional cost or economic benefits to the administrators affected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Marlyn Langley
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Bulletin 1922 - Special Education Monitoring
Procedures Guide**

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, Bulletin 1922, Louisiana Special Education Monitoring Procedures Guide.

The Louisiana Department of Education has the responsibility to ensure that each participating agency in the state is in compliance with all applicable federal and state laws, regulations and standards related to the provision of a free and appropriate public education for all exceptional children for whom each is legally responsible. To fulfill this responsibility, the SDE has established procedures which provide ongoing monitoring of policies and procedures, child identification and evaluation, program implementation, and fiscal requirements of participating agencies. These

procedures also include a method for taking corrective actions, providing technical assistance and ensuring the provision of appropriate programs.

Bulletin 1922 may be seen in its entirety in the Office of the State Register, 1051 North Third Street, Capitol Annex, Room 512, Baton Rouge, LA; in the Office of Special Educational Services, State Department of Education; and in the Office of the State Board of Elementary and Secondary Education, Education Building, Baton Rouge, LA.

Bulletin 1922 was also adopted as an emergency rule in the May 1993 issue of the *Louisiana Register*, since the bulletin must be submitted to the United States Department of Education by May 3, 1993, in order for the federal funds to be received by July 1, 1993.

AUTHORITY NOTE: IDEAL-Part B, Section 1400, Sub-Chapter II (CFDA 84.173)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19:

Interested persons may submit comments on the proposed rule until 4:30 p.m., August 8, 1993 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: BULLETIN 1922 - SPECIAL EDUCATION
MONITORING PROCEDURES GUIDE**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated cost is \$392 for printing of Bulletin 1922: Compliance Monitoring Procedures.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no additional estimated effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There is no estimated cost or economic benefit to persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment from these revisions.

Marlyn Langley
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Home Economics Certification Requirements

In accordance with the R.S.49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the revised home economics certification requirements in Bulletin 746, Louisiana Standards for State Certification of School Personnel.

Home Economics* (Vocational)

A minimum of 42 semester hours distributed as follows:

1. Clothing and Textiles 6 semester hours
2. Consumer Education
and Management 6 semester hours
3. Food and Nutrition 6 semester hours
4. Housing, Home Furnishings
and Equipment 3 semester hours
5. Human Development and
Relationships 9 semester hours
(including observation
and participation in
the nursery school)
6. Home Economics Electives . . . 12 semester hours
* Early Childhood Endorsements

see pages 11-13 (Bulletin 746)

Mandatory for all individuals applying for certification in Home Economics (Vocational) on or after July 1, 1998.

Home Economics (Occupational Programs)

Authorization to teach home economics occupational programs may be added to the certificate of a teacher who is certified in vocational home economics and has completed the following:

1. at least three semester hours in organization and administration of home economics occupational programs including cooperative education;
2. two-thousand hours of successful work experience or a minimum of 120 hours in supervised field practicum in the area of occupational certification.

Home Economics (Food Science)

Authorization to teach home economics food science programs may be added to the certificate of a teacher who is certified in vocational home economics provided that the teacher has:

1. at least six semester hours in college chemistry;
2. at least six semester hours in food science.

Ancillary Home Economics (Occupational Programs)

1. Provisional certification, valid for three years and renewable upon request of employing authority, may be issued to a person who has completed the following:
 - a. bachelor's degree in a subject area of home economics;
 - b. at least 12 semester hours in professional education courses to include organization and administration of home economics occupational programs;
 - c. two-thousand hours of successful work experience in the area of occupational certification.

2. Permanent certification, valid for life for continuous service, may be issued upon completion of the requirements for provisional certification and three years of teaching experience in home economics occupational programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19:

Interested persons may submit comments on the proposed rule until 4:30 p.m., August 8, 1993 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: HOME ECONOMICS CERTIFICATION REQUIREMENTS

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The adoption of this policy will cost the Department of Education approximately \$50 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
A reorganization of courses within the existing requirements for home economics certification will result in eligibility for nursery school certification for those who complete the home economics program. This revision also adds a new area of certification to teach home economics food science programs.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The revision will provide additional certified nursery school teachers.

Marlyn Langley
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Honors Scholarship

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, announces the amendment of rules regulating the Louisiana Honors Scholarship Program. The text of this proposed rule may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the regulations until 4:30 p.m., August 20, 1993, addressed to: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: LOUISIANA HONORS SCHOLARSHIP
PROGRAM**

**I. ESTIMATED IMPLEMENTATION COSTS
(SAVINGS) TO STATE OR LOCAL
GOVERNMENTAL UNITS (Summary)**

Estimated implementation costs to administer the program result in no change from the amount reflected in the original fiscal impact statements published with the notices of intent on August 20, 1992 and March 20, 1993.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

The program is funded through state general funds.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

Under these amendments to scholarship policy city and parish school boards will have the power to determine the initial eligible recipients for the scholarship in compliance with the law.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

No impact on competition and employment is anticipated from implementation of this program.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

State Student Incentive Grant Program (SSIG)

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, announces its intention to amend the *Scholarship and Grant Policy and Procedure Manual* to include regulations for the State Student Incentive Grant Program (SSIG). The current Chapter VIII will become Chapter IX and Chapter VIII will read as follows:

VIII. State Student Incentive Grant Program (SSIG)

A. Program Description, History, and Purpose

The Louisiana State Student Incentive Grant Program (SSIG) provides need-based grants to academically qualified students using federal and state funds. These grants are to be used for educational expenses including tuition and fees, books and supplies, and living expenses, such as room, board and transportation.

Louisiana administers a decentralized SSIG Program. The Louisiana Student Financial Assistance Commission (LASFAC), Office of Student Financial Assistance (OSFA), the state agency designated to administer SSIG, delegates certain functions to participating schools. Schools approved for participation in the Louisiana SSIG program must have federal eligibility and must annually submit application and be approved for state participation. Participating schools include Louisiana colleges and universities, state technical institutes and proprietary schools.

Funding available for a specific award year is allocated to eligible schools on the basis of enrollment or need formulae. The schools process and certify eligibility of SSIG recipients and OSFA approves or denies awards and forwards individual checks to the schools to disburse to the students.

Each year approximately 3,000 students receive SSIG funds totaling \$2,000,000, with the average award being \$700. Individual grants range from an annual minimum of \$200 to a maximum of \$2,000; however, the actual amount of each student's award is determined by the financial aid office at the school and is governed by the number of recipients selected and the amount of funds available. SSIG awards are based upon a full academic year beginning with the fall term.

Background

Louisiana Act 632 of 1974 empowered the Louisiana Higher Education Assistance Commission (LHEAC), later renamed the Governor's Special Commission on Education Services (GSCES) and the Louisiana Student Financial Assistance Commission (LASFAC), to administer SSIG and to prescribe appropriate rules and regulations. Therefore, the first year implementation of the SSIG Program in Louisiana occurred for academic year 1975-76 with \$279,528 of federal funds available for Louisiana to match, resulting in a first year program budget of \$559,056. The state and federal funds provided average grants of \$329 to 1,414 students attending 27 Louisiana colleges and universities.

During the 1976-77 academic year, the state's second year of participation in the SSIG program, Louisiana was allocated \$617,865, but was only able to match \$279,528. The remaining \$338,337 of federal funds was reallocated to other eligible states.

For academic year 1977-78, Louisiana was allocated \$864,715 but was only able to commit \$300,000 of state general funds for the SSIG matching budget. However, in accordance with federal regulation, LHEAC sought and received \$30,622 in funding from individual schools to increase the state's contribution, giving the Louisiana SSIG Program a total funding level of \$661,244. Accordingly, Louisiana released \$534,093 of federal funds to be reallocated to other eligible states.

Academic year 1987-88 was the last year Louisiana was authorized to utilize institutional monies to match a portion of its federal allotment. Beginning with the 1988-89 academic year, all state matching funds had to be supplied by the state from direct state appropriations.

Allocation of Funds

Annually, funds are allocated to schools based on school type, the school's prior year first time, full-time enrollment and the amount of the prior year's allocation that was expended.

When SSIG was first implemented during 1975-76, there were two types of SSIG award funds that participating schools could receive, initial funds for students who were first time recipients and continuation funds for students who had previously received SSIG. Initial funds, for first time recipients, were computed as a percentage of all school's first time, full-time enrollment as of October 10 of the prior fiscal year. Continuation funds for students who had previously received SSIG at the colleges and universities were computed as a percentage of the allocated funds used during the previous year. During the first year of implementation and through academic year 1980-81, the commission used a 65 percent continuation formula. This method continued through the 1980-81 academic year until the continuation formula was revised to 60 percent for four year schools and 40 percent for two year schools.

On the state SSIG participation agreement colleges and universities submit the number of enrolled first time, full-time students for the fall term prior to the award year.

Vocational technical and proprietary schools provide their first time, full-time enrollment as of October 10 of the previous year, for students who are enrolled for at least nine months or 900 clock hour study courses.

Unused SSIG institutional funds are reallocated to schools which completely use their original allotment of SSIG funds by the appropriate deadline (November 1 - colleges and universities, January 1 - proprietary and vocational schools). Reallocation schedules are developed utilizing the same method that is used for initial funding.

Certification

Schools are responsible for certifying the student's academic and financial eligibility and the amount of the student's award. The student's social security number, name, address, income level, expected family contribution (EFC) and SSIG award amount are reported to OSFA on SSIG recipient rosters.

B. Legislative Authority

Federal

The statutory authority for the SSIG Program is found in Title IV of the Higher Education ACT of 1965, 34 CFR Part 692, as amended. The Title IV Programs were most recently reauthorized by the Higher Education Amendments of 1992 (Public Law 102-325).

State

The statutory authority for the state of Louisiana's SSIG Program is ACT 632 of 1974. The Program was most recently amended by ACT 228 of 1977, R.S. 17:3023.5.

C. Student Responsibilities

1. **Initial Eligibility.** To establish initial eligibility, the student must meet all of the following criteria:

- a. complete and submit the Free Application for Federal Student Aid (FAFSA) by the school's required deadline;
- b. be a Louisiana resident as defined by LASFAC;
- c. be a U. S. citizen or eligible non-citizen;
- d. be enrolled as a full-time undergraduate student in an eligible program at an eligible school;
- e. have a high school diploma with at least a 2.00 cumulative grade point average, a minimum average score of 45 on the General Educational Development (GED) Test, an ENACT composite score of at least 20, or a college grade point average of at least 2.00;
- f. file with the school a statement of educational purpose, a certification statement on refunds and defaults, a statement of registration status, and a statement of updated information;
- g. have substantial financial need;
- h. not owe a refund on a Pell Grant, SEOG, SSIG, educational loan, nor owe a repayment on an educational grant or scholarship;
- i. be in compliance with the terms of other federal and state aid programs administered by the commission;
- j. be selected and certified by the school for receipt of an SSIG award contingent upon final approval by LASFAC.

Additionally, individual institutions participating in the SSIG Program may establish additional selection criteria as long as the commission's minimum requirements are met.

2. Notification/Acceptance of Awards:

- a. students receive notification of SSIG eligibility and award from the institution attended. (Eligibility and the award amount is certified by the school's financial aid office, contingent upon final approval by LASFAC.);
- b. to receive SSIG funds, the student must continue to meet all eligibility standards on the date of check disbursement;
- c. the student must acknowledge receipt of the disbursement check by personal signature.

3. **Renewal Eligibility.** Continuing eligibility is contingent upon the student meeting the following requirements:

- a. maintain a cumulative postsecondary grade point average of at least a 2.00 calculated on a 4.00 scale by the conclusion of the spring term;
- b. enroll full-time as an undergraduate student;
- c. have substantial financial need;
- d. apply annually for federal aid using the FAFSA;
- e. not owe a refund on a Pell Grant, SEOG, SSIG, nor owe a repayment on an educational grant or loan;
- f. be in compliance with the terms of other federal and state aid programs administered by the commission;
- g. be selected and certified by the school for receipt of an SSIG award, contingent upon final approval by LASFAC;
- h. must continue to meet all eligibility standards as of the date of check disbursement.

D. **High School Responsibilities.** High school counselors are encouraged to make their high school students aware of the program and its eligibility requirements.

E. College/University, State Technical Institute and Proprietary School Responsibilities:

1. meet and maintain federal Title IV eligibility requirements;
2. if the school has never participated in SSIG or if the school's participation was previously terminated and the school desires to resume participation, request an application from OSFA;
3. complete and return the annual SSIG application by the specified deadline;
4. certify that students and parents will not be charged a fee for the collection of information used to determine the student's eligibility for SSIG;
5. certify that students listed on the recipient roster meet federal, state and school specific SSIG eligibility criteria;
6. certify that if the institution's SSIG allotment is based in part on the financial need of independent students, as defined by the U. S. Department of Education, a reasonable portion of the institution's allotment must be made available to independent students;
7. certify that each SSIG recipient's total package of aid does not exceed the student's financial need;
8. certify that SSIG funds recovered from overawards/refunds/repayments during the applicable award period shall be returned to LASFAC to be reissued to other qualified students. Funds recovered from overawards/refunds/repayments after the applicable award period shall be returned to LASFAC for return to the U. S. Department of Education and/or the State of Louisiana. The amount of overaward/refund/repayment shall be determined according to the school's policy established in accordance with federal regulations;
9. complete and return recipient roster and institutional certification forms to ensure expenditure of allotted SSIG awards by the school specific deadline (November 1 - colleges and universities, January 1 - vocational-technical and proprietary schools);
10. submit recipient roster changes using the void check form and/or replacement roster;
11. return the duplicate copy of the institutional cover letter which documents the date the school received SSIG checks;
12. evidence that students actually received award checks;
13. release award checks to students within 30 days of receipt of checks from OSFA or return them to OSFA;
14. if a SSIG check is released in error to an ineligible student, recover the award amount from the student and return it to LASFAC;
15. notify OSFA immediately of any irregularities;
16. maintain adequate records to verify compliance with federal, state, and school policies, assuring that all SSIG recipients met all eligibility criteria, received the correct award amount, and provided the appropriate need analysis documentation.

* * *

GLOSSARY:

Academic Year—An academic year begins with the fall term of the award year, includes the winter term, if applicable, and

culminates with the completion of the spring term of the award year. The academic year does not include summer sessions.

Citizens and Residents of the Pacific Islands—In some cases, citizens of the Marshall Islands and the Federated States of Micronesia (former Trust Territories) will continue to be eligible for aid from three Student Financial Assistance Programs (Pell Grants, SEOG, CWS). Permanent residents of Palau (the only remaining Trust Territory) are eligible for aid from all Student Financial Assistance Programs.

Cost of Education—The total amount it will cost a student to go to school - usually expressed as an academic year figure. The cost of education covers tuition and fees, on-campus room and board (or a housing and food allowance for off-campus students); and allowances for books, supplies, transportation, child care, costs related to a disability, and miscellaneous expenses. Also included are reasonable costs for eligible programs of study abroad. An allowance (determined by the school) is included for reasonable costs connected with a student's employment as part of a cooperative education program.

Dependent Student—A dependent student is a student who is dependent on his or her parents for support and therefore is required to include parental information.

Expected Family Contribution (EFC)—An amount, determined by a formula established by Congress, that indicates how much of a family's financial resources should be available to help pay for school. Factors such as taxable and nontaxable income, assets (such as savings and checking accounts), and benefits (for example, unemployment or Social Security) are all considered in this calculation.

First Time, Full-Time Enrollment—A student who, subsequent to high school graduation, enrolls for the first time (as defined by the institution) as a college student in the fall or spring term of the award year. A student who begins college or university attendance in a summer session will be considered a first-time student for the immediately succeeding fall term.

Full-time Student—A student enrolled in an institution of higher education who is carrying a fulltime academic workload as determined by the school under the standards applicable to all students enrolled. A student is considered to have met the fulltime requirement if by the completion of the spring term he/she has earned at least 24 hours of total credit during the fall, winter, and spring terms at an institution defining 12 semester or 8 quarter hours as the minimum for fulltime undergraduate status. A workload of at least 30 hours per week is the full-time equivalent at a vocational-technical school.

Independent Student—An independent student is a student who meets at least one of the criteria listed below or has been determined independent by a financial aid officer exercising professional judgment:

1. born before January 1, 1970;
2. is a veteran of the U. S. Armed Forces (includes students who were activated to serve in Operation Desert Storm);
3. is a ward of the court or both parents are dead;
4. has legal dependents other than a spouse;
5. is a graduate or professional student;

6. is married;

Independent students are required to report only student information, or if married, student and spouse information and any information on dependent children. An independent student must have resided in the State of Louisiana for at least 12 consecutive months immediately preceding the date of registration for the school term at the institution for which SSIG is sought.

Louisiana Resident—Any person who has resided in the State of Louisiana continuously during the twelve months immediately prior to the date of application and who has manifested intent to remain in this state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:

1. if registered to vote, is registered to vote in Louisiana;
2. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;
3. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle;
4. if earning an income, has complied with state income tax laws and regulations;

Other Eligible Noncitizens—An individual who can provide documentation from the INS that he or she is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident. Includes refugees, persons granted asylum, Cuban-Haitian Entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others.

Overaward—An overaward occurs when a student received financial aid in excess of financial need.

Permanent Resident of the U.S.—A permanent resident of the U.S. must provide documentation from the Immigration and Naturalization Service (INS).

Refund—A refund of school charges that the school makes to a student, usually after the student has withdrawn from school. The refund to the student is the difference between the amount the student paid towards school charges, minus the amount the school keeps for the portion of the payment period that the student was enrolled.

Repayment—The amount of the cash disbursement that a student must pay back to the school if the student withdraws from the program. If the cash disbursement was greater than the student's living expenses (students education costs above and beyond the amount of tuition and fees) up to the withdrawal date, the student must repay the excess amount. If the student received SSIG funds, that portion of the refund/repayment must be returned to LASFAC. The actual amount of the refund/repayment is determined according to the school's policy in accordance with federal guidelines.

Substantial Financial Need—Is defined as the difference between the student's cost of attendance and the sum of that student's expected family contribution (EFC) plus other student aid the student is due to receive. The difference thus computed must exceed \$199.

U.S. Citizen or National—The term "national" includes not only all U. S. citizens, but also natives of American Samoa or Swain's Island.

Interested persons may submit written comments on the regulations until 4:30 p.m., August 20, 1993, addressed to:

Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, Louisiana 70821-9202.

Jack L. Guinn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: STUDENT INCENTIVE GRANT PROGRAM

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No cost will result from the inclusion of the policies and procedures for the Louisiana State Student Incentive Grant (SSIG) Program in the Scholarship and Grant Policy and Procedure Manual. The current total cost of the program is \$2,049,374, of which half, or \$1,024,687 is state funded, the other half being federally funded.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No change in revenue collections will result from the implementation of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Schools who utilize the Scholarship and Grant Policy and Procedure Manual will now find information on the SSIG program readily available.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition and employment is anticipated from implementation of this rule.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

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

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste Division Regulations, LAC 33:VII.315, 709, 711, 713, 715, and 727 (Log SW07).

In order to obtain state approval for RCRA Subtitle D, states must develop regulations that will be consistent with the requirements of 40 CFR 258. EPA has proposed to change the effective date of 40 CFR 258 from October 9, 1993, to

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

These proposed regulations are to become effective on September 20, 1993, or upon publication in the Louisiana Register.

**Title 33
ENVIRONMENTAL QUALITY**

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 3. Scope and Mandatory Provisions of the Program

§315. Mandatory Provisions

* * *

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

* * *

2. Existing Type II Landfills

* * *

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

i. Existing Type II landfills must be upgraded, to comply with LAC 33:VII.709.A.2 (regarding airports), LAC 33:VII.709.B.1.a, b, and c (regarding restriction of public access), LAC 33:VII.709.B.5 and LAC 33:VII.711.D.1.a (regarding hazardous-waste exclusion), LAC 33:VII.709.B.6 (regarding discharges to surface water), LAC 33:VII.709.C.3 (regarding unstable areas), LAC 33:VII.711.A.1 (regarding 100-year floodplains), LAC 33:VII.711.A.2 and 3 (regarding run-on/runoff control), LAC 33:VII.711.B.2 (regarding daily cover), LAC 33:VII.711.D.1.b (regarding open burning), LAC 33:VII.711.D.1.g (regarding liquid waste exclusion), LAC 33:VII.711.D.3.a (regarding methane monitoring), and LAC 33:VII.711.D.3.c (regarding vector control) no later than April 9, 1994.

ii. Units of Type II landfills which did not receive solid waste prior to April 9, 1994, must comply with LAC 33:VII.709.A.4 (regarding wetlands demonstrations), LAC 33:VII.709.A.5 (regarding fault areas), LAC 33:VII.709.C.2 (regarding seismic impact zones), LAC 33:VII.709.E (regarding groundwater monitoring) and LAC 33:VII.711.B.4 and 5 (regarding plans and specifications for leachate collection and liners) before receiving solid waste.

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

iv. Units of Type II landfills which are greater than two miles from a drinking water intake must be upgraded to comply with LAC 33:VII.709.E (regarding groundwater monitoring) no later than August 1, 1996.

* * *

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

* * *

8. Type I and II facilities with closure plans approved prior to and which do not receive solid waste on or after April 9, 1994, may complete closure and post-closure under the terms of the approved closure plan, except that Type II landfills which received solid waste on or after October 9, 1991 must meet standards for placement and maintenance of final cover in LAC 33:VII.711.E and F.

* * *

I. Applicants of Proposed Facilities With Pending Permit Applications

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

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

* * *

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

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

Chapter 7. Solid Waste Standards

Subchapter B. Landfills, Surface Impoundments, Landfarms

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

A. Location Characteristics

* * *

4. Units of a facility which have not received waste prior to April 9, 1994, shall not be located in wetlands, unless the permit holder or applicant can make the following demonstrations to the administrative authority:

* * *

5. Units of a facility which have not received waste prior to April 9, 1994, shall not be located within 200 feet (60 meters) of a fault that has had displacement in Holocene time unless the permit holder or applicant demonstrates to the administrative authority that an alternative setback distance of less than 200 feet will prevent damage to the structural integrity of the unit and will be protective of human health and the environment.

* * *

C. Facility Geology

* * *

2. Units of a facility located in a seismic impact zone which have not received waste prior to April 9, 1994, shall be designed and operated so that all containment structures, including liners, leachate collection systems, and surface water control systems can withstand the stresses caused by the maximum horizontal acceleration in lithified earth material for the site.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19: §711. Standards Governing Landfills (Type I and II)

* * *

B. Facility Plans and Specifications

* * *

4. Leachate Control, Collection, Treatment, and Removal Systems

a. The standards in Subsection B.4 of this Section apply to leachate control, collection, treatment, and removal systems for proposed landfills and units of existing landfills which receive waste on or after the required upgrade date specified in LAC 33:VII.315.G. These standards also apply to units of Type II landfills which have not received waste prior to April 9, 1994.

* * *

5. Liners

a. The standards in Subsection B.5 of this Section apply to liners for proposed landfills and units of existing landfills which receive waste on or after the required upgrade date in LAC 33:VII.315.G. These standards also apply to units of Type II landfills which did not receive waste before April 9, 1994, as provided in LAC 33:VII.315.G.

* * *

F. Facility Post-closure Requirements

* * *

2. Post-closure Care Length

a. Facilities which receive solid waste on or after April 9, 1994, must remain in post-closure care for 30 years after closure of the facility .

b. Existing facilities which do not receive waste on or after April 9, 1994, must remain in post-closure care for three years after closure of the facility.

* * *

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

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

§713. Standards Governing Surface Impoundments (Type I and II)

* * *

F. Facility Post-closure Requirements

* * *

2. The following standards regarding post-closure requirements apply to surface impoundments with on-site closure:

a. Post-closure Care Length

i. Facilities which receive solid waste on or after April 9, 1994, must remain in post-closure care for 30 years after closure of the facility.

ii. Existing facilities which do not receive waste on or after April 9, 1994, must remain in post-closure care for three years after closure of the facility.

* * *

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

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

§715. Standards Governing Landfarms (Type I and II)

* * *

F. Facility Post-closure Requirements

* * *

2. Type I Landfarms. For facilities which receive waste on or after April 9, 1994, the permit holder shall continue to comply with any prohibitions or conditions under LAC 33:VII.715 for 10 years after closure. For facilities which did not receive waste on or after April 9, 1994, the permit holder shall continue to comply with any prohibitions or conditions under LAC 33:VII.715 for three years after closure.

* * *

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

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

Subchapter E. Financial Assurance for All Processors and Disposers of Solid Waste

§727. Financial Assurance

A. Financial Responsibility During Operation and for Closure and Post-closure Care

1. Financial Responsibility During Operation. Permit holders or applicants for standard permits of Type I, I-A, II, II-A, and III facilities have the following financial responsibilities while the facility is in operation:

* * *

f. Permit holders of existing facilities must submit, on or before February 20, 1995, financial responsibility documentation that complies with the requirements of Subsection A.1 of this Section. Applicants for permits for new facilities must submit evidence of financial assurance in accordance with this Section at least 60 days before the date on which solid waste is first received for processing or disposal.

* * *

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

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

A public hearing will be held on July 26, 1993, at 1:30 p.m. in the Maynard Ketcham Building (Room 326), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact David Hughes at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than July 27, 1993, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA 70884-2282 or 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810 or

fax to (504) 765-0486. Commentors should reference this proposed regulation by the Log SW07.

Glenn A. Miller
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: SOLID WASTE REGULATIONS**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs nor benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment as a result of this rule.

Glenn Miller
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Scope and Mandatory Provisions of the Program; Solid Waste Management System; and Solid Waste Standards (LAC 33: VII.Chapters 3,5 and 7) (SW08)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste Division Regulations, LAC 33:VII.Subpart 1.315.G, 521.L, 711, and 727.B (Log SW08).

In order to obtain state approval for RCRA Subtitle D, states must develop regulations that will be consistent with the requirements of 40 CFR 258. On February 20, 1993, Louisiana promulgated the Solid Waste Regulations (LAC 33:VII.Subpart 1) which incorporated all the Subtitle D requirements. These amendments will incorporate language which was developed from EPA comments on the Solid Waste Regulations to clarify the meaning in §§315.G, 521.L, 711.B, and 727.B. These amendments must be promulgated in order for Louisiana to obtain state approval for its permit program for municipal solid waste landfills.

These proposed regulations are to become effective on September 20, 1993, or upon publication in the *Louisiana Register*.

**Title 33
ENVIRONMENTAL QUALITY**

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 3. Scope and Mandatory Provisions of the Program

§315. Mandatory Provisions

* * *

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

* * *

9. The permit holder of a Type II facility must submit to the Solid Waste Division a new or amended closure plan and a post-closure plan in the form of a permit modification to address these regulations no later than October 9, 1993 or by the initial receipt of waste, whichever is later.

* * *

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

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

Chapter 5. Solid Waste Management System

Subchapter C. Permit Application

§521. Part II: Supplementary Information, All Processing and Disposal Facilities

* * *

L. Financial Responsibility. Standards governing financial responsibility are contained in LAC 33:VII.727. A section documenting financial responsibility according to LAC 33:VII.727 which contains the following information, must be included for all facilities:

* * *

4. evidence of a financial assurance mechanism for closure and/or post-closure care and corrective action for known releases when needed.

* * *

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

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

Chapter 7. Solid Waste Standards

Subchapter B. Landfills, Surface Impoundments, Landfarms

§711. Standards Governing Landfills (Type I and II)

* * *

B. Facility Plans and Specifications

* * *

2. Daily and Interim Cover Requirements

* * *

c. Alternative daily cover materials may be approved by the administrative authority provided the standards of Subsection B.2.a of this Section are met. The administrative authority reserves the right to require testing to confirm acceptability. The administrative authority may waive the requirements for daily cover, for Type I landfills only, if the

permit holder or applicant can demonstrate that the nature of the waste is such that daily cover is not necessary. Daily cover requirements may not be waived for Type II landfills.

* * *

C. Facility Administrative Procedures

1. Recordkeeping and Reports

* * *

b. Recordkeeping

* * *

iii. Records kept on site for all facilities shall include but not be limited to:

* * *

(k). records demonstrating that liners, leachate-control systems, and leak-detection and cover systems are constructed or installed in accordance with appropriate quality assurance procedures;

* * *

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

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

Subchapter E. Financial Assurance for all Processors and Disposers of Solid Waste

§727. Financial Assurance

* * *

B. Financial Responsibility for Corrective Action for Type II Landfills

* * *

2. The permit holder of each Type II landfill required to undertake a corrective action program under LAC 33:VII.709.E must establish, in a manner in accordance with Subsection A.2 of this Section, financial assurance for the most recent corrective action program. The financial assurance must be provided within 120 days after the selection of the corrective action remedy in LAC 33:VII.709.E.6. The permit holder must provide continuous coverage for corrective action until released from financial assurance requirements for corrective action by demonstrating compliance with LAC 33:VII.709.E.7.h.iii.(a) and (b). For the purpose of corrective action financial assurance only the words "corrective action" shall be substituted for the words "closure" or "post-closure" throughout Subsection A.2 of this Section.

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

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

A public hearing will be held on July 26, 1993, at 1:30 p.m. in the Maynard Ketcham Building, (Room 326), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact David Hughes at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than July 27, 1993, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance

Division, Box 82282, Baton Rouge, LA 70884-2282 or 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810 or fax to (504) 765-0486. Commentors should reference this proposed regulation by the Log SW08.

Glenn A. Miller
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: SOLID WASTE REGULATIONS

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs nor benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment as a result of this rule.

Glen Miller
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Group Health Insurance Premium Payment Program

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medicaid Program.

Medicaid reimburses for medical care and services only after the individual's health insurance program payments or Medicare payments have been made as required by federal regulations. Medicaid beneficiaries have not been required to join health insurance programs that may be available to them as a condition of eligibility. The Omnibus Budget Reconciliation Act of 1990, Section 4402 added Section 1906 to the Social Security Act, Title XIX (Medicaid) which provides for the mandatory enrollment of Medicaid eligibles in cost effective group health plans as a condition of Medicaid eligibility. Federal regulations define a group health plan as one which meets Section 5000(b)(1) of the Internal Revenue Code of 1986, and includes continuation coverage pursuant to

Title XXII of the Public Health Service Act, Section 4980B of the Internal Revenue Code of 1986, or Title VI of the Employee Retirement Income Security Act of 1974. Section 5009(b)(1) of the Internal Revenue Code provides that a group health plan is any plan of, or contributed to by, an employer (including a self-insured plan to provide health care (directly or otherwise) to the employer's employees, former employees, or the families of such employees or former employees. Federal regulations specify that cost effectiveness of such a group health plan for an individual would occur if the amount paid for premiums, coinsurance, deductibles, other cost sharing obligations and any additional administrative costs would be less than the amount paid for an equivalent set of Medicaid services.

The Bureau of Health Services Financing shall establish the Group Health Insurance Premium Payment Program in accordance with the above-cited federal mandate and regulations. The intent of the program is to reduce Medicaid costs by establishing or maintaining a third party resource as the primary payer of the Medicaid beneficiary's medical expenses.

PROPOSED RULE

Medicaid of Louisiana will implement the Group Health Insurance Premium Payment Program in accordance with Section 4402 of the Omnibus Budget Reconciliation Act of 1990. This program mandates that Medicaid beneficiaries enroll and maintain their enrollment in cost effective group health plans as a condition of Medicaid eligibility. The beneficiary or the individual acting on the behalf of the beneficiary shall cooperate to establish the availability and cost effectiveness of group health insurance. Medicaid benefits of the parent shall be terminated for failure to cooperate unless good cause for non-cooperation is established; however, Medicaid shall not be canceled for a child due to the parents' failure to cooperate. Medicaid of Louisiana will make the determination regarding the cost effectiveness of the group health available to the beneficiary as provided for by the federal law and regulations and the Federal State Medicaid Manual. Beneficiaries of Medicaid of Louisiana shall be enrolled in this program when such cost-effective health plans are available through the beneficiary's employer or a responsible party's employer-based health plan if the beneficiary is enrolled or eligible for such health plans. The Medicaid beneficiary will be enrolled for a six-month period in this program. The department shall be entitled to any rate refund made when the health insurance carrier determines a return of premiums to the policy holder is due because of lower than anticipated claims for any period of time in which the department paid the premiums. Beneficiaries eligible for this program shall be entitled to coinsurance and deductible amounts for health insurance covered services to the extent allowed under the State Plan and for all services not covered by health insurance which are provided for within the State Plan.

Continued eligibility for this program is dependent upon the individual's ongoing eligibility for Medicaid.

Implementation of this proposed rule is dependent upon approval by the Health Care Financing Administration. Disapproval of this change by the Health

Care Financing Administration will automatically cancel the provision of this proposed rule and the current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule will be held on Monday, July 26, 1993, in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at the public hearing.

J. Christopher Pilley
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: GROUP HEALTH INSURANCE PREMIUM PAYMENT PROGRAM

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule is projected to decrease state expenditures by \$35,212 in SFY 1993-94, \$22,323 in SFY 1994-95 and \$238 in SFY 1995-96.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will decrease federal revenue collections by \$97,915 in SFY 1993-94, \$58,499 in SFY 1994-95 and \$625 in SFY 1995-96.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Persons in the community who qualify for this program will benefit by having their group health plan premiums, deductibles and coinsurance costs covered by Medicaid of Louisiana.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed rule will have no known impact on competition and employment.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Hospital Licensing Regulations

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule.

The State of Louisiana (Department of Hospitals 1962) published the *Rules, Regulations and Minimum Standards Governing Hospitals and the Hospital Licensing Law*. In Chapter VI, Specialized Patient Services, children under 14 years of age are prohibited from visiting within the pediatric and obstetrical departments of hospitals licensed in Louisiana. Current trends in the health care community no longer adhere to this age restriction for visitors in these departments. Certain family life advocacy groups are promoting the discontinuation of this policy. Therefore, in consideration of these developments the Department of Health and Hospitals is proposing to remove this restriction and allow each hospital to establish its own policy regarding the ages of visitors. The only anticipated fiscal impact is approximately \$150 to update the *Rules, Regulations and Minimum Standards Governing Hospitals and the Hospital Licensing Law* and other related informational resources for hospital providers.

PROPOSED RULE

The Department of Health and Hospitals shall allow each hospital to establish its individual policy regarding the ages of visitors to hospitals licensed in Louisiana.

Interested persons may submit written comments to the following address: John Futrell, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on Monday, July 26, 1993, in the Department of Transportation and Development Auditorium, first floor, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at the public hearing.

J. Christopher Pilley
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: HOSPITAL LICENSING REGULATIONS

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule is projected to increase state expenditures by \$150 in SFY 1993-94, but no costs are anticipated for SFY 1994-95 and 1995-96.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will not result in increased federal revenue collections in SFY 1993-94, SFY 1994-95 and 1995-96.

- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups.

- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no known impact on competition and employment.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Insurance Commissioner of Insurance

Health Insurance—Regulation 46—Long-Term Care Policies

Pursuant to the provisions of R.S. 22:1736(A), 1736(E), 1737 and R.S. 49:950 et seq. the Department of Insurance, Office of the Commissioner gives notice of its intent to adopt Regulation 46. This regulation regulates long-term care insurance policies delivered or issued for delivery in this state.

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This regulation is to take effect September 20, 1993. Copies of the proposed regulation may be obtained from Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214 or

from the Office of the State Register, 1051 North Third, Room 512, Baton Rouge, LA 70804.

Interested persons may submit written comments on the proposed regulation until 4:30 p.m., July 12, 1993 to C. Noël Wertz, Senior Attorney, Department of Insurance at the above address. Following final adoption of the regulation inquiries should be directed to the Life and Health Division of the Department of Insurance at the above address or by calling (504) 342-5301.

James H. "Jim" Brown
Commissioner of Insurance

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: REGULATION 46**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing this regulation. The regulation does not impose any new duties on the department that would require funding for additional personnel.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of the regulation will not have any effect on revenue collections by the state or local governmental units. There are no fees, fines or other revenue generating activities imposed.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is not anticipated that this regulation will impose any additional costs to the insurers or the insureds since this regulation is based on a Department of Insurance directive which the insurance industry is currently operating under.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption of this regulation should not have any effect on competition and employment.

Brenda St. Romain
Assistant Commissioner
Management and Finance

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Alcoholic Beverage Control**

Wholesale Dealer Violations - Notices, Hearings and Findings (LAC 55:VII.109)

Under the authority of the Alcoholic Beverage Code, particularly R.S. 26:741 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the commissioner gives notice that rulemaking procedures have

been initiated to amend LAC 55:VII.109. This proposed rule amends procedures to be followed by wholesale dealers for cash sales of malt beverages.

Title 55

PUBLIC SAFETY

Part VII. Alcoholic Beverage Control

Subpart 1. Beer and Liquor Regulations

Chapter 1. Beer Cash Regulations

§109. Wholesale Dealer Violations - Notices, Hearings and Findings

* * *

B. Whenever the commissioner has reason to believe a violation of R.S. 26:741, or these regulations has been committed by a wholesale dealer, he shall determine, according to the available records, if it is the first violation, or if prior violations have occurred, and proceed according to the following:

1. First Violation

The commissioner shall send a warning notice to the wholesale dealer.

2. Second Violation

a. The commissioner shall send a notice to the wholesale dealer that the records show that since the first violation was found, the wholesaler has committed another violation and that a hearing will be held at a specified time and place.

b. If, at the hearing on the second violation, the commissioner is satisfied that the violation did occur within one year of the first violation, then the permit of the violator may be suspended for a period of two days exclusive of Sundays, election days and legal holidays and the violator may be fined not less than \$50 but not more than \$500.

3. Third Violation

a. The commissioner shall send a notice to the wholesale dealer that the records show that since the second violation was found, the wholesaler has committed another violation and that a hearing will be held at a specified time and place.

b. If, at the hearing on the third violation, the commissioner is satisfied that the violation did occur within one year of the first violation, then the violator may be suspended for a period of five days, exclusive of Sundays, election days and legal holidays and the violator may be fined not less than \$250 but not more than \$1,000.

4. Fourth Violation

a. The commissioner shall send a notice to the wholesale dealer that the records show that since the third violation was found, the wholesaler has committed another violation and that a hearing will be held at a specified time and place.

b. If, at the hearing on the fourth violation, the commissioner is satisfied that the violation did occur within one year of the first violation, then the violator may be suspended for a period of ten days, exclusive of Sundays, election days and legal holidays and the violator may be fined not less than \$500 but not more than \$2,500.

C. When there are violations found subsequent to the fourth violation, the commissioner will likewise set hearing as in the third and fourth violations, and if after the hearing, the commissioner is satisfied that the violation did occur within

one year of the first violation, then the violator may be suspended for a period of 90 days, or the revocation of the permit holder may be ordered, and, in addition to either, the violator may be fined not less than \$3,000 but not more than \$10,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:741.

HISTORICAL NOTE: Adopted by the Board of Alcoholic Beverage Control, 1948, amended by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 19:

This proposed regulation is to become effective on September 20, 1993 or upon publication in the *Louisiana Register*.

All interested parties are invited to submit written comments no later than August 5, 1993, to Ray Holloway, Office of Alcoholic Beverage Control, Box 66404, Baton Rouge, LA 70896.

Raymond E. Holloway
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: WHOLESALE DEALER VIOLATIONS**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no additional implementation costs to the state governmental units because the changes represented can be handled by existing staff. Local governmental units remain unaffected by the rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state governmental units may increase as violations, if any, occur by payment of possible fines.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Estimated costs should remain the same since violations are minimal and fines discretionary. Economic benefits will increase by more control over method of payment for malt beverages.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Raymond Holloway
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Revenue and Taxation
Research and Technical Services Division**

**Substitute Form Printing Specifications
for Form W-2 and Copy 2 (LAC 61:I.1510)**

Under the authority of R.S. 47:112(L) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation, Research and Technical Services Division proposes to adopt a rule concerning private printing of substitute form W-2, employee wage and tax statement, Copy 2 (L-2 state copy).

This proposed regulation establishes the requirements and specifications for the reproduction of paper substitutes of Form W-2, Wage and Tax Statement, Copy 2, furnished to payees who are required to file a State of Louisiana individual income tax return for reporting amounts paid during the 1993 calendar year. Paper substitutes that conform totally to the specifications and requirements contained in this rule may be privately printed without prior approval.

These requirements are needed to accommodate the new automated document processing equipment. With the exceptions of the paper weight requirement and MICR ink prohibition, all state document format and layout specifications are the same as the current Internal Revenue Service requirements.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue and Taxation**

Chapter 15. Income: Withholding Tax

**§1510. Requirements for Substitute Form W-2, Copy 2,
Furnished to Payees**

A. All payers (employers) must furnish payees (employees) with at least three copies of the Form W-2. This regulation pertains to Copy 2, to be filed with the employee's state income tax return. Any privately printed substitute Form W-2, Copy 2, must conform to the specifications of this rule in order to be acceptable to the Louisiana Department of Revenue and Taxation.

B. Definitions. For the purpose of this rule, the following terms are defined:

Copy 2—the state copy of the employee wage and tax statement or Form L-2.

Substitute Form W-2—any form not printed and provided by the Internal Revenue Service (IRS).

C. Specific Requirements - Form W-2, Copy 2

1. Form size and layout:

a. the length should be at least 3½ inches but not more than 6½ inches;

b. the width should be at least 5½ inches but not more than 8½ inches;

c. the use of either a horizontal or a vertical format is permitted.

2. Paper type and weight:

a. the paper must be white;

b. the paper weight must be at least 14 pound (basis 17 x 22-500).

3. Print quality standards:

- a. the copy must be clearly legible;
- b. the copy must have the capability to be photocopied;
- c. fading must not be of such a degree as to preclude legibility and the ability to photocopy; and
- d. MICR ink cannot be used to print any portion of the form.

4. Document format:

a. federal core data boxes, containing information required by the IRS, must be printed in the same size, order, and arrangement as on the IRS printed form. No boxes or other information may be printed to the right of this data. As specified by the IRS, these boxes must be a minimum of 1 $\frac{1}{8}$ inches wide and $\frac{1}{4}$ inch deep. Federal core data boxes are as follows:

- i. Box 1 - Wages, tips, other compensation;
- ii. Box 2 - Federal income tax withheld;
- iii. Box 3 - Social Security wages;
- iv. Box 4 - Social Security tax withheld;
- v. Box 5 - Medicare wages and tips; and
- vi. Box 6 - Medicare tax withheld.

b. state core data boxes contain information specifically required by the state and must be placed at the bottom of the form. State data boxes are as follows:

i. Box 16 - Employer's state and state identification number;

ii. Box 17 - state wages, tips, etc.; and

iii. Box 18 - state income tax withheld.

c. other federal data required to be present on the form in boxes similar to the core data boxes. These data boxes may be placed in any location, other than the location reserved for federal and state core data items:

- i. Employer's name, address, and ZIP code;
- ii. Employer identification number (EIN);
- iii. Employee's Social Security number; and
- iv. Employee's name, address, and ZIP code.

5. Document labeling

a. the form title and number should be printed at the top of the form;

b. the tax year must be clearly printed on the form;

c. the form should be labeled "Copy 2, to be filed with the employee's state income tax return."

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:112(L).

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Research and Technical Services Division, LR 19:

Interested persons may submit their written comments on the proposed rule to: Ellen Rhorer, director, Research and Technical Services Division, Department of Revenue and Taxation, Box 3863, Baton Rouge, LA 70821. Comments will be accepted through the close of business on Wednesday, July 28, 1993 at 4:30 p.m.

Ralph Slaughter
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: REQUIREMENTS—SUBSTITUTE FORM
W-2, COPY 2**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Department of Revenue and Taxation will save processing costs due to the automatic document processing of tax returns and wage and tax statements (W-2, Copy 2). Tax returns and W-2 statements will be captured as an image and can be viewed by tax personnel via computer terminal. Ease of retrieval and increased image quality will also increase department efficiency. We are unable to calculate the actual cost savings.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The effect of revenue collections should be unaffected or possibly enhanced due to increased compliance.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The only additional requirements to the Internal Revenue Service's specifications are the heavier paper weight and the MICR ink prohibition. The industry standard for paper is generally 20 pound weight. It is estimated that the majority of substitute documents are printed on paper that meets or exceeds the weight requirement. Additionally the cost differential between the 14 pound paper required by the state and the nine pound paper weight specified by the Internal Revenue Service would be negligible. It is estimated that the costs to comply with the paper weight and ink requirements would be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition or employment.

Ralph Slaughter
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**AFDC—Failure to Cooperate with IV-D
(LAC 67:III.1184)**

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 2, the Aid to Families with Dependent Children (AFDC) Program.

Pursuant to 45 CFR 232.12 and the usually high rate of non-cooperation by clients, the department desires to define the common circumstances of non-cooperation with IV-D that result in sanctioning, that is, the needs of the recipient AFDC parent being removed from the AFDC grant due to failure to cooperate in the process of securing child support from an absent parent.

**Title 67
SOCIAL SERVICES**

Part III. Office of Family Support

Subpart 2. Aid to Families with Dependent Children (AFDC)

Chapter 11. Application, Eligibility, and Furnishing Assistance

Subchapter F. Assignment of Rights to Support and Cooperation in Establishing Paternity and Securing Support

§1184. Failure to Cooperate with IV-D

A. Sanctioning which results in removal of the recipient's needs from the AFDC grant includes, but is not limited to, the following instances where good reason for failing to cooperate has not been established by the IV-D office.

1. failure to keep two consecutive appointments;
2. failure or refusal to cooperate at an interview;
3. failure to appear for, or cooperate during, a court date or genetic testing.

B. The recipient who has failed to cooperate will be notified in writing of the sanctioning. The recipient's desire or intention to cooperate will not preclude removal from the grant. If possible, a third party payee will be found. Recipient's needs will be reinstated only upon cooperation with the IV-D program.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 232.12.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19:

Interested persons may submit written comments within 30 days to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on July 29, 1993, in the second floor auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: AFDC—FAILURE TO COOPERATE
WITH IV-D**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The only cost to state government to implement the proposed rule will be the routine printing of manual revisions estimated to be \$50 for FY 93/94. Sanctions for failing to cooperate in securing child support already exist. This rule represents a change in program procedure and no fiscal impact is anticipated.

The proposal will have no effect on local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of any

governmental unit except that the state will receive an estimated \$25 as matching funds for the printing cost.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no cost or economic benefit to any non-governmental group. There will be a loss of economic benefit to those AFDC recipients whose needs are removed from their grant.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The rule will have no impact on competition or employment.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Project Independence-AFDC-Unemployed
Parent Participation (LAC 67:III.2910)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 5, Job Opportunities and Basic Skills Training (JOBS) Program.

This action is necessary to correct information concerning participation in the JOBS Program and to change an option afforded to the state by federal regulations at 45 CFR 250.30. In Louisiana the JOBS Program is known as Project Independence.

**Title 67
SOCIAL SERVICES**

**Part III. Office of Family Support
Subpart 5. Job Opportunities and Basic Skills
Training Program**

Chapter 29. Organization

Subchapter B. Participation

§2910. Individual Participation Requirements

All AFDC recipients are mandatory participants unless determined exempt in accordance with 45 CFR 250.30 or 250.33.

1. Regulations at 45 CFR 250.30 (b)(9)(i) mandate that all non-exempt applicants and recipients with children over age three, or an age less than three but not less than one, participate in the JOBS program as an eligibility condition for receipt of AFDC or AFDC-Unemployed Parent (AFDC-UP) benefits. Louisiana will exercise the option to require participation of parents with children over age one. This age limitation is overridden in the case of the custodial parent under age 20 who has not completed high school, since the legislation requires that such an individual participate in the education component of the program regardless of the age of the dependent child. Only one parent in an AFDC-UP case can be exempted for providing care for a child age one or under.

2. Regulations at 45 CFR 250.33 require that in any family eligible for AFDC by reason of the unemployment of the parent who is the principal wage earner, at least one parent must participate for a total of at least 16 hours per week in a work experience program or on-the-job training. The second parent can be placed in any component provided the first parent meets this 16 hour requirement.

3. Any parent under the age of 25 in an AFDC-Unemployed Parent (AFDC-UP) case, who has not completed high school or an equivalent course of education, is allowed to meet the 16 hour per week work-related requirement by participating in educational activities as defined at 45 CFR 250.44(a). Again, the second parent can be placed in any component activity provided the first parent meets this requirement.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.30, 250.33, and 250.44.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 16:1064 (December 1990), LR 19:504 (April 1993), LR 19:

Interested persons may submit written comments within 30 days to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on July 29, 1993, in the second floor auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: PROJECT
INDEPENDENCE-AFDC-UNEMPLOYED
PARENT PARTICIPATION**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs or savings associated with this rule other than the state cost of approximately \$60 for printing a manual revision. The rule only changes JOBS Program participation factors for AFDC-Unemployed Parent cases. Since all program funding is capped, some child care money previously spent serving certain cases will be diverted to other component services.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no new effect on state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no new cost or economic benefit to persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition or employment.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Support Enforcement Services—Adjustment of Obligation
(LAC 67:III.2512)**

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 4, Support Enforcement Services.

Pursuant to 45 CFR 303.8 regarding child support orders to be reviewed and adjusted, Support Enforcement Services (SES) is establishing a reasonable quantitative standard for petitioning for adjustment of an order.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter C. Formula for Support Obligation

§2512. Adjustment of Child Support Order

After a thorough review of circumstances, SES will refer a support order to court for modification or adjustment in accordance with the child support award guidelines, if calculation of the support obligation results in an increase or decrease of 25 percent of the current support obligation amount.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.8.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19:

Interested persons may submit written comments within 30 days to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. Mr. Prejean is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on Thursday, July 29, 1993, in the Department of Social Services second floor auditorium at 755 Third Street, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: SUPPORT ENFORCEMENT
SERVICES—ADJUSTMENT OF OBLIGATION

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The cost of implementing the proposed rule is estimated to be \$1,731 for printing manual revisions and new forms. No other costs are expected as the rule only establishes a specific criteria for making referrals to courts for consideration of adjustment of child support obligations. No additional costs are anticipated for local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no estimated costs or economic benefits to any persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The rule will have no impact on competition and employment.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Transportation and Development
Office of Aviation and Public Transportation**

**Repeal of Ultralight Aircraft, Airports; Pilot Testing and
Licensing (LAC 70:IX.Chapter 3)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development, Office of Aviation and Public Transportation intends to repeal LAC 70:IX.Chapter 3.

Title 70

TRANSPORTATION

**Part IX. Office of Aviation and Public Transportation
Chapter 3. Ultralight Aircraft, Airports; Pilot Testing
and Licensing**

§§301 - 317. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 6:417 (June 1983), repealed by the Department of Transportation and Development, Office of Aviation and Public Transportation, LR 19:

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this Notice of Intent to Joseph Levraea, DOTD Aviation Director, Department of Transportation and Development, Box 942455, Baton Rouge, LA 70804-9245, or call (504)379-1242.

Jude W. P. Patin
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: REPEAL OF LAC 70:IX.CHAPTER 3

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The majority of the work in administering the Ultralight Aviation Program involves collecting checks in the Aviation Section, transmitting them to Financial Services Section, and recording and depositing checks. The time involved is minimal and no additional personnel were needed. There would be no material implementation costs or savings to the department.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Annual revenues to DOTD are approximately \$675 for the licensing (\$360) and registration (\$315) of Ultralights. This revenue would be entirely eliminated when the rule is repealed.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The effect of repealing the rule would be to reduce expenses to users by the license cost (\$15 per unit) and registration cost (\$20 per unit) collected by DOTD every two years.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated effect on competition or employment.

Jude W. P. Patin
Secretary

John R. Rombach
Legislative Fiscal Officer

POTPOURRI

POTPOURRI

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

Solid Waste Regulations-Corrections

Notice is hereby given of a typographical error in the Solid Waste Regulations (SW05) which was published as a rule in the February 20, 1993 *Louisiana Register* on page 187.

The correction is as follows:

All references to Title 46, Part XXXIII are incorrect. The correct reference should be Title 46, Part XXIII.

James H. Brent, Ph.D.
Administrator

POTPOURRI

**Office of the Governor
Office of the Oil Spill Coordinator**

Oil Spill Contingency Fund Balance

In accordance with the provisions of the Louisiana Oil Spill Prevention and Response Act, particularly R.S. 30:2487, notice is hereby given that the balance of the Oil Spill Contingency Fund has reached \$15,126,850.71 as of April 30, 1993, as certified to me by the Honorable Mary L. Landrieu, State Treasurer.

Roland J. Guidry
Oil Spill Coordinator

POTPOURRI

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

Home and Community Based Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is providing notice that the emergency rule on the Home Care for the Elderly Waiver contained in the April 20, 1993 issue of the *Louisiana Register* cited an implementation date of April 1, 1993. This implementation date was based on the suspensive condition of receipt of approval by the Health Care Financing Administration. The approval of federal agency was not forthcoming as of that date and the later date of June 1, 1993 has been agreed upon by the Bureau and the Health Care Financing Administration. Therefore, the effective date of the Emergency Rule on the Home Care for the Elderly Waiver is June 1, 1993

J. Christopher Pilley
Secretary

POTPOURRI

**Department of Natural Resources
Office of Conservation
Injection and Mining Division**

Commercial Facility Application Hearing

Pursuant to the provisions of the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950 as amended, and the provisions of the Statewide Order No. 29-B, notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6 p.m. Thursday, July 22, 1993 in the Main Court Room of the Jefferson Davis Parish Courthouse (2nd floor), located 300 North State Street, in Jennings, Louisiana.

At such hearing, the commissioner, or his designated representative will hear testimony relative to the application of Newpark Environmental Services, Inc., Box 54024, Lafayette, LA. 70505. The applicant intends to construct and operate a commercial nonhazardous oilfield waste transfer station facility in Section 14 and 75, Township 10 South, Range 2 West, Jefferson Davis Parish, Louisiana.

The application is available for inspection by contacting Mr. Pierre Catrou, Office of Conservation, Injection and Mining Division, Room 253 of the Natural Resources Building, 625 North 4th Street, Baton Rouge, LA, or by visiting the Jefferson Davis Police Jury Office in Jennings, LA. Verbal information may be received by calling Mr. Catrou at (504) 342-5515.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 5 p.m., July 30, 1993, at the Baton Rouge office. Comments should be directed to: Office of Conservation Injection and Mining Division, Box 94275, Baton Rouge, LA 70804. Re: Docket No. IMD 93-05 Commercial Facility Jefferson Davis Parish.

H.W. Thompson,
Commissioner

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