

Rules

RULE

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Pesticide Restrictions (LAC 7:XXIII.143)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, has amended regulations regarding the restrictions on applications of certain pesticides and their exemption to waiver of restrictions.

The commercial applications of certain herbicides, in certain parishes, in accordance with the current regulations and labels has not been sufficient to control drift onto non target areas. Failure to prevent the drift onto non target areas will adversely affect other crops, particularly cotton. The adverse effects to the cotton crop and other non target crops will cause irreparable harm to the economy of central Louisiana and to Louisiana agricultural producers.

These Rules comply with and are enabled by R.S. 3:3203 and R.S. 3:3223.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Advisory Commission on Pesticides

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Applications of Pesticides.

§143. Restrictions on Application of Certain Pesticides

A. - B.17. ...

C. The pesticides listed in 143.B shall not be applied by commercial applicators between March 15 and September 15 in the following parishes or wards:

- | | |
|-------------------------------------|--|
| 1. Avoyelles | 16. Morehouse |
| 2. Bossier | 17. Natchitoches |
| 3. Caddo | 18. Ouachita |
| 4. Caldwell | 19. Pointe Coupee |
| 5. Catahoula | 20. Rapides |
| 6. Claiborne, Ward 4 | 21. Red River |
| 7. Concordia | 22. Richland |
| 8. DeSoto, Ward 7 | 23. St. Landry |
| 9. East Carroll | 24. St. Martin, Ward 5 |
| 10. Evangeline,
Wards 1, 3 and 5 | 25. Tensas |
| 11. Franklin | 26. Union |
| 12. Grant | 27. West Carroll |
| 13. Iberville Ward 9 | 28. West Baton Rouge,
Wards 5, 6, and 7 |
| 14. LaSalle | 29. Winn, Ward 7 |
| 15. Madison | |

* * *

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, 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 19:791 (September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 28:1672 (October 2001).

Bob Odom
Commissioner

0110#091

RULE

Department of Agriculture and Forestry Office of the Commissioner

Meat Labeling (LAC 7:XXXV.135)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Weights and Measures Commission, has adopted regulations regarding meat labeling requirements set out in R.S. 51:614.

The Department of Agriculture and Forestry, Weights and Measures Commission, is adopting these regulations in order to implement the meat labeling law set forth in R.S. 51:614. This Rule requires all meat to be labeled "American," "imported," and "blend of imported and American meats" on the wrapping or on a card for display.

These Rules comply with and are enabled by R.S. 3:4608, 3:4607, and R.S. 51:614.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§135. Meat Labeling

A. As used in this Section the following terms are defined.

1. *American* Any meat that is produced in the United States.
2. *Blend* Any combination of American and foreign meat.
3. *Imported* Any meat produced in a foreign country.

B. Unless otherwise provided in this Section, all processed or unprocessed meat sold in Louisiana, whether fresh or frozen, shall indicate the meat's country of origin.

1. The country of origin or designations "American," "imported" or "blend of imported and American meats" shall be indicated in clear and conspicuous letters in English.

2. All meat shall be labeled with one of the following designations, "American," "imported" or "blend of imported and American meats" or shall contain the name of the country of origin preceded by the "product of." Example: Meat produced in the United States would be labeled "American" or "Product of U.S.A."

3. Meat displayed for sale or sold unwrapped shall contain the proper designation as to the country of origin on

the meat, or on the immediate container or wrapping, or on a sign included with the display.

4. If an establishment sells only American meat, then a placard indicating that only American meat is sold will be sufficient to meet the requirements of these regulations.

C. The provisions of this Section shall not apply to prepared meat that is sold at retail for consumption on the premises and fully cooked meat as defined by the United States Department of Agriculture Food Safety Inspection Service rules and regulations.

D. The Commissioner of Agriculture and Forestry, the Weights and Measures Commission and the Department of Agriculture and Forestry shall have the power and authority granted under the Weights and Measures Law to enforce the provisions of this Section.

E. The penalty for any violation of this Section shall be as provided in R. S. 51:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4607 and R.S. 51:614.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 28:1673 (October 2001).

Bob Odom
Commissioner

0110#092

RULE

Department of Culture, Recreation and Tourism Office of State Parks

State Parks Overnight Facilities, Meeting Rooms,
Day Use, and Reservation Procedures
(LAC 25:IX.303-331 and 501-507)

The Office of State Parks has amended LAC 25:IX.301 et seq. in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and the statutory provisions of R.S. 56:1681 et seq.

The amendments relate to a variety of issues at state parks including use of overnight facilities, meeting rooms, day use, and reservation procedures.

Title 25

CULTURAL RESOURCES

Part IX. Office Of State Parks

Chapter 3. Rules and Regulations

§303. Park Property and Environment

A. - F. ...

G. No person may excavate, remove, damage, or otherwise alter or deface any archaeological resource located on any park. The display, possession, and/or use of metal detectors or other devices is prohibited. It is strictly forbidden to dig for or otherwise remove any historical feature, relic or artifact. Persons wishing to excavate and remove historical features by professional archaeological means for research purposes must request a permit from the Louisiana Archaeological Survey and Antiquities Commission. Applications for such permits must be made through the assistant secretary, office of state parks.

H. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 16:1051 (December 1990), LR 26:25 (January 2000), LR 28:1673 (October 2001).

§321. Fines and Enforcement of the Rules and Regulations

A. In addition to any other penalty provided by law, persons violating these rules and regulations are subject to administrative fines for each violation of not less than \$15 nor more than \$250 (R.S. 56:1689), eviction from the park, and/or restitution to the state for damages incurred. If an individual is delinquent in paying for damage incurred, the agency reserves the right to refuse privileges to that individual pending receipt of such restitution.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 26:27 (January 2000), LR 27: 1673 (October 2001).

§331. Overnight Use

A. - A.13. ...

B. Camping

1. With the exception of a campground host, overnight camping and group camp, lodge and cabin use are limited to 15 consecutive days. After 15 consecutive days of occupancy at a park, the visitor must vacate the park for seven consecutive days before occupancy may be resumed. At the site manager's discretion, and subject to availability, overnight camping may be extended on a weekly basis. No campsite may be vacated for longer than a 24-hour continuous period under any permit agreement.

2. - 4. ...

5. The following camping combinations are applicable only to Grand Isle State Park:

- a. one passenger vehicle and two tents (family unit only);
- b. one passenger vehicle and one camping trailer;
- c. one van-type camping vehicle and one tent;
- d. one van-type camping vehicle and one camping trailer.
- e. one pickup truck camper and one tent;
- f. one pickup truck camper and one camping trailer;
- g. one motorized camper (or bus) and one passenger vehicle.

h. In the north camping area, registered campers are allowed to bring a maximum of two vehicles and a maximum of six persons per campsite.

6. Beach campsites cannot be reserved.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1051 (December 1990), LR 26:28 (January 2000), LR 27:1673 (October 2001).

Chapter 5. Procedures and Fees

§503. Fees and Exemptions; Day-Use

A. - F.1.c. ...

G Meeting Rooms. Meeting rooms used to accommodate meetings and functions of private groups, clubs and other organizations are available during normal park operating hours. Kitchen facilities may be used, if available. Meeting room rates are as follows:

- \$75 Type I e.g. Bayou Segnette, North Toledo Bend
- \$125 Type II e.g. Chemin-A-Haut, Chicot
- \$175 Type III e.g. Lake Fausse Pointe

H. Exemptions

1. repealed.

H.2. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1051 (December 1990), LR 26:29 (January 2000), LR 27:1673 (October 2001).

§504. Fees and Exemptions C Overnight Use

A. - B.3. ...

C. Repealed.

D. - F.2. ...

G Group Camps. Group camps are available at certain parks for organized group use. The capacity, type of facility, and rates are as follows:

Classification	Overnight Rate	Maximum Capacity
Class III	\$300	100+
Class II	\$125	50+
Class I	\$75	30+

1. Group camps may be reserved for day or overnight use at a basic rate. In addition, the normal day-use entrance fee will be assessed each vehicle entering the group camp area.

2. Beds, kitchen and necessary cooking ware are furnished. User must furnish his own tableware (silver, dishes, glasses, etc.), bed linens, pillows, towels, and toilet necessities.

H. - H.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 26:30 (January 2000), LR 27:1674 (October 2001).

§505. Reservation Policy

A. General Provisions

1. - 4. ...

5. A cancellation of a reservation initiated by park users is subject to a surcharge. The cancellation fee is a minimum of \$10 per facility. If the reservation is canceled within 14 days of the first day of intended use, the cancellation fee is the cost of one day's stay or \$10 per facility, whichever is more. A transfer of reservation dates will be treated as a cancellation and a new reservation, and is therefore subject to the cancellation surcharge. There is no charge to transfer a reservation from a facility to the same type of facility within a park.

6. In the event reservations must be canceled for maintenance or emergency reasons by park staff, the rental fee will be refunded in full. Requests for waivers of the cancellation fee must be made in writing to the assistant secretary or his designee and will be granted only for extreme situations.

7. For cabins, lodges, group camps, rally shelters and campsites a two-day minimum reservation is required for weekends. The minimum may be met by reserving the facility on Friday and Saturday nights, on Saturday and Sunday nights or for all three nights. If facilities are not reserved in advance, they may be rented on weekends for one night to walk-up users using the facilities that day. Exceptions may be granted by the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1051 (December 1990), LR 26:32 (January 2000), LR 27:1674 (October 2001).

§507. Special Uses and Restrictions

A. - C.5. ...

D. Passenger Bus Restrictions

1. ...

2. Special Bus Use Permits. Any access to state parks by bus transportation on weekends or holidays during the period between Memorial Day and Labor Day will require a special bus use permit. The application for the permit must be submitted to the site manager at least three days prior to the proposed use date along with the group's proof of \$1,000,000 liability insurance and proof of \$500,000 automobile or bus liability insurance. Children traveling to state parks must be chaperoned by adults. The permit, if approved, does not cover other special day-use charges (rental pavilions, etc.).

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 26:32 (January 2000), LR 27:1674 (October 2001).

Dwight Landreneau
Assistant Secretary

0110#038

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
CPolicy for Louisiana's Public Education
Accountability System (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the

development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components. This change more clearly explains and refines existing policy as follows:
1) clarification of the transfer/school choice policy.

Title 28
EDUCATION

Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§ 901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April 2000); LR 26:1260 (June 2000), LR 27:1675 (October 2001).

The Louisiana School and District
Accountability SystemC Transfer Policy

2.006.11 Parents shall have the right to transfer their child to another public school when an Academically Unacceptable School begins Corrective Actions Level II or any other school begins Corrective Actions Level III.

Transfers shall not be made to Academically Unacceptable Schools or any school undergoing Corrective Actions Level II or Level III.

Upon parental request, districts shall transfer the child to the nearest acceptable school prior to the October 1 student membership count.

If no academically acceptable school in the district is available, the student may transfer to a neighboring district. Parents shall provide the transportation to the school. State dollars shall follow the child when such a transfer occurs.

Schools and districts may refuse to accept a student if there is insufficient space, if a desegregation order prevents such a transfer, or if the student has been subjected to disciplinary actions for behavioral problems.

An LEA must develop a policy for student transfers (School Choice Policy) for Academically Unacceptable schools in Corrective Actions II and III. An LEA shall state its capacity for offering student transfers. SBESE shall approve or disapprove an LEA's School Choice Policy.

An LEA shall declare *Lack of Capacity* when all of the attendance zones under its jurisdiction are unable to provide school choice to eligible students (i.e., desegregation order).

An LEA shall declare *Limited Capacity* when some students in some or all of the attendance zones under its jurisdiction may be provided school choice in an attendance zone (i.e., limited seating capacity in receiving schools).

An LEA declaring *Lack or Limited Capacity* shall request a waiver from SBESE and shall submit the following with its waiver request:

- a description of the general transfer policy or desegregation order (See State's *Guidance on LEAs' Development of School Choice Policies for Public Schools in Louisiana*). Transfer policies must include:
 - 1) a method for determining transfer capacity or evidence of lack of capacity to transfer;
 - 2) transfer options for as many eligible students as possible in the Academically Unacceptable schools in Corrective Actions II or III to other Academically Acceptable schools;
 - 3) equal educational opportunities for all students eligible to transfer, including students with disabilities and Limited English Proficiency (LEP) and in compliance with all civil rights laws pertaining to eligible students;
 - 4) a method for selecting transfer students from the entire eligible student population in cases of *Limited Capacity* (i.e., lottery);
 - 5) a method for communicating to parents the option and wherewithal of School Choice;
 - 6) a method for maintaining a file for all communication involving all interested parties in School Choice;
 - 7) A method for providing transportation for transfer students; and
 - 8) A method for transferring student records, including assessment results and their interpretations.

If SBESE determines that an LEA has demonstrated sufficient evidence of lack of or limited capacity to transfer, then the requesting LEA must submit the following information for SBESE approval:

- a description of the School/District Plan for those schools having to offer School Choice that addresses the following:
 - 1) Educator Quality
- Principal Certification/Qualifications
- Principal Leadership and Effectiveness
- Teacher Qualifications/Certification
 - 2) Professional Development
- To address teacher professional learning based on student data
- To address uncertified/inexperienced teacher professional learning if certified/experienced teachers are unavailable for placement in the school
 - 3) Alignment of Curriculum, Instruction and Assessment with State Content Standards;
 - 4) Teacher/Pupil Ratio;
 - 5) Early Intervention/Remediation Programs;
 - 6) Time on Task/Extended Learning Opportunities;
 - 7) Parental Involvement; and
 - 8) Discipline/Safety/Health Issues;
 - 9) Renovation/Capital Improvement.

If SBESE fails to approve an LEA's School Choice Plan, the implicated schools will lose their School Approval status.

Weegie Peabody
Executive Director

0110#023

RULE

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification
of School PersonnelC Alternative Certification Program
(LAC 28:I.903)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The new Louisiana Alternative Certification Program includes three paths to teacher certification for individuals with non-education degrees: (1) The Practitioner Teacher Program, (2) the Masters Degree Program, and (3) the Non-Masters/Certification-Only Program. These three programs will more effectively standardize the semester hours required for alternate certification throughout the state, regardless of university or private provider.

The Practitioner Teacher Program is a streamlined approach to certification that combines coursework and full-time teaching with demonstrated content knowledge, instructional expertise, and classroom management skills. As a hands-on approach delivered in a fast-track format, the Practitioner Teacher Program is unlike any previously offered alternative route to certification in Louisiana. Coursework will be at minimum 18 hours and at maximum 30 hours.

The other two paths to alternate certification allow candidates to schedule and take coursework on a part-time, rather than a full-time, basis. One path offers a masters degree, whereas the other does not.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations
Bulletin 746

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended

Bulletin 746, Louisiana Standards for State Certification of School Personnel
Alternative Certification Program

Providing Alternative Paths to Teacher Certification

The Louisiana Alternative Certification Program provides opportunities for individuals with non-education degrees to become certified public school teachers. Individuals seeking teacher certification under the alternative certification program will follow one of three alternative certification paths: the *Practitioner Teacher Program*, the *Masters Degree Program*, or the *Non-Masters/Certification-Only Program*.

Candidates for admission to any one of the programs must possess a baccalaureate degree from a regionally accredited university and must pass the Pre-Professional Skills Test on the PRAXIS and the content specific examinations for the PRAXIS. More detailed explanations relative to program admission requirements are explained within the description of each alternate certification path.

Individuals seeking certification under the *Practitioner Teacher Program* must submit an official transcript for evaluation to a Louisiana college or university with an approved teacher education program or to a state-approved private practitioner program provider. Individuals seeking certification under the *Masters Degree Program* or the *Non-Masters/Certification-Only Program* must submit an official transcript for evaluation to a Louisiana college or university with an approved teacher education program. [A list of Louisiana colleges and universities offering the *Practitioner Teacher Program*, the *Masters Degree Program*, and/ or the *Non-Masters/Certification-Only Program* is available from the Louisiana Department of Education, Division of Teacher Standards, Assessment, and Certification and on the Louisiana Department of Education's web site, www.doe.state.la.us. A list of private program providers offering the *Practitioner Teacher Program* is also available from these same sources.]

Universities offering alternative certification are required to begin implementation of the newly adopted paths on or before July 2002.

No students should be accepted into the "old" post-baccalaureate alternate certification program after January, 2002. Candidates already in the "old" alternative certification program would be given until January 2005 to complete their programs.

Practitioner Teacher Program
Alternative Path to Certification

State-approved private providers and Louisiana colleges or universities with an approved teacher education program may choose to offer a Practitioner Teacher Program. Practitioner Teacher Programs may offer certification in Grades 1-6, Grades 4-8, or Grades 7-12 (regular or special education). The Practitioner Teacher Program is a streamlined certification path that combines intensive coursework and full-time teaching.

Admission to the Program

To be admitted, individuals should:

1. Possess a baccalaureate degree from a regionally accredited university.
2. Have a 2.5 GPA on undergraduate work. Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider. However, in no case may the GPA be less than 2.0. (Note: State law requires that upon completion of the program the teacher candidate has a 2.5 GPA for certification.)
3. Pass the Pre-Professional Skills Test (e.g. reading, writing, and mathematics) on the PRAXIS.
4. Pass the content specific examinations for the PRAXIS
 - a. Candidates for Grades 1-6 (regular and special education): pass the *Elementary Education: Content Knowledge* specialty examination;
 - b. Candidates for Grades 4-8 (regular and special education): pass the *Middle School Education: Content Knowledge* specialty examination;
 - c. Candidates for Grades 7-12 (regular and special education): pass the *content specialty examination(s)* (e.g. English, Mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach.
5. Meet other non-course requirements established by the college or university.

Program Requirements

1. Teaching Preparation (Summer) 9 credit hours (or equivalent 135 contact hours)

Grades 1-6, 4-8 and 7-12 practitioner teachers will complete courses (or equivalent contact hours) pertaining to child/adolescent development/psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies before starting their teaching positions.

Mild/moderate special education teachers will take courses (or equivalent contact hours) that focus upon the special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods/materials for mild/moderate exceptional children, and vocational and transition services for students with disabilities.
2. Teaching Internship & First Year Teaching 9 credit hours (or equivalent 135 contact hours)

Practitioner teachers will assume full-time teaching positions in districts. During the school year, these individuals will participate in two seminars (one seminar during the fall and one seminar during the spring) that address immediate needs of the Practitioner Teacher Program teachers and receive one-on-one supervision through an internship provided by the program providers. The practitioner teacher will also receive support from school-based mentor teachers (provided by the Louisiana Teacher Assistance and Assessment Program) and principals.
3. Teaching Performance Review (end of first year)

Program providers, principals, mentors, and practitioner teachers will form teams to review the first year teaching performance of practitioner teachers and determine the extent to which the practitioner teachers have demonstrated teaching proficiency. If practitioner teachers demonstrated proficiency, they will enter into the assessment

portion of the Louisiana Teacher and Assessment Program during the next fall.

If weaknesses are cited, the teams will identify additional types of instruction needed to address the areas of need. Prescriptive plans that require from 1 to 12 credit hours (or 15 -180 equivalent contact hours) of instruction will be developed for practitioner teachers. In addition, the teams will determine if the practitioner teachers should participate in the new teacher assessment during the fall or if the practitioner teachers should receive additional mentor support and be assessed after the fall.

4. Prescriptive Plan Implementation 1-12 credit hours (15-180 contact hours)

Practitioner teachers who demonstrate areas of need will complete prescriptive plans.

5. Louisiana Assessment Program

Practitioner teachers will be assessed during the fall or spring of the second year of teaching depending upon their teaching proficiencies.

6. PRAXIS Review

Program providers will offer review sessions to prepare practitioner teachers to pass remaining components of the PRAXIS.

Certification Requirements

Private Providers and colleges or universities will submit signed statements to the Louisiana Department of Education which indicate that the student completing the *Practitioner Teacher Program* alternative certification path met the following requirements:

1. Passed the PPST components of the PRAXIS. (Note: This test was required for admission.)

2. Completed the program with an overall 2.5 or higher GPA.

3. Passed the specialty examination (PRAXIS) for their area(s) of certification.

a. Grades 1-6: Elementary Education: Content Knowledge specialty examination (Note: This test was required for admission.)

b. Grades 4-8: Middle School Education: Content Knowledge specialty examination (Note: This test was required for admission.)

c. Grades 7-12: Specialty content test in areas to be certified. (Note: This test was required for admission.)

d. Mild/Moderate Special Education 1-12: *Special Education*

4. Passed the Principles of Learning and Teaching examination (PRAXIS)

a. Grades 1-6: Principles of Learning and Teaching

b. Grades 4-8: Principles of Learning and Teaching

c. Grades 7-12: Principles of Learning and Teaching

Masters Degree Program

Alternative Path to Certification

A Louisiana college or university with an approved teacher education program may choose to offer an alternative certification program that leads to a master's degree. Alternative certification programs may be offered by a college or university only in those certification areas in which that institution has an approved teacher education program. The college or university may choose to offer the

masters degree program as either a Master of Education or a Master of Arts in Teaching. Masters Degree Programs may offer certification in Grades PK-3, Grades 1-6, Grades 4-8, or Grades 7-12 (regular or special education).

Admission to the Program

To be admitted, individuals should:

1. Possess a baccalaureate degree from a regionally accredited university.

2. Have a 2.5 GPA, or higher, on undergraduate work.

3. Pass the Pre-Professional Skills Test (e.g. reading, writing, and mathematics) on the PRAXIS.

4. Pass the content specific examinations for the PRAXIS

a. Candidates for PK-3 (regular and special education): pass the *Elementary Education: Content Knowledge* specialty exam;

b. Candidates for Grades 1-6 (regular and special education): pass the *Elementary Education: Content Knowledge* specialty examination;

c. Candidates for Grades 4-8 (regular and special education): pass the *Middle School Education: Content Knowledge* specialty examination;

d. Candidates for Grades 7-12 (regular and special education): pass the *content specialty examination(s)* (e.g., English, Mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach.

5. Meet other non-course requirements established by the college or university.

Program Requirements

1. Knowledge of Learner and the Learning Environment 15 credit hours

Grades PK-3, 1-6, 4-8, and 7-12: Child/adolescent development/psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies

Mild/Moderate Special Education 1-12: Special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for mild/moderate exceptional children, vocational and transition services for students with disabilities

2. Methodology and Teaching 12-15 credit hours
Methods courses and field experiences

3. Student Teaching or Internship 6-9 credit hours

Total: 33-39 credit hours

Certification Requirements

Colleges or universities will submit signed statements to the Louisiana Department of Education which indicate that the student completing the *Masters Degree Program* alternative certification path met the following requirements:

1. Passed the PPST components of the PRAXIS. (Note: This test was required for admission.)

2. Completed all coursework (undergraduate and masters program) with an overall 2.5 or higher GPA.

3. Passed the specialty examination (PRAXIS) for their area(s) of certification.

a. Grades PK-3: Elementary Education: Content Knowledge specialty exam (Note: This test was required for admission.)

b. Grades 1-6: Elementary Education: Content Knowledge specialty exam (Note: This test was required for admission.)

c. Grades 4-8: Middle School Education: Content Knowledge specialty examination (Note: This test was required for admission.)

d. Grades 7-12: Specialty content test in area to be certified (Note this test was required for admission.)

e. Mild/Moderate Special Education 1-12: *Special Education*

4. Passed the Principles of Learning and Teaching examination (PRAXIS)

a. Grades PK-3: Principles of Learning and Teaching K-6

b. Grades 1-6: Principles of Learning and Teaching K-6

c. Grades 4-8: Principles of Learning and Teaching 5-9

d. Grades 7-12: Principles of Learning and Teaching 7-12

Non-Masters/Certification-Only Program
Alternative Path to Certification

A Louisiana college or university with an approved teacher education program may choose to offer a post-baccalaureate alternative certification program that does not lead to a degree. Alternative certification programs may be offered by a college or university only in those certification areas in which that institution has an approved teacher education program. Non-Masters/Certification-Only Programs may offer certification in Grades PK-3, Grades 1-6, Grades 4-8, or Grades 7-12 (regular or special education).

Admission to the Program

To be admitted, individuals should:

1. Possess a baccalaureate degree from a regionally accredited university.

2. Have a 2.5 GPA, or higher, on undergraduate work.

3. Pass the Pre-Professional Skills Test (e.g. reading, writing, and mathematics) on the PRAXIS.

4. Pass the content specific examinations for the PRAXIS

a. Candidates for PK-3 (regular and special education): pass the *Elementary Education: Content Knowledge* specialty exam;

b. Candidates for Grades 1-6 (regular and special education): pass the *Elementary Education: Content Knowledge* specialty examination;

c. Candidates for Grades 4-8 (regular and special education): pass the *Middle School Education: Content Knowledge* specialty examination;

d. Candidates for Grades 7-12 (regular and special education): pass the *content specialty examination(s)* (e.g. English, Mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach.

Program Requirements

1. Knowledge of Learner and the Learning Environment 9 credit hours

Grades PK-3, 1-6, 4-8, and 7-12: Child/adolescent development/psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies

Mild/Moderate Special Education 1-12: Special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for mild/moderate exceptional children, vocational and transition services for students with disabilities

Methodology and Teaching 6 credit hours

Methods courses and field experience

3. Student Teaching or Internship 6-12 credit hours

Total: 21-27 credit hours

Certification Requirements

Colleges or universities will submit signed statements to the Louisiana Department of Education which indicate that the student completing the *Non-Degree/Certification-Only Program* alternative certification path met the following requirements:

1. Passed the PPST components of the PRAXIS. (Note: This test was required for admission.)

2. Completed all coursework (undergraduate and certification program) with an overall 2.5 or higher GPA.

3. Passed the specialty examination (PRAXIS) for their area(s) of certification.

a. Grades PK-3: Elementary Education: Content Knowledge specialty exam (Note: This test was required for admission.)

b. Grades 1-6: Elementary Education: Content Knowledge specialty examination (Note: This test was required for admission.)

c. Grades 4-8: Middle School Education: Content Knowledge specialty examination (Note: This test was required for admission.)

d. Grades 7-12: Specialty content test in areas to be certified. (Note: This test was required for admission.)

Mild/Moderate Special Education 1-12: Special Education

4. Passed the *Principles of Learning and Teaching* examination (PRAXIS)

a. Grades PK-3: Principles of Learning and Teaching K-6

b. Grades 1-6: Principles of Learning and Teaching K-6

c. Grades 4-8: Principles of Learning and Teaching 5-9

d. Grades 7-12: Principles of Learning and Teaching 7-12

Universities offering alternative certification options are required to begin implementation of the newly adopted paths on or before July 2002.

No students should be accepted into the "old" post-baccalaureate alternate certification program after January 2002. Candidates already in the "old" alternative certification program would be given until January 2005 to complete their programs.

Weegie Peabody
Executive Director

0110#022

RULE

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification
of School PersonnelC Denial of Certification for
Criminal Offenses (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy includes language relative to specific criminal offenses, which is consistent with the laws requiring background checks. In addition, the change outlines specific procedures for issuance of certificates, the required evidence of rehabilitation, and graduated time lines for convictions rendered at various times in the past.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 26:459 (March 2000), LR 26:635-638 (April 2000), LR 26:638-639 (April 2000), LR 27:1680 (October 2001).

Bulletin 746, Louisiana Standards for State Certification of School PersonnelC Denial of Certificates for Criminal Offenses

One of the three new alternate certification routes in Louisiana, the Practitioner Teacher Program was approved by the State Board of Elementary and Secondary Education for implementation by selected providers as early as summer 2001.

I. An application for a Louisiana teaching certificate shall be denied if the individual applying for the certificate has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever. (See Attachment 1)

II. For the purposes of this policy:

The term *Aoffense@* or *Acrime@* shall include those listed in R.S. 15:587.1(C) and any felony offense whatsoever.

The term *Ateaching certificate@* or *Acertificate@* shall include any license, permit, or certificate issued by the Certification and Higher Education section of the Department of Education.

The term *Aindividual@* shall include any person applying for any permanent, ancillary, provisional or temporary certificate.

The term *Aconvicted@* or *Aconviction@* shall include any proceedings in which the accused pleads guilty or no contest and those proceedings that are tried and result in a judgment of guilty.

The term *ADepartment@* refers to the Louisiana Department of Education.

The term *ABoard@* refers to the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

III. Any conviction that results in a suspended sentence pursuant to Articles 893 or 894 of the Louisiana Code of Criminal Procedures, shall be treated as a conviction for the purpose of denial.

Gubernatorial pardons, first offender pardons, and expungement may be used as evidence of rehabilitation, but shall not preclude the denial of a teaching certificate.

IV. When the Department is notified that any teacher has been convicted of a specific crime:

A. The teacher shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been denied and that a hearing will be conducted by a Board committee to consider issuance of Louisiana certification.

B. If the teacher cannot be reached and/or if his/her employment status cannot be determined, denial of the certificate shall proceed, as will all other steps in the process outlined in this policy.

C. A teacher may contact the office of the Board and request a hearing prior to the date set for the denial consideration by the Board. Such hearing will be limited to a determination of the individual's true identity and true conviction status. The teacher shall provide copies of any documents that verify his/her identity and refute the existence of a criminal conviction.

V. Upon official action by the Board, any teacher whose certificate has been denied shall be notified of such action by certified mail. The correspondence shall include instructions for and identification of the date when the individual may apply to the Board for issuance of his/her certificate.

VI. If the conviction upon which a teacher's certificate has been denied is reversed, vacated, or set aside such action may be communicated to the Board through documentation from the court in which the conviction occurred.

VII. A teacher whose certification has been denied under the provisions of this part may apply for issuance only after the time restriction has been completed.

VIII. Time Restrictions on Applications for Reinstatement:

A. Certificate issuance will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286. (See Attachment 1)

B. Issuance of certificates shall not be considered for any final felony conviction until at least 3 years have elapsed from the date of the final conviction.

IX. Procedures for Issuance:

A. An individual may apply to the Board for issuance of his/her teaching certificate after the lapse of time indicated above and under the following conditions.

1. There have been no other arrests or convictions (the applicant must provide a current background check that is clean and clear).

2. There has been successful completion of all conditions and/or requirements of parole and/or probation (the applicant must provide copies of court records,

sentencing recommendations, probation release forms, etc., and written verification that all requirements have been completed and/or met).

3. There is documented evidence of rehabilitation (the applicant is responsible for providing copies of every requested document).

B. The applicant must:

1. Contact the office of the Board of Elementary and Secondary Education.

2. Provide each item identified above (IX.A.1, and 2) and below (IX.C.1, 2, and 3 *required*, IX.C.4, 5, and 6 *recommended*).

3. Request a hearing for issuance of certificate.

C. Evidence of rehabilitation is not limited to, but shall include 1, 2, and 3 (below) and should include 4, 5, and 6 (below).

1. Letter of support from a local district attorney.

2. Letter of support from a local judge.

3. Letter of support from the applicant's parole/probation officer, local police chief, or local sheriff.

4. Letter of support from a local school superintendent.

5. Letter of support from a local community person (business owner, minister, priest, rabbi, city council person, etc.).

6. Other letters of support or written reports that verify the applicant's rehabilitation.

D. The Board is not required to conduct an issuance hearing and may summarily deny a request for issuance.

E. If the Board or its designees decide to conduct an issuance hearing, Board staff shall notify the applicant of a date, time, and place when a committee of the Board shall consider the applicant's request. The applicant may be represented/accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. The conviction itself will be given full faith and credit. Testimony will not be allowed as to the circumstances surrounding the conviction. The written documentation provided prior to the hearing will also be considered.

F. The committee of the Board shall make a recommendation to the full Board regarding whether the teaching certificate should be granted, or denied. Board staff shall notify the applicant of the Board's action.

X. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation.

The Board of Elementary and Secondary Education reserves the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for a teaching certificate.

Attachment 1

The following crimes are reported under R.S.15:587.1: R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 14:89.1, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or

convictions for attempt or conspiracy to commit any of those offenses; those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the Federal Criminal Code having analogous elements of criminal and moral turpitude. (Federal Criminal Code provisions are in Title 18 of U.S.C.A.)

Specifically:

* R.S. 14:30	First degree murder
* R.S. 14:30.1	Second degree murder
R.S. 14:31	Manslaughter
* R.S. 14:41	Rape
* R.S. 14:42	Aggravated rape
* R.S. 14:42.1	Forcible rape
* R.S. 14:43	Simple rape
* R.S. 14:43.1	Sexual battery
* R.S. 14:43.2	Aggravated sexual battery
* R.S. 14:43.3	Oral sexual battery
* R.S. 14:43.4	Aggravated oral sexual battery
* R.S. 14:43.5	Intentional exposure to the AIDS virus
* R.S. 14:44	Aggravated kidnapping
* R.S. 14:44.1	Second degree kidnapping
* R.S. 14:45	Simple kidnapping
R.S. 14:74	Criminal neglect of family
* R.S. 14:78	Incest
* R.S. 14:79.1	Criminal abandonment
* R.S. 14:80	Carnal knowledge of a juvenile
* R.S. 14:81	Indecent behavior with a juvenile
* R.S. 14:81.1	Pornography involving juveniles
* R.S. 14:81.2	Molestation of a juvenile
R.S. 14:82	Prostitution
* R.S. 14:82.1	Prostitution; persons under seventeen; additional offenses
R.S. 14:83	Soliciting for prostitutes
R.S. 14:83.1	Inciting prostitution
R.S. 14:83.2	Promoting prostitution
R.S. 14:83.3	Attachment 1 continued
R.S. 14:83.4	Prostitution by massage
R.S. 14:84	Massage; sexual content prohibited
R.S. 14:85	Pandering
R.S. 14:85.1	Letting premises for prostitution
* R.S. 14:86	Letting premises for obscenity
* R.S. 14:89	Enticing persons into prostitution
* R.S. 14:89.1	Crime against nature
R.S. 14:92	Aggravated crime against nature
* R.S. 14:93	Contributing to the delinquency of juveniles
* R.S. 14:93.2.1	Cruelty to juveniles
R.S. 14:93.3	Child desertion
R.S. 14:106	Cruelty to the infirm
R.S. 14:282	Obscenity
* R.S. 14:286	Operation of places of prostitution prohibited
R.S. 40:966(A)	Sale of minor children
R.S. 40:967(A)	Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; distribution
R.S. 40:968(A)	Prohibited acts; Schedule II, penalties; Manufacture; distribution
R.S. 40:969(A)	Prohibited acts--Schedule III; penalties; Manufacture; distribution
R.S. 40:969(A)	Prohibited acts--Schedule IV; penalties; Manufacture; distribution

R.S. 40:970(A) Prohibited acts--Schedule V;
penalties; Manufacture; distribution
* Reinstatement will never be considered for crimes
marked with an asterisk.
* * *

Weegie Peabody
Executive Director

0110#021

RULE

Board of Elementary and Secondary Education

Bulletin 1566C Guidelines for Pupil Progression
(LAC 28:XXXIX.503-509, 513, 519, and 1301)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education has amended Bulletin 1566, *Guidelines for Pupil Progression*, referenced in LAC 28:I.907.A. The Rule change extends the waiver for students with disabilities as identified under IDEA for one additional year (2001-2002 school year). This waiver allows students with disabilities to be promoted to grades 5 or 9 without passing the required components of LEAP 21. Revisions to Bulletin 741, *The Louisiana Handbook for School Administrators*, relative to the course sequence for high school students who have not passed certain components of LEAP 21 result in a change to Bulletin 1566 and the High Stakes Testing Policy. The new policy requires that students promoted to 9th or 10th grade who scored at the Unsatisfactory achievement level on the 8th grade LEAP 21, be required to enroll in and pass a high school remedial course before enrolling in a high school level course required for graduation.

Title 28

EDUCATION

Part XXXIX. Bulletin 1566C Guidelines for Pupil Progression

Chapter 5. Placement Policies; State Requirements

§503. Regular Placement¹

A.1. - (iii). ...

(iv). Waiver for students with disabilities eligible under the Individuals with Disabilities Education Act (IDEA). For the 2001-2002 school year only if a student with disabilities (excluding students with only a Speech or Language Impairment) participates in on-level testing, the SBLC may consider a waiver only if the student has participated in the summer remediation program and retest offered by the LEAs. If a student with disabilities (excluding students with only a Speech or Language Impairment) participates in out-of-level testing, promotion decisions shall be determined by the SBLC. If a student with disabilities participates in an alternative assessment, promotion decisions shall be determined by the SBLC for the 2001 school year and beyond. Students with disabilities will be promoted in grades four and eight in accordance with SBEE adopted policies.

(v). - iii. ...

iv. Summer remediation programs and end-of-summer retests must be offered by school systems at no costs to students who did not take the Spring LEAP 21 tests or who score at the Unsatisfactory level on LEAP 21.

a. All students with disabilities who participate in on-level testing should receive services along with regular education students in summer programs, with special supports provided as needed.

b. Students with disabilities who participate in out-of-level testing or alternate assessment are not eligible to attend LEAP 21 summer remediation programs.

(a). Option 1 Students. Students in Option 1 will repeat grade 8. Students in Option 1 will retake all four components of the LEAP 21. For promotional purposes, a student must score at or above the *Approaching Basic* achievement level on the English arts and mathematics components of the LEAP 21 only one time. In accordance with the local Pupil Progression Plan, Option 1 students who scored at the Unsatisfactory achievement level on English Language Arts and/or Mathematics component(s) of the Grade 8 LEAP 21:

(i). may earn Carnegie units in accordance with *Bulletin 741: Louisiana Handbook for School Administrators policy*, regarding high school credit for elementary students;

(ii). may earn a maximum of one Carnegie unit of remedial elective credit toward graduation provided the student passes a specially designed remediation elective and scores at or above the *Basic* achievement level on the component of the 8th grade LEAP 21 that is retaken. LEAP 21 shall be in lieu of a required credit examination. For these specially designed remediation courses, the LEA shall record a grade of *Pass* or *Fail (P/F)* on the student's transcript;

(iii). must pass a high school remedial course in English Language Arts and/or Mathematics before enrolling in or earning Carnegie credit for English and/or Mathematics.

(b). Option 2 Students. Students in Option 2 will participate in a transitional program on the high school campus. Students in Option 2 will retake the 8th grade components of the LEAP 21 previously failed (English and/or Mathematics) and all parts of the Iowa Tests at the 9th grade level. All Option 2 Students who scored at the Unsatisfactory achievement level on English Language Arts or Mathematics component of the Grade 8 LEAP 21:

(i). shall take remedial courses in the component (English language arts and/or mathematics) of the Grade 8 LEAP 21 in which an *Unsatisfactory* achievement level was attained;

(ii). may earn a maximum of one Carnegie unit of remedial elective credit toward graduation provided the student passes a specially designed remediation elective and scores at or above the *Basic* achievement level on the component of the 8th grade LEAP 21 that is retaken. For these specially designed remediation courses, the LEA shall record a grade of *Pass* or *Fail (P/F)* on the students transcript;

(iii). must pass a high school remedial course in English Language Arts and/or Mathematics before enrolling in or earning Carnegie credit for English and/or mathematics;

(iv). may earn Carnegie credit in other content areas;

vi. Exceptional students participating in LEAP 21 must be provided with significant accommodations as noted in the students IEP.

vii. The aforementioned policies will be in effect from spring 2000 through spring 2003. Beginning in spring 2004, the policies will also apply to students scoring at the *Approaching Basic* level.

A.1.b.viii - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 27:1682 (October 2001).

§505. Progression of Students Participating in Alternate Assessment

A. Students with disabilities who participate in the alternate assessment shall have promotion decisions determined by the local Pupil Progression Plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 27:1683 (October 2001).

§507. Alternatives to Regular Placement

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), repealed LR 27:1683 (October 2001).

§509. Alternative Schools/Programs/Settings

A. The local school board may establish alternative schools/programs/settings which shall respond to particular educational need(s) of its students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 27:1683 (October 2001).

§513. Policies on Records and Reports

A. - B.7. ...

8. a statement regarding written notification to parent concerning retention and due process procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 27:1683 (October 2001).

§515. Policies on Due Process

A. Due process procedures for teachers, students, and parents shall be specified in each local Pupil Progression Plan as related to student placement. The local school system must assure that these procedures do not contradict the due process rights of students with disabilities as defined in the IDEA -Part B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 27:1683 (October 2001).

Chapter 13. Appendix B

§1301. LEAP for the 21st Century, High Stakes Testing Policy

A. Grade 4 - 3.b. ...

c. Students with disabilities who participate in out-of-level testing or alternate assessment are not eligible to attend the LEAP 21 summer remediation programs.

d. LEAs are encouraged to offer remediation services to students who score at the *Approaching Basic* level.

4. - 6.a. ...

b. Waiver for Students with Disabilities Eligible under the Individuals with Disabilities Education Act (IDEA).

i. For the 2001-2002 school year only, the SBLC shall be granted the authority to waive the state's grade promotion policy for students with disabilities (excluding students with only a speech or language impairment).

B. Grade 8 - 4. ...

5. In accordance with the local Pupil Progression Plan, Option 1 students who scored at the Unsatisfactory achievement level on English Language Arts and/or Mathematics component(s) of the Grade 8 LEAP 21:

a. may earn Carnegie units in accordance with the policy regarding high school credit for elementary students as found in *Bulletin 741: Louisiana Handbook for School Administration*;

b. may earn a maximum of one Carnegie unit of remedial elective credit toward graduation provided the students pass a specially designed remediation elective and score at or above the *Basic* achievement level on the component of the 8th grade LEAP 21 that is retaken. The LEAP 21 shall be in lieu of a required credit examination. For these specially designed remediation courses, the LEA shall record a grade of *Pass* or *Fail (P/F)* on the student's transcript;

c. must pass a high school remedial course in English Language Arts and/or Mathematics before enrolling in or earning Carnegie credit for English and/or Mathematics.

6. All Option 2 students who scored at the Unsatisfactory achievement level on English Language Arts or Mathematics component of the Grade 8 LEAP 21:

a. shall take remedial courses in the component (English language arts and/or mathematics) of the Grade 8 LEAP 21 in which an *Unsatisfactory* achievement level was attained;

b. may earn a maximum of one Carnegie unit of remedial elective credit toward graduation provided the students pass a specially designed remediation elective and score at or above the *Basic* achievement level on the component of the 8th grade LEAP 21 that is retaken. For these specially designed remediation courses, the LEA shall record a grade of *Pass* or *Fail (P/F)* on the student's transcript;

c. must pass a high school remedial course in English Language Arts and/or Mathematics before enrolling in or earning Carnegie credit for English and/or Mathematics;

d. may earn Carnegie credit in other content areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171, amended LR 27:1683 (October 2001).

Weegie Peabody
Executive Director

0110#020

RULE

Board of Elementary and Secondary Education

Bulletin 1929C Louisiana Accounting and Uniform Governmental Handbook (LAC 28:XLI.503, 903, and 1105)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the State Board of Elementary and Secondary Education has amended Bulletin 1929, *Louisiana Accounting and Uniform Governmental Handbook*, promulgated by the Board of Elementary and Secondary Education in LR 20:1097 (October 1994). The changes incorporate new accounting codes and also revise criteria for distinguishing between a supply item and an equipment item.

Title 28 EDUCATION

Part XLI. Bulletin 1929, Louisiana Accounting and Uniform Governmental Handbook

Chapter 5. Fund Classifications

§503. Governmental Funds

A. - A.2. ...

a. Federal Revenue

i. IASA FundsCAll revenue related to the Improving America's School Act (IASA) including all Parts.

ii. Special Education FundsCAll revenue relating to the Individuals with Disabilities Education Act (IDEA) and all related Parts.

iii. Other Federal RevenueCUsed to account for all other federal revenue including, for example, Adult Education, Vocational Education, and Headstart.

b. Other Revenue

i. School Food Service FundsCAll Revenue, federal, state, or local related to the Child Nutrition Programs including School Lunch, School Breakfast, After School Snacks, Catering, and Nutrition Education.

ii. Other Special RevenueCAll state and/or local revenue specifically dedicated for a purpose.

3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:463 (March 2000), amended LR 27:1684 (October 2001).

Chapter 9. Classification of Expenditures and Other Uses of Funds

§903. Function Codes

A. - D.1. ...

a. 3110 Food Service District OfficeCActivities associated with the overall general administration of the Child Nutrition Programs. (School Breakfast, School Lunch, After School Snacks, Catering, and Nutrition Education)

b. 3111 Office of the District SupervisorCActivities concerned with the directing and managing of the food service operations of all schools in the district. These activities include all personnel and materials in the district office.

c. 3112 Office of the Assistant SupervisorCActivities performed to assist the district

supervisor in managing all food service activities of the LEA.

d. 3120 Food Service SitesCActivities concerned with food service operations for a school.

e. 3121 Office of the Site ManagerCActivities concerned with directing and managing the food service operations of a particular school.

f. 3122 Office of the Assistant Site ManagerCActivities performed by the assistant site manager concerned with directing and managing the food service operations of a particular school.

D.2. - F.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:474 (March 2000), amended LR 27:1684 (October 2001).

§1105. Fund Equity Codes

A. - B.2. ...

a. It can be expected to serve its principal purpose for at least one year.

B.2.b. - B.2.c. ...

d. It is equal to or greater than \$1,000 per unit cost in value. Note: The unit cost of \$1,000 does not apply to any program funded with 8g monies.

3. Note: food and computer software must always be considered supplies.

4. School districts maintain rigorous accountability for their property whether it is capitalized or not. For accountability and internal control purposes, many items of property that do not meet the districts' capitalization threshold must be inventoried. Thus, the Department of Education recommends maintaining inventory and tracking items that do not meet the equipment criteria if needed for insurance purposes and/or the item has "street value." For instance, districts might inventory VCRs and computers for internal control purposes but not capitalize them due to their low cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:483 (March 2000), amended LR 27:1684 (October 2001).

Weegie Peabody
Executive Director

0110#019

RULE

Board of Elementary and Secondary Education

Bulletin 1934C Starting Points Preschool Regulations (LAC 28:XXI.301-305, 311, 503, 507, and 515)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 1934, *Starting Points Preschool Regulations*. Changes in the Rule include the deletion of the eligibility requirements of screening and parental participation; the addition of a minimal co-pay by parents; clarification that wages earned by parents must be at the federal minimum wage; the deletion of the requirement that the school site be located in low income areas as determined by the allocation process utilized by Title I

Programs; clarification documentation needed to verify attendance in a job training/educational program; and revision of the monitoring schedules of teachers rated above average from every other year to every three years.

Title 28

EDUCATION

Part XXI. Bulletin 1934C Starting Points

Preschool Regulations

Chapter 3. Eligibility

§301. Eligibility Criteria

A. - A.1. . . .

2. residing in a family whose mean income is no more than 85 percent of the state median income for a family of the same size and complies with a co-pay based upon a sliding scale if applicable;

3. from families with both parents (or guardian) involved in one of the following:

a. attending a job training or education program full-time;

b. working full-time earning federal minimum wage; or

c. in job training part-time and working part-time.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:1685 (October 2001).

§303. Definitions

Attending (a job training or educational program)Cto be present for training or educational programs as scheduled except when absent for such reasons as illness or family emergency.

*Family*Ca basic family unit consisting of one or more adults and children, whether or not related by blood or law, and residing in or being part of the same household. Children living under the care of individuals not legally responsible for their care are to be considered part of the family.

*Income*Cbasic income eligibility would be based on 85 percent of the state median income adjusted for family size. Earned income is used in determining eligibility.

*Job Training or Educational Program*Ca program of training to prepare a parent/guardian for gainful employment. At the completion of the training period, or reasonably thereafter, the participant could reasonably be expected to fully or substantially support the family. The training or educational program can be in any public or private licensed, accredited, or recognized educational program which normally requires enrollment or leads to receipt of a high school diploma or equivalency certificate, provided that the institution is legally authorized or recognized by the state. The parent/guardian must attend the training or educational program for at least 20 hours per week.

Part-Time (job training or educational program)Cpart-time status as determined by the institution.

*Working*Ca person who is employed at least 20 hours per week and earning federal minimum wage is considered as meeting the requirement to be classified as a working parent/guardian. In the event a parent/guardian becomes unemployed, a brief period (up to 30 days) may be used to accomplish a job search to obtain employment.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:1685 (October 2001).

§305. Screening

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), repealed, LR 27:1685 (October 2001).

§311. Job Training/Educational Program Verification

A. If a parent or guardian is enrolled in a job training or educational program, *one* of the following forms of verification must be presented:

1. registration receipts and a copy of class schedule;

2. letter from institution indicating enrollment and the number of hours per week that are spent in the educational program.

B. . . .

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:1685 (October 2001).

Chapter 5. Program Structure

§503. Teacher Qualifications

A. Each classroom teacher must be certified in *one* of the following areas:

1. early childhood education;

2. nursery school education; or

3. kindergarten.

4. early intervention

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27: 1685 (October 2001).

§507. Program Location

A. Programs will be placed in every school system based upon the submission of a proposal and final approval by the Board of Elementary and Secondary Education (BESE). Programs will be placed in both public and approved nonpublic schools which comply with Brumfield-Dodd.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:1685 (October 2001).

§515. Monitoring

A. Program Coordinators from the Elementary Standards Section will evaluate each program annually to ensure that program regulations are being met.

B. The *Early Childhood Environment Rating Scale-Revised (ECERS-R)* will also be used to measure the effectiveness of the program. Each new teacher and those scoring below 5.0 on the ECERS-R will be monitored on a yearly basis until an average score of 5.0 is attained on the scale. All continuing sites serving ten or more Starting Points children that score above 5.0 on the ECERS-R, will be evaluated on a three year cycle.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended, LR 27:1585 (October 2001).

0110#018

Weegie Peabody
Executive Director

RULE
Office of the Governor
Board of Architectural Examiners

Architectural and Construction Services Combination
(LAC 46:I.1121)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners has adopted LAC 46:I.1121 pertaining to the board's interpretation of R.S. 37:141(B)(3). R.S. 37:141(B)(3) defines the practice of architecture, and the board interpreted this definition as it pertains to a partnership or corporation offering a combination of architectural services together with construction services.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part I. Architects

Chapter 11. Administration

§1121. Interpretation of R.S. 37:141(B)(3); Design/Build

A. A partnership or corporation offering a combination of architectural services together with construction services may offer to render architectural services only if:

1. an architect registered in this state or otherwise permitted to offer architectural services participates substantially in all material aspects of the offering;
2. there is written disclosure at the time of the offering that such architect is engaged by and contractually responsible to such partnership or corporation;
3. such partnership or corporation agrees that such architect will have responsible control of the architectural work and that such architect's services will not be terminated prior to the completion of the project without the consent of the person engaging the partnership or corporation; and
4. the rendering of architectural services by such architect will conform to the provisions of the architectural registration law and the Rules adopted thereunder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 28:1686 (October 2001)

Mary "Teeny" Simmons
Executive Director

0110#083

RULE

Office of the Governor
Board of Architectural Examiners

Architectural Engineers (LAC 46:I.1123)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners has adopted LAC 46:I.1123 pertaining to the board's interpretation of R.S. 37:145. R.S. 37:145 limits the use of the title "architect," or any term derived therefrom, to persons who have secured from the board a certificate of registration and license; the board interpreted this definition as it pertains to a registered professional engineer who has a degree entitled Architectural Engineering from an accredited public or private college or university, or an entity formed by or employing such an engineer.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part I. Architects

Chapter 11. Administration

§1123. Interpretation of La. R.S. 37:145; Architectural Engineers

A. A registered professional engineer who has a degree entitled Architectural Engineering from a public or private college or university accredited by the Accreditation Board for Engineering and Technology to offer such a degree may use the title "Architectural Engineer." A corporation, partnership, limited liability company, or group may include the title "Architectural Engineer" in its firm name, provided an owner, partner, or principal of that firm is a registered professional engineer who has such a degree from a public or private college or university so accredited.

B. This interpretation limits the use of the words "Architectural Engineer" to the descriptive title only. Nothing contained herein shall be construed to authorize or allow such an individual or firm to practice architecture in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 28:1686 (October 2001).

Mary "Teeny" Simmons
Executive Director

0110#084

RULE

Office of the Governor Board of Architectural Examiners

Registration Information (LAC 46:I.901)

Under the authority of R.S. 37:144, and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners amended LAC 46:I.901, 46:I.903 and 46:I.1101 pertaining to fees charged to both in-state and out-of-state architects for initial licensure and registration, license renewal, and delinquent license renewal. The board increased fees for the initial licensure and registration, license renewal fees, and delinquent license renewal fees for both in-state and out-of-state architects.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 9. Registration Procedure

§901. Registration Information

A. To obtain information regarding registration to practice architecture in Louisiana an individual, a corporation which satisfies the requirements of the Professional Architectural Corporations Law, an architectural-engineering corporation which satisfies the requirements of the Architectural-Engineering Corporation Law, and a limited liability company which satisfies the requirements of the Limited Liability Company Law shall write the board indicating whether the applicant seeks to be registered as an architect, a professional architectural corporation, an architectural-engineering corporation, or a limited liability company. The applicant will then receive instructions on the procedure to follow. Upon passing all divisions of the examination, an in-state candidate shall be charged a fee of \$75 for the issuance of his or her initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, amended and promulgated LR 4:334 (September 1978), amended LR 10:738 (October 1994), amended by Department of Economic Development, Board of Architectural Examiners, LR 15:6 (January 1989), LR 20:995 (September 1994), LR 28:1687 (October 2001).

§903. Individuals Registered in Other States

A. The exclusive means for an individual registered in another state(s) seeking to be registered in Louisiana is the submission to the board of an NCARB (Blue Cover) certificate.

B. Upon finding the NCARB (Blue Cover) certificate in order and upon payment of the registration fee of \$300, the board will register said individual and issue a license to said individual to practice architecture in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:148-149.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, amended and promulgated LR 4:334 (September 1978), amended LR 10:738 (October 1984), amended by the Department of Economic Development, Board of

Architectural Examiners, LR 15:6 (January 1989) LR 28:1687 (October 2001).

Chapter 11. Administration

§1101. Renewal Procedure

A. A license for individual architects shall expire and become invalid on December 31 of each year. Licenses for professional architectural corporations, architectural-engineering corporations, and limited liability companies shall expire and become invalid on June 30 of each year. An individual architect, professional architectural corporation, architectural-engineering corporation, and limited liability company who desires to continue his or its license in force shall be required annually to renew same.

B. It is the responsibility of the individual architect, professional architectural corporation, architectural-engineering corporation, and limited liability company to obtain, complete, and timely return a renewal form and fee to the board office, which forms are available upon request from said office.

C. Prior to December 1 of each year the board shall mail to all individual architects currently licensed a renewal form. An individual architect who desires to continue his license in force shall complete said form and return same with the renewal fee prior to December 31. The license renewal fee for an individual architect domiciled in Louisiana shall be \$75, the license renewal fee for an individual domiciled outside Louisiana shall be \$150. Upon payment of the renewal fee the executive director shall issue a renewal license or registration.

D. Prior to June 1 of each year the board shall mail to all professional architectural corporations, architectural-engineering corporations, and limited liability companies currently licensed a renewal form. A professional architectural corporation, an architectural-engineering corporation, and a limited liability company which desires to continue its license in force shall complete said form and return same with the renewal fee prior to June 30. The fee shall be \$50. Upon payment of the renewal fee, the executive director shall issue a renewal license.

E. The failure to renew a license timely shall not deprive the architect of the right to renew thereafter. An individual architect domiciled in Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$75. An individual architect domiciled outside Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$150. The delinquent fee shall be in addition to the renewal fee set forth in §1101.C.

F. The failure to renew its license in proper time shall not deprive a professional architectural corporation, an architectural-engineering corporation, or a limited liability company of the right to renew thereafter. A professional architectural corporation, an architectural-engineering corporation, or a limited liability company who transmits its renewal form and fee to the board subsequent to June 30 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$50. This delinquent fee shall be in addition to the renewal fee set forth in §1101.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, amended and promulgated LR 4:334 (September 1978), amended LR 10:739 (October 1984), amended by the Department of Economic Development, Board of Architectural Examiners, LR 15:732 (September 1989), LR 20:995 (September 1994), repromulgated LR 20:1259 (November 1994), amended LR 23:402 (April 1997), amended LR 28:1687 (October 2001).

Mary "Teeny" Simmons
Executive Director

0110#082

RULE

**Office of the Governor
Division of Administration
Office of Planning and Budget**

Annual Program Evaluation Reports (LAC 4:I.Chapter 1)

In accordance with provisions of Administrative Procedure Act, R.S. 49:950 et seq., the Office of the Governor, Division of Administration, has amended LAC 4:I.Chapter 1 regarding the Annual Program Evaluation Reports. These Rules were amended by Act 911 of 1995, effective June 28, 1995.

**Title 4
ADMINISTRATION**

Part 1. General Provisions

Chapter 1. Annual Program Evaluation Reports

§101. Reports from Undersecretaries to Governor

A. Revised Statutes 36:8 (added by Act 160 of 1982 and amended by Act 230 of 1987 and Act 911 of 1995) requires undersecretaries, prior to November 25 of each year, to submit to the departmental secretary an annual report summarizing the activities of his office relating to management and program analysis. R.S. 36:8 also requires the departmental secretary to submit the report to the Governor, Commissioner of Administration, House Committee on Appropriations, Senate Committee on Finance, and the standing committee of each house of the legislature having responsibility for oversight of the department, as provided in R.S. 49:968, prior to December 5 of each year. This report is to be contained on a form prepared by the Division of Administration. The report must contain the following items as required by R.S. 36:8:

1. a description of significant problems, deficiencies, and abuses relating to the administration and management of programs and operations within the department;
2. corrective measures recommended by the office for those problems identified pursuant to Paragraph 1;
3. an identification of significant recommendations in previous reports on which no action has been taken;
4. a summary of reports made to the secretary pursuant to this Section; and
5. a list and brief summary of program evaluations made by the office.

B. The following forms (§§103-111) have been adopted by the Division of Administration to adhere to the

requirements of R.S. 36:8 for annual program evaluation reports, commonly known as "Act 160 Reports."

C. The Division of Administration promulgated as Rules in the December 1982 *Louisiana Register*, the use of four forms for agencies to use to meet the reporting requirements of Act 160 of 1982. The use of a fifth form to capture the required "identification of significant recommendations in previous reports on which no action has been taken" was promulgated as Rule in the February 1984 *Louisiana Register*. Therefore, annual program evaluation reports must include Forms 160-1 through 5 (modified for the appropriate reporting period), which follow.

D. It is understood that the intent of the Act 160 legislation was to provide undersecretaries in each department with a tool for internal planning, management, and control as well as to provide appropriate persons in the House and Senate, the Commissioner of Administration and the Governor with program information. The submission of Forms 160-1 through 5 is an indication of the fulfillment of the role of the undersecretary as defined in R.S. 36:8, and can be evidence to the public of efforts to make state government more efficient and effective. Routine monitoring of programs, institutions, etc., does not need to be included, nor should actual reports be attached in lieu of summarized information on the forms. The "Act 160 Report" should include only significant problems, reports, and evaluations (generally distinguished by the focus on the impact or level of success of a particular program or project).

E. If a department has not identified any significant problems in its administration and management of programs and operations, has made or acquired no evaluations of programs within its agencies, and has not had any significant report made to the undersecretary during the reporting period, the undersecretary shall submit a letter to the House Committee on Appropriations, Senate Committee on Finance, standing committee of each house of the legislature having responsibility for oversight of the department, Governor, and Commissioner of Administration indicating such in lieu of Forms 160-1 through 5 by the December 5 deadline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:8, R.S. 36:53 and R.S. 36:629(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), amended LR 10:76 (February 1984), LR 28:1688 (October 2001) .

§103. Form 160-1C Significant Problem, Deficiency, or Abuse

Form 160-1	Department _____
	Reporting Period _____

1. Significant Problem, Deficiency, or Abuse Relating to the Administration or Management of Programs and Operations within the Department. (Complete one sheet per problem.)

- A. Problem Description
 1. What is the nature of the problem?
 2. What organizational unit in the department is experiencing the problem?
 3. Who else is affected by the problem?
 4. How long has the problem existed?
 5. What are the costs and consequences of failure to correct the problem?

- B. Corrective Measures
1. What corrective measures are recommended to alleviate the problem?
 2. What are the criteria for improvement?
 3. What is the expected time frame for corrective measures to be implemented?
 4. What is the expected time frame for improvements to occur?
 5. What are the costs of implementing the corrective measures?
 6. Will additional personnel or funds be required to implement the recommended measures? If so, specify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration in LR 8:644 (December 1982), amended LR 28: 1688 (October 2001).

§105. Form 160-2C Reports to the Secretary

Form 160-2 Department _____
Reporting Period _____

Reports to the Secretary
Reports completed between November 25 of the preceding fiscal year and November 25 of the current fiscal year. List titles below and complete a summary sheet for each. (Use Form 160-4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), revised LR 28:1689 (October 2001).

§107. Form 160-3C List of Program Evaluations

Form 160-3 Department _____
Reporting Period _____

List of Program Evaluations
Evaluations completed between November 25 of the preceding fiscal year and November 25 of the current fiscal year. List titles below and complete a summary sheet for each. (Use Form 160-4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), revised LR 28: 1689 (October 2001).

§109. Form 160-4C Summary of Evaluation or Report

Form 160-4 Department _____
Reporting Period _____

SUMMARY OF EVALUATION OR REPORT

Title:
Entity Evaluated/Reported:
Why was Evaluation/Report initiated?
Questions/Objectives of the Evaluation/Report:
Major Findings and Conclusions:
Major Recommendations:
What action was taken in response to the Evaluation/Report?
Contact person for more information:
Name _____ Agency _____
Phone # _____ Address _____
Fax # _____ E-mail Address _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), amended LR 28: 1689 (October 2001).

§111. Form 160-5C Significant Recommendations

Department _____
Reporting Period _____

Significant Recommendations from Previous Reports with No Action Taken		
Program/Project	Recommendations	Reason(s) No Action Taken

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:76 (February 1984), amended LR 28:1689 (October 2001).

Ray Stockstill
Director

0110#098

RULE

**Office of the Governor
Division of Administration
Office of Planning and Budget**

Repeal of Planning and Development District Program
(LAC 4:VII.Chapter 7)

Under the authority of R.S. 39:21, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Planning and Budget has repealed LAC 4:VII.Chapter 7.

The Rule was promulgated to establish guidelines for distribution of a one-time appropriation to the state's regional planning and development districts. This appropriation was part of Act 13 of 1982, the general appropriation act of 1982. The statutory provisions authorizing promulgation of the Planning and Development District Program Rules (R.S. 49:1051, 1053, and 1054) were repealed by Act 765 of 1986, effective July 1, 1986.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 7. State Planning Office

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1051, 1053, 1054. R.S. 49:1051 to 1057, regarding the Louisiana State Planning Office, were repealed by Act 765 of 1986, effective July 1, 1986; current statutory sections, R.S. 49:1051 et seq., contain provisions related to the Louisiana Geographic Information System. Rule repeal is promulgated in accordance with R.S. 39:21.

HISTORICAL NOTE: Promulgated by the Office of the Governor, LR 9:12 (January 1983), repealed LR 28:1689 (October 2001).

Ray Stockstill
Director

0110#097

RULE

Office of Financial Institutions

Non-Depository Records Retention (LAC 10:XI.501 and XVII.701)

Editor's Note: The following Rule is being repromulgated to correct printing errors. The original Rule may be viewed in its entirety on page 1512 of the September 2001 edition of the *Louisiana Register*.

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:121, 6:414, 6:1014, 6:1085, 9:3554, 9:3556.1, 9:3572.7, 9:3573.9, 9:3574.10, 9:3576.4, 9:3578.8, and 37:1807, the commissioner of the Office of Financial Institutions repeals LAC 10:XI.501, regarding records retention schedules, and adopts a Rule providing for a record retention schedule for all non-depository persons subject to the supervision of the commissioner. This Rule significantly streamlines the existing record retention Rule by requiring that applicable institutions maintain minimum records and retention periods as deemed necessary by the commissioner for the proper examination and supervision of the person by this office and clarifies that the rule applies to all non-depository persons supervised by the commissioner.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part XVII. Miscellaneous Provisions

Chapter 7. Records Retention

§701. Non-Depository Records Retention

A. Each non-depository person subject to the supervision of the Office of Financial Institutions shall retain such minimum records which are deemed necessary for the examination and supervision of such persons by this office and for such minimum retention periods as determined by the commissioner and set forth in a "record retention schedule" to be detailed in policy which may be amended from time to time as necessary. This rule does not replace the person's responsibility to create, implement, and maintain its own comprehensive record retention program, consistent with the person's strategic goals and objectives. Such records may be retained in various forms as approved by the commissioner, including but not limited to, hard copies, photocopies, computer printouts or microfilm, microfiche, imaging, or other types of electronic media storage that can be readily accessed and reproduced into hard copies.

B. For purposes of this rule, non-depository persons refers to any individual, corporation, limited liability company, partnership or other entity other than those considered by the commissioner to be depository institutions, such as banks, savings associations, credit unions and savings banks, and including, but not being limited to, residential mortgage lenders, collection agencies, sellers of checks, bond for deed escrow agents, check cashers, licensed lenders, loan brokers, credit repair services organizations, and pawnbrokers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, 6:414, 6:1014, 6:1085, 9:3554, 9:3556.1, 9:3572.7, 9:3573.9, 9:3574.10, 9:3576.4, 9:3578.8, and 37:1807.

HISTORICAL NOTE: Promulgated by the Office of Financial Institutions, LR 27:1512 (September 2001), repromulgated LR 27:1690 (December 2001).

Part XI. Consumer Credit

Chapter 5. Records Retention

§501. Licensed Lenders Records Retention Schedule

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3554.

HISTORICAL NOTE: Promulgated by the Office of Financial Institutions, LR 17:588 (June 1991) amended LR 18:76 (January 1992), repealed LR 27:1512 (September 2001), repromulgated LR 27:1690 (October 2001).

John D. Travis
Commissioner

0109#034

RULE

Department of Health and Hospitals Board of Examiners for Speech Language Pathology and Audiology

Speech-Language Pathology and Audiology (LAC 46:LXXXV.Chapters 1-7)

Editor's Note: A portion of this Rule is being repromulgated to correct printing errors and clarify codification. The original Rule may be viewed on pages 116 - 202 of the February 2001 edition of the *Louisiana Register*.

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is given that the Board of Examiners for Speech-Language Pathology and Audiology has adopted the rules, regulations and procedures to replace the board's current rules, regulations and procedures.

The Rules add definitions, amend supervision rules, amend the board's application procedures, amend the continuing education rules, and establish a procedure for applicants who practice illegally in Louisiana as a speech-language pathologist, speech-language pathology assistant, and/or audiologist in the state of Louisiana. A detailed synopsis of the Rules is attached for your information. A complete copy of the Rules may be accessed on the board's website at www.lbespa.org or by completing and submitting the attached order blank to the board office.

Title 46

Professional and Occupational Standards

Part LXXV. Speech Pathology and Audiology

Chapter 1. General Rules

§107. Qualifications for Licensure

A. Coursework Requirements: Audiology License and Provisional Audiology License. The following coursework requirements apply to applicants who began a master's program after January 1, 1994.

1. The applicant shall submit official transcripts from one or more regionally accredited colleges or universities evidencing completion of at least 75 semester hours of coursework which constitutes a well-integrated program that includes at least:

A.1.a. - 2c. ...

B. The following coursework requirements apply to applicants who began a master's program prior to January 1, 1994.

1. The applicant shall submit official transcripts from one or more regionally accredited colleges or universities evidencing completion of at least 60 semester hours of coursework which constitutes a well-integrated program that includes at least 12 semester credit hours in basic human communication processes to include the anatomic and physiologic bases, the physical and psychophysical bases, and the linguistic and psycholinguistic aspects;

B.2.a. - c. ...

C. Coursework Requirements. Speech-Language Pathology License and Provisional Speech-Language Pathology License. The following coursework requirements apply to applicants who began a master's program after January 1, 1994.

1. The applicant shall submit official transcripts from one or more regionally accredited colleges or universities evidencing completion of at least 75 semester hours of coursework which constitutes a well-integrated program that includes at least:

C.1.a. - E.1. ...

2. If the bachelor's degree is not in speech-language pathology, the degree program should include the following core coursework. A total of 39 hours shall be obtained in the following areas. Thirty-six of the hours are required and are designated by an *.

E.3. - G.3.a. ...

i. minimum of 20 hours in speech disorders;

G.3.a.ii. - J.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1690 (October 2001).

§111. Fees

A. - P. ...

Q.1. Open Book Test Fee C\$30

2. Open Book Retest Fee, per Section C\$10

R. Subpoena

1. within East Baton Rouge Parish C\$50

2. plus \$.30 per mile outside East Baton Rouge Parish C\$50

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:350 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1691 (October 2001).

§121. Supervision Requirements for Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant

A. - H.4. ...

5. Provisional Speech-Language Pathology Assistant Full-Time and Part-time Supervision Requirements

Hours Worked	Required Supervision On-Site, In - View	Required Supervision Alternative Method
21 - 40 hours	1 hour/week	1 hour/week
20 hours or less	1 hour/every 2 weeks	1 hour/every 2 weeks

H.6. - I.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:353 (May 1996), LR 27:200 (February 2001), repromulgated LR 27:1691 (October 2001).

Glenn Wagguespack
Chairperson

0110#035

RULE

**Department of Health and Hospitals
Office of Public Health**

**Public Water System Capacity Development
(LAC 48:V.7707-7719)**

Editor's Note: This Rule is being reprinted in its entirety to correct printing errors. The original Rule may be viewed in the September 20, 2000 edition of the *Louisiana Register* on pages 1520-1522.

Under the authority of R.S. 40:4 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health (DHH/OPH) has amended the Public Water System Capacity Development Regulations, LAC 48:V. 7707-7719. These amendments provide certain exceptions to the existing provisions such that those provisions do not encumber the ability of certain public agencies to expeditiously furnish financial aid to public water systems which qualify for such aid within the constraints required by these agencies, nor will they encumber the DHH/OPH in its implementation of the Capacity Development Strategy.

There are two public agencies, the USDA Rural Utilities Services (RUS) and the Louisiana Community Development Block Grant (LCDBG), which provide financial aid in the form of grants and loans to existing and new public water systems. These agencies have capacity requirements for systems requesting such grants or loans. These amendments preclude the necessity of those systems to submit a business plan (containing capacity requirements) to DHH/OPH for grants and loans from those agencies, since these systems must meet those agency capacity requirements.

This amendment further provides for more brevity and simplification in the business plan required of existing systems. Finally, there are certain clarifications and revisions regarding management training provisions in the Capacity Development Strategy.

For the reasons set forth, above, LAC 48:V.7707-7719 is amended as follows.

Title 48

**PUBLIC HEALTH C GENERAL
Part V. Preventive Health Services
Subpart 25. Drinking Water**

**Chapter 77. Drinking Water Program
Subchapter B. Public Water System Capacity
Development**

§7711. Definitions

A. The following terms used in these regulations shall have the following meanings

* * *

Public Water System—A system for the provision to the public of water for potable purposes, through pipes or other constructed conveyances, if the system has at least 15 service connections or regularly serves an average of at least 25 individuals daily for at least 60 days out of the year. The term includes:

a. any collection, treatment, storage, and distribution facilities under the control of the operator of the system and used primarily in connection with the system; and

b. any collection or pre-treatment storage facilities not under such control which are used primarily in connection with the system.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1767 (September 1998), amended LR 27:1521 (September 2001), repromulgated LR 27:1691 (October 2001).

§7713. New Systems

A. Business Plan. All community and non-transient non-community public water systems wanting to commence operation after January 1, 1999 shall be required to submit a business plan to the department to aid in the department's determination of technical, managerial and financial capacity. Required information for the business plan shall be provided by the department. The Office of Public Health (OPH) will exempt from the requirement for submission of the business plan all new public water systems funded by either the United States Department of Agriculture's (USDA) Rural Utilities Service (RUS) and/or the Division of Administration's (DOA) Louisiana Community Development Block Grant (LCDBG) program, provided those public water systems are certified by RUS and/or LCDBG as meeting the respective agency's minimum capacity requirements. OPH staff will continue to review plans and specifications for all new public water systems.

B. ...

C. Management Training. As a part of meeting the managerial capacity requirements, all appropriate personnel, e.g., board members, council members, mayors, owners, etc., of new public water systems wanting to commence operation after January 1, 1999, shall attend the next scheduled training session provided by the state, its contractors or other state recognized trainers. Such arrangements shall be made upon making application to the department for approval to commence operation.

D. Financial Audit. A financial audit will be conducted on the system as one means of determining financial capacity of the public water system.

E. Approval for Operation. After January 1, 1999, written approval to commence operation, i.e., issuance of the permit to construct and operate, for such new public water systems will be given by the department only after the department is satisfied that technical, managerial, and financial capacity requirements are being met, in addition to all other applicable regulations. The Office of Public Health (OPH) will issue the permit to construct and operate a new public water system funded by the RUS and/or the LCDBG program, provided those public water systems are certified by RUS and/or LCDBG as meeting the respective funding

agency's minimum capacity requirements and the plans and specifications are reviewed and approved by OPH staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1768 (September 1998), amended LR 27:1521 (September 2001), repromulgated LR 27:1692 (October 2001).

§7717. Existing Systems

A. Business Plan. All existing public water systems shall be required to submit a shortened and simplified business plan to the department to aid in the department's determination of technical, managerial, and financial capacity. Required information for the business plan will be provided by the department. The department and the concerned parties will revise the content of the business plan, as necessary, to adapt it to the needs of existing system capacity requirements. A grant or a loan from either RUS and/or LCDBG programs will not trigger the requirement for submission of the business plan. Prioritization for the required capacity assessment of existing systems, including submission of the business plan, will be based on whether the existing water system has been issued an administrative order, and/or is on the significant non-compliers list and/or has had primary Maximum Contaminant Level (MCL) violations during the past three years. However, the Office of Public Health (OPH) will exempt from the requirement for submission of the business plan all existing public water systems actively seeking funding by the RUS programs, provided those public water systems are certified by RUS as meeting their minimum capacity requirements. Such plan must be submitted to the department within six months after the initial visit by the designated party of the state who is providing assistance to the public water system in preparation of the business plan.

B. ...

C. Management Training. As a part of meeting the managerial capacity requirements, all appropriate staff of existing public water systems shall attend a training session provided by the state, its contractors or other state recognized trainers for board members, council members/mayors/owners, etc. Management training for all board members/council members/mayors/owners of existing public water systems will be based on whether their water system has been issued an administrative order, and/or is on the significant non-compliers list and/or has had primary MCL violations during the past three years. The department will continue to encourage attendance on a voluntary basis at management training sessions by board members/council members/mayors/owners of other public water systems. Training sessions shall be provided periodically and appropriate parties as noted above will have the opportunity to attend one of the scheduled sessions within six months after the system has been notified that it is being evaluated for technical, managerial, and financial capacity.

D. Financial Audit. A financial audit will be conducted on the system as one means of determining financial capacity of the public water system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1768

(September 1998), amended LR 27:1521 (September 2001), repromulgated LR 27:1692 (October 2001).

§7719. Miscellaneous

A. Evaluations. Evaluations to determine technical, managerial, and financial capacity will be conducted in accordance with a developed strategy prepared by the department in partnership with concerned parties and for which approval has been given by USEPA.

B. Coordination. Implementation of the strategy will be coordinated between the Department staff and contracting parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1769 (September 1998), amended LR 27:1522 (September 2001), repromulgated LR 27:1693 (October 2001).

David W. Hood
Secretary

0110#012

RULE

**Department of Health and Hospitals
Office of Public Health**

Sanitary Code General Provisions (LAC 51:I:Chapter 1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, has repealed Chapter I and promulgated Part I of the Louisiana State Sanitary Code to be codified in accordance with the Administrative Procedure Act as follows.

Title 51

PUBLIC HEALTH SANITARY CODE

Part I. General Provisions

Chapter 1. General

§101. Definitions [formerly Paragraph 1:001]

A. Words not defined in any Part or Chapter of the Code shall have their common usage and meaning as stated in the *Merriam-Webster's Collegiate Dictionary-Tenth Edition*, as revised, and other similarly accepted reference texts. When the same word or term is defined in more than one Part or Chapter of the Code, the definition contained within the particular Part or Chapter in which the word is contained shall be given preference as it pertains to that Part or Chapter. When a word or term is not defined in a Part or Chapter of the Code but is cross-referenced to another Part or Chapter, it shall have the definition contained in the Part or Chapter to which it is cross-referenced.

B. Unless otherwise specifically provided in the Code, the following words and terms are defined as follows:

Code—the word “Code” means Sanitary Code.

CFR—Code of Federal Regulations.

Department—the Department of Health and Hospitals and Secretary means the Secretary thereof.

EPA—United States Environmental Protection Agency.

FDA—United States Food and Drug Administration.

Emergency Situation—any situation or condition which warrants immediate enforcement measures more expedient than normal administrative violation control and abatement

procedures due to its perceived imminent or potential danger to the public health.

Hazard—biological, chemical, or physical property that may cause an unacceptable consumer health risk.

Imminent Health Hazard—an emergency situation that is a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury or serious illness.

Law—applicable local, state, and federal statutes, regulations, and ordinances.

Person—any natural person, individual, partnership, corporation, association, governmental subdivision, receiver, tutor, curator, executor, administrator, fiduciary, or representative of another person, or public or private organization of any character.

Secretary—see department.

Shall—mandatory requirements.

Should or May—recommended or advisory procedures or equipment.

State Health Officer—the legally appointed and/or acting State Health Officer of the Department of Health and Hospitals having jurisdiction over the entire State of Louisiana, and includes his/her duly authorized representative in accordance with LSA R.S. 40:4 and 40:5.

Substantial Renovation

a. Alterations or repairs made within a 12 month period, costing in excess of 50 percent of the then physical value of the existing building; or

b. Alterations or repairs made within a 12 month period, costing in excess of \$15,000; or

c. Alterations or repairs made involving a change in “occupancy classification” or use of the property.

d. The physical value of the building in subparagraph “a” of this Paragraph may be established by an appraisal not more than three years old, provided that said appraisal was performed by a certified appraiser or by the tax assessor in the parish where the building is located.

e. The cost of alterations or repairs in subparagraph “a” or “b” of this Paragraph may be established by:

i. an estimate signed by a licensed architect or a licensed general contractor; or

ii. by copies of receipts for the actual costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§103. Severability [formerly Paragraph 1:006]

A. If any provision of this Code, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Code, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1693 (October 2001).

§105. Administrative Enforcement Procedures [formerly Paragraph 1:007-1]

A. The proper documentation of violations is an essential part of the enforcement process. When an establishment is

inspected and violations of the Code are found, they shall be noted either on a Notice of Violation(s) form or letter. The sanitarian, engineer or other representative of the State Health Officer shall describe with particularity the nature of the violation(s), including a reference to the provision(s) of the Code which have been violated. A specific date shall be set for correction and the violator shall be warned of the penalties that could ensue in the event of noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1693 (October 2001).

§107. Notice of Violation [formerly Paragraph 1:007-2]

A. The Notice of Violation form or letter listing the violation(s) and urging correction thereof may:

1. be left with the operator, owner, manager, lessee or their agent, or person in charge of the establishment, facility, or property at the time of such inspection or monitoring; or

2. be delivered to the person in charge of the establishment, facility, or property as soon as a determination is made that there is/are violation(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1694 (October 2001).

§109. Violation Notice [formerly Paragraph 1:007-4]

A. In those cases in which the State Health Officer or his/her representative determines that a violation has occurred and a decision is made to issue a notice of violation, the notice of violation shall be either sent to the owner, manager, lessee or their agent, of the establishment, facility or property involved by regular mail with a U.S. postal service certificate of mailing, or hand delivered to the owner, manager, lessee or their agent of the establishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28: 1694 (October 2001).

§111. Reinspection [formerly Paragraph 1:007-5]

A. If reinspection discloses that the violation(s) have not been remedied the State Health Officer or his/her representative, may issue a Compliance Order or take whatever action is authorized by law to remedy the violation(s). Any Compliance Order issued pursuant to this section shall inform the aggrieved party of his right to an administrative appeal to the Division of Administrative Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1694 (October 2001).

§113. Suspension/Revocation [formerly paragraph 1:007-21]

A. Pursuant to the provisions of LSA R.S. 40:4, R.S. 40:5 and LSA R.S. 40:6, the State Health Officer acting through the Office of Public Health:

1. may suspend or revoke an existing license or permit;

2. may seek injunctive relief as provided for in LSA R.S. 40:4;

3. may impose a fine for violations of Compliance Orders issued by the State Health Officer with the approval of the Secretary of the Department of Health and Hospitals. (R.S. 40:6);

4. may (in cases involving pollution of streams, rivers, lakes, bayous, or ditches which are located in public rights of way outside Lake Pontchartrain, Toledo Bend Reservoir or the Sabine River, their drainage basins or associated waterways):

a. suspend or revoke the existing license or permit; and/or

b. issue a civil compliance order and impose a fine of \$100 per day up to a maximum of \$10,000 in cases where establishments operate without a license or permit or continue to operate after revocation or suspension of their license or permit;

5. may (in cases involving pollution of Lake Pontchartrain, Toledo Bend Reservoir, the Sabine River, their drainage basins, or associated waterways and pursuant to the provisions of LSA R.S. 40:1152 and 40:1153);

a. issue a civil compliance order and/or suspend or revoke the existing license or permit; and/or

b. impose a fine of \$100 per day up to a maximum of \$10,000 in cases where establishments operate without a license or permit, or continue to operate after revocation or suspension of their license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1694 (October 2001).

§115. Emergency Situations [formerly Paragraph 1:007-21]

A. The State Health Officer may issue Emergency Orders pursuant to the authority granted in LSA R.S. 40:4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1694 (October 2001).

§117. Employee Health

A. [formerly Paragraph 1:008-1] No person known to be a case or carrier of a communicable disease, as defined in Chapter II, Section 2:001, in an infectious stage which can be transmitted through water, milk or other food materials, shall be employed as a food handler or permitted to work in any capacity in a manufacturing, processing or packing plant; in a food, drug or cosmetic plant; in any bakery or manufacturing confectionery; in a food salvaging or repackaging area; in syrup rooms, mixing areas, filling rooms, in an artificial ice or cold storage plant, or in the delivery or distribution of ice; in a dairy farm, transfer station, receiving station or milk plant; in a marine or fresh water animal food product establishment; in a game and or small animal slaughterhouse or meat packing plant; in a water treatment plant; in a hotel, lodging house, or boarding house, in a school, day care center, residential facility (as defined in Chapter XXI) in any capacity which might bring him into contact with other employees or pupils; in a retail food store/market; or in a food establishment; except where there is no reasonable possibility of disease transmission by such person.

B. [formerly Paragraph 1:008-2] Any individual suspected of being a case or carrier of a communicable disease, as defined in Chapter II, Section 2:001, or who is a contact of or has been exposed to a communicable disease which can be transmitted through water, milk or other food or beverage materials shall submit to an examination by a licensed physician and/or to the collection of appropriate specimens as may be necessary or desirable in ascertaining the infectious status of the individual. Any such person who refuses to submit to such an examination or specimen collection shall not be permitted to work in the types of establishments listed in §117.A until he submits to such examination.

C. [formerly Paragraph 1:008-3] Routine examinations and collections of specimens shall not be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1694 (October 2001).

§119. Plans and Permits

A. [formerly Paragraph 1:009-1] Certain activities require submission of plans to the State Health Officer, who must approve the plans and issue a permit prior to the initiation of the activity. This includes but is not limited to the operation, construction or renovation of facilities. For details, see the appropriate Chapter (Part) of this Code.

B. [formerly Paragraph 1:009-2] In those instances in which such activities, for which submission of plans prior to initiation of the activity is required, are found to exist, and no such submittal of plans has been made, the State Health officer shall, upon submittal of the required plans and determination of compliance of such activity with this Code, offer no objection to the existence of such activity. This shall not be construed to limit in any way the State Health Officer's authority to revoke or rescind such position of no objection, just as with any other approval or permit, as per §119.C of this Code. The burden of proof of compliance shall be on the applicant.

C. [formerly Paragraph 1:009-3] The State Health Officer can revoke, and reissue permits, or issue new permits as provided in this Code. The addresses to which requests shall be submitted are set forth in the appropriate Chapters (Parts) of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1695 (October 2001).

§121. Effective Date of Code [formerly Paragraph 1:011]

A. The provisions of this Code shall have effect from the date of publication hereof as a Rule in the *Louisiana Register*, except as hereinafter otherwise specifically provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1695 (October 2001).

§123. Exemptions from Code [formerly Paragraph 1:011]

A. When the construction of buildings and facilities was approved by the State Health Officer pursuant to Sanitary

Code requirements then in effect, upgrading of such buildings and facilities shall not be required except where:

1. substantial renovation of such buildings or facilities is undertaken; or

2. where the ownership thereof or the business located therein changes subsequent to the effective date of the Sanitary Code; or

3. where a serious health threat exists, unless otherwise specifically provided hereinafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1695 (October 2001).

The following Table of Contents and Cross Reference listings (Item A. and Item B. respectively) are included as tools to assist staff and/or the public in locating provisions included in the preceding Rule which would repeal and replace Chapter I of the Sanitary Code as previously promulgated on November 20, 1992. The referenced listings are as follows:

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David W. Hood
Secretary

0110#053

RULE

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

Medicaid Estate Recovery Program

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

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the May 20, 1996 Rule to provide for cost effectiveness guidelines and to add regulations addressing privilege on the succession estate and reductions in recovery in consideration of reasonable and necessary expenses incurred by the decedent's heirs to maintain the homestead of the decedent. The Bureau shall seek recovery of Medicaid payments for nursing facility services, home and community-based services, and related hospital and prescription drug services from the estate of an individual who was 55 years of age or older when such services were received.

A. Definitions

Assessed Value—Assessed value shall mean the value of the homestead as assessed by the Tax Assessor in the parish in which the homestead is located.

Cost-Effectiveness—The process whereby the Medicaid agency balances and weighs that which it may reasonably expect to recover, against the time and expense of recovery. Application of the provision will be deemed to be cost-effective when the amount reasonably expected to be recovered exceeds the cost of recovery and the amount reasonably expected to be recovered is greater than \$500.

Dependent—A dependent is defined as one who was reliant on the decedent due to a medical condition or age which rendered him/her unable to provide for his/her own support and for whom the decedent provided more than one half of his/her support during the immediate 12 months prior to the death of the decedent and is the decedent's:

1. son, daughter, step-son, step-daughter or a descendent thereof;
2. brother or sister, whether by blood or marriage, or a descendent thereof;
3. father, mother, step-father, step-mother, or sibling of ancestor thereof;
4. son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the decedent.

Estate—The estate shall be understood to be the gross estate of the deceased as determined by Louisiana succession law.

Homestead—A homestead shall be defined as a tract of land or two or more tracts of land with a residence on one tract and a field, pasture, or garden on the other tract or tracts, not exceeding 160 acres, buildings and appurtenances, whether rural or urban, owned and occupied by the decedent or a residence, including a mobile home, owned and occupied by the decedent, regardless of whether the

homeowner owns the land upon which the home or mobile home is sited. This same homestead shall be the primary residence which served as a bona fide home and which was occupied by the recipient immediately prior to the recipient's admission to a nursing facility or when the recipient began receiving home and community-based services.

Undue Hardship—An undue hardship exists when application of the provision would result in placing an unreasonable burden on a dependent. An undue hardship may exist when:

1. the estate is the sole income producing asset of a dependent, and income from the estate is limited;
2. recovery would result in a dependent becoming eligible to receive public assistance, including but not limited to Medicaid;
3. any other compelling circumstances that would result in placing an unreasonable financial burden on a dependent.

An undue hardship does not exist if the circumstances giving rise to the hardship were created by or are the result of estate planning methods under which assets were sheltered or divested in order to avoid estate recovery.

B. General Provisions

1. Medicaid estate recovery is not a condition of eligibility. The applicant/recipient shall be informed at the time of application/redetermination that federal law and regulations mandate estate recovery action by the states and that medical assistance claims paid by the Bureau of Health Services Financing may be subject to estate recovery.

2. Recovery Limitations

a. Recovery can only be made after the death of the individual's surviving spouse, if any, and only at the time when the individual has no surviving child under age 21, or a child blind or disabled as defined in Section 1614 of the Social Security Act.

b. Recovery from the homestead as defined in Section I.E., can only be made when there is no dependent of the individual as defined in Section I.D., residing in the home, who resided there for at least two years immediately before the date of the individual's admission to the institution (or the beginning of home and community-based services), and has resided there on a continuous basis since that time.

c. Recovery from the homestead as defined in Section I.E., can only be made when there is no sibling of the individual residing in the home, who has resided there for at least one year immediately before the date of the individual's admission to the institution (or the beginning of home and community-based services), and has resided there on a continuous basis since that time.

3. Recovery Adjustments

a. Recovery may be waived in cases in which it is not cost-effective for the state to recover from the individual's estate.

b. Recovery from the homestead shall be determined as not cost-effective when the recipient's interest in an otherwise seizable homestead is less than one half of the assessed value of property exempt from ad valorem taxes under Article VII, Section 20 of the Constitution of Louisiana.

c. The Department's percentage of recovery will be as follows.

i. If the Medicaid recipient's interest in the homestead is \$37,500 or less the Department will not seek recovery of its Estate Recovery lien from the homestead.

ii. If the Medicaid recipient's interest in the homestead is \$37,501 to \$50,000, the Department will recover 25% of its Estate Recovery lien from the homestead.

iii. If the Medicaid recipient's interest in the homestead is \$50,001 to \$75,000, the Department will recover 50 percent of its Estate Recovery lien from the homestead.

iv. If the Medicaid recipient's interest in the homestead is \$75,001 to \$100,000, the Department will recover 75 percent of its Estate Recovery lien from the homestead.

v. If the Medicaid recipient's interest in the homestead is \$100,001 or greater, the Department will recover 100 percent of its Estate Recovery lien from the homestead.

d. Recovery may be reduced in consideration of reasonable and necessary documented expenses incurred and documented by the decedent's heirs, to maintain the homestead of the decedent during the recipient's period in an institution while receiving Medicaid benefits, if the homestead is part of the succession estate;

4. Recovery Notice. The Bureau will seek recovery for medical assistance from the decedent's estate. The family or the heirs will be given advance notice of the proposed action and the time frame in which they have the opportunity to apply for an undue hardship waiver.

The notice will be served on the executor, legally authorized representative or succession attorney of the individual's estate. If there is no executor, legally authorized representative or succession attorney, the notice will be sent to the family or the heirs. The notice shall also specify the following information:

a. the affected recipient's name, social security number and recipient medicaid number;

b. the action the state intends to take;

c. the reason for the action;

d. the dates of service associated with the recovery action and the amount of the department's claim, i.e. amount to be recovered against the recipient's estate;

e. the right to and procedure for applying for a hardship waiver;

f. the individual's right to a hearing;

g. the method by which the individual may obtain such a hearing;

h. the time periods involved in requesting a hearing or in exercising any procedural requirements under the Medicaid Estate Recovery Program.

The notice will request that the following information be provided to the Bureau:

i. copies of all state and federal estate tax returns prepared and/or filed in connection with the succession of the decedent;

ii. copies of all succession pleadings filed in connection with the succession of the decedent, including any judgement or judgements of possession;

iii. original document or verification from the Assessor in the parish in which the homestead is situated as to the assessed value of the homestead at the time of the decedent's death;

iv. in the event that no state or federal estate tax return has been filed or prepared and no succession has been judicially opened, the Bureau is to be advised as to when such documents will be available and/or when the succession is expected to be opened.

5. Recovery Privilege. The claim of the Department of Health and Hospitals shall be considered a privilege on the succession and shall have a priority equivalent to an expense of last illness as prescribed in Civil Code Article 3252 et seq.

C. Administrative Review of Agency Decisions. Any aggrieved party may request that the agency review and reconsider any or all aspects of the particular recovery matter in which they are involved. This request must be made within 20 days of the receipt of the certified notice of the agency's claim for recovery. If such a request is timely made, the agency shall review the matter and shall review and consider any facts or documentation presented or forwarded in connection with the matter. In addition to this informal reconsideration, any aggrieved party shall have the administrative appeal rights available pursuant to the Administrative Procedure Act.

David W. Hood
Secretary

0110#063

RULE

Department of Natural Resources Office of Conservation

Class V Motor Vehicle Waste Disposal Wells and Large-Capacity Cesspool Requirements (LAC 43:XVII.101, 105, 107, and 109)

The Louisiana Office of Conservation has amended LAC 43:XVII.Chapter 1 in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Sections 30:4.C.(1), (2), (3), (6), (8), (9), (10), (14), (16) and I. This rule primarily adds new requirements for Class V motor vehicle waste disposal wells and large-capacity cesspools. These revisions are mandated by the Environmental Protection Agency (EPA) underground injection control (UIC) program in 40 CFR Parts 9, 144, 145 and 146 as published on pages 68546 - 68573 of Vol. 64, No 234 of the Federal Register dated December 7, 1999. They also clarify requirements applicable to owners/operators of any type of Class V well. In particular, these amended rules prohibit the permitting and construction of new motor vehicle waste disposal wells and new large-capacity cesspools. They also require the permanent closure of any existing motor vehicle waste disposal wells and any existing large-capacity cesspools by January 1, 2005, and April 5, 2005, respectively. The amendments also correct typographical and other errors contained within the existing Statewide Order No. 29-N-1 (LAC 43:XVII.Chapter 1).

Title 43

NATURAL RESOURCES

Part XVII. Office Of Conservation Injection and Mining

Subpart 1. Statewide Order No. 29-N-1

Chapter 1. Class I, III, IV and V Injection Wells

§101. Definitions

A. ...

Area of Review Cthe area surrounding an "injection well" as described in §109.A.2 for Class I and §109.B.2 for Class III.

Cesspool Ca drywell that receives untreated sanitary waste containing human excreta, and which sometimes has an open bottom and/or perforated sides.

Drywell Ca well, other than an improved sinkhole or subsurface fluid distribution system, completed above the water table so that its bottom and sides are typically dry except when receiving fluids.

Improved Sinkhole Ca naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

Point of Injection Cthe last accessible sampling point prior to waste fluids being released into the subsurface environment through a Class V injection well. For example, the point of injection of a Class V septic system might be the distribution box - the last accessible sampling point before the waste fluids drain into the underlying soils. For a dry well, it is likely to be the well bore itself.

Sanitary Waste Cliquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. Sources of these wastes may include single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities, and industrial facilities provided the waste is not mixed with industrial waste.

Septic System Ca well that is used to emplace sanitary waste below the surface and is typically comprised of a septic tank and subsurface fluid distribution system or disposal system.

Subsurface Fluid Distribution System Can assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground.

Well Ca bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or, an improved sinkhole; or, a subsurface fluid distribution system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:ID and 4C(16), and 4.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 8:83 (February 1982), amended LR 12:26 (January 1986), LR 27:1698 (October 2001).

§103. General Provisions

A. Applicability. These rules and regulations apply to all owners and operators of proposed and existing Class I, III, IV, and V injection wells in the State of Louisiana. For Class I wells, these rules shall only apply to nonhazardous waste disposal as described in §103.C.1.b. and c. below. Applicable rules for Class I hazardous waste disposal is in Statewide Order No. 29-N-2 (LAC 43:XVII.Chapter 2).

B. - C.1.b. ...

C. Radioactive waste disposal wells which inject fluids below the lowermost formation containing an underground source of drinking water within one quarter mile of the well bore. This classification of radioactive waste disposal wells does not affect the disposal of naturally occurring radioactive material (NORM) in Class II wells as part of oil and gas exploration and production operations. The injection of wastes associated with oil and natural gas exploration and production, including such wastes containing NORM, are regulated under the appropriate Class II regulations.

C.2. - 3.c.

4. Class IV

a. Wells used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous wastes or radioactive wastes into a formation which within one-fourth mile of the well contains an underground source of drinking water. This includes the disposal of hazardous waste into what would otherwise be septic systems and cesspools, regardless of their capacity.

b. Wells used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous wastes management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous wastes or radioactive waste above a formation which within one-fourth mile of the well contains an underground source of drinking water. This includes the disposal of hazardous waste into what would otherwise be septic systems and cesspools, regardless of their capacity.

c. Wells used by generators of hazardous wastes or by owners or operators of hazardous waste management facilities, to dispose of hazardous wastes which cannot be classified under §103.C.1.a or 103.C.4.a and b (e.g., wells used to dispose of hazardous wastes into or above a formation which contains an aquifer which has been exempted pursuant to §103.H). This includes the disposal of hazardous waste into what would otherwise be septic systems and cesspools, regardless of their capacity.

5. Class V. Injection wells not included in Class I, II, III, or IV. Typically, Class V wells are shallow wells used to place a variety of fluids directly below the land surface. However, if the fluids placed in the ground qualify as a hazardous waste under the Resource Conservation and Recovery Act (RCRA), the well is either a Class I or Class IV well. Class V wells include:

a. ...

b. large-capacity cesspools, including multiple dwelling, community or regional cesspools, or other devices that receive sanitary wastes, containing human excreta, which have an open bottom and sometimes have perforated sides (see §109.D.2). The UIC requirements do not apply to single family residential cesspools or to nonresidential cesspools which receive solely sanitary waste and have the capacity to serve fewer than 20 persons a day;

c. - h. ...

i. septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community or regional business establishment septic tank (see §103.C.6). The UIC requirements do not apply to single family residential septic system wells, or to nonresidential septic system wells which are used solely for the disposal of sanitary waste and have the capacity to serve fewer than 20 persons a day;

j. - k. ...

l. wells used for solution mining of conventional mines such as stopes leaching;

m. injection wells used for in situ recovery of lignite, coal, tar, sands, and oil shale;

n. wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts; and

o. injection wells used in experimental technologies.

p. motor vehicle waste disposal wells that receive or have received fluids from vehicular repair or maintenance activities, such as an auto body repair shop, automotive repair shop, new and used car dealership, specialty repair shop (e.g., transmission and muffler repair shop), or any facility that does any vehicular repair work. Fluids disposed in these wells may contain organic and inorganic chemicals in concentrations that exceed the maximum contaminant levels (MCLs) established by the primary drinking water regulations. These fluids also may include waste petroleum products and may contain contaminants, such as heavy metals and volatile organic compounds, which pose risks to human health.

C.6. - 6.b. ...

c. any dug hole, drilled hole, or bored shaft which is not used for emplacement of fluids underground;

D. - E.1.b.ii. ...

iii. notwithstanding the requirements of clauses (i) and (ii) above, wells used to inject contaminated ground water that has been treated and is being injected into the same formation from which it was drawn are authorized by rule for the life of the well if such subsurface emplacement of fluids is approved by appropriate state or federal agencies pursuant to provisions for cleanup of releases under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) or pursuant to requirements and provisions under the Resource Conservation and Recovery Act (RCRA).

c. Injection into Class V wells may be authorized by rule until requirements under future regulations become applicable to the specific type of Class V well. However, the owner or operator of a Class V well authorized by rule shall provide an inventory of the Class V well(s) to the Commissioner. At a minimum, the inventory shall include the following information for each Class V well:

- i. well and/or facility name and location;
- ii. name and address of legal contact;
- iii. ownership of well and/or facility;
- iv. date of well installation/completion;
- v. nature and type of injection well(s);
- vi. depth and operating status of injection well(s);

and

vii. any additional information required by the Commissioner.

d. Class V well authorization by rule shall expire upon the effective date of a permit issued pursuant to these rules or upon proper closure of the well.

e. An owner or operator of a Class V well which is authorized by rule is prohibited from injecting into the well:

i. upon the effective date of an applicable permit denial;

ii. upon failure to submit inventory information pursuant to §103.E.1.c. above;

iii. upon failure to submit a permit application pursuant to §103.E.2.b. below; or

iv. upon failure to comply with the Commissioner's request for any additional information.

E.2. - E.2.c. ...

d. A Class V well satisfying any of the requirements of clauses (i) through (iv) below is no longer authorized by rule; therefore, the owner or operator of the well shall apply for and obtain a UIC permit or permanently close the well:

i. the Class V well does not comply with the prohibition of fluid movement standard in §103.D;

ii. the Class V well is an existing large-capacity cesspool (in which case, the well shall be permanently closed by April 5, 2005) or an existing Class V motor vehicle waste disposal well (in which case, the well shall be permanently closed by January 1, 2005). These rules prohibit the permitting and construction start-up of new motor vehicle waste disposal wells and new large-capacity cesspools on and after April 5, 2000;

iii. the Commissioner specifically requires the Class V well be permitted (in which case, rule authorization expires upon the effective date of the permit, or you are prohibited from injecting into your well upon failure to submit a permit application in a timely manner as specified by the Commissioner; or upon the effective date of permit denial);

iv. the owner or operator of the Class V well failed to submit inventory information as described in §103.E.1.c (in which case, injection into the well is prohibited until the inventory requirements are met).

F. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:ID, 4C(16), and 4.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 8:83 (February 1982), Amended LR 11:640 (June 1985), LR 27:1698 (October 2001).

§105. Permit Application Requirements

A. Applicability. The rules and regulations of this Section apply to all Class I and III injection wells or project applications required to be filed with the Department of Natural Resources (Office of Conservation) for authorization under La. R.S. 1950 Title 30.

B. - H.1.b. ...

I. Filing Fee. Each application shall be accompanied by a per well, nonrefundable filing fee as required by Statewide Order No. 29-R-00/01 (LAC XIX.Chapter 7) or successor document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:ID, 4C(16), and 4.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 8:83 (February 1982), LR 27:1699 (October 2001).

§107. Legal Permit Conditions

A. - L.5. ...

6. Twenty-Four Hour Reporting

a. The permittee shall report to the Commissioner any noncompliance which may endanger health or the environment. Any information pertinent to the noncompliance shall be reported by telephone at (225) 342-5515 within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances and shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the non-compliance.

L.6.b. - M.1. ...

2. The term of a permit shall not be extended by modification beyond the maximum duration specified in this Section, except as provided in §107.M.4 below.

3. ...

4. The conditions of an expired permit may continue in force until the effective date of a new permit if the permittee has submitted a timely and a complete application for a new permit, and the Commissioner, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit (e.g., when issuance is impracticable due to time or resource constraints).

a. Permits continued under this Section remain fully effective and enforceable.

b. When the permittee is not in compliance with the conditions of the expiring or expired permit, the Commissioner may choose to do any or all of the following:

i. initiate enforcement action based upon the permit which has been continued;

ii. issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

iii. issue a new permit under the requirements of these rules for issuing a new permit with appropriate conditions; or

iv. take other actions authorized by these regulations.

N. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:ID, 4C(16), and 4.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 8:83 (February 1982), Amended LR 11:640 (June 1985), LR 27:1700 (October 2001).

§109. Technical Criteria and Standards

A. - A.8.b. ...

i. Notification of Workover. The permittee shall notify the commissioner by telephone at (225) 342-5515 before commencing any workover operation which requires the use of a rig. In addition, the operator must obtain a work permit prior to any workover operation such as plug and abandon, deepen, perforate, squeeze, plugback, side-track, pull casing, pull tubing, or change zone of completion (disposal).

A.8.b.ii. - B.3. ...

a. Coverage. Applicants for class III injection well permits shall identify the location of all known wells within the injection well's area of review which penetrate the injection zone. For such wells which are improperly sealed, completed, or abandoned, the applicant shall also submit a plan consisting of such steps or modifications as are necessary to prevent movement of fluid into underground sources of drinking water corrective action. Where the plan is adequate, the commissioner shall incorporate it into the permit as a condition. Where the Commissioner's review of an application indicates that the permittee's plan is inadequate (based on the factors in subparagraph c. below) the commissioner shall require the applicant to revise the plan, prescribe a plan for corrective action as a condition of the permit or deny the application.

B.3.b. - D.1.b. ...

2. Large-Capacity Cesspools

a. The permitting and construction start-up of new or converted large-capacity cesspools are prohibited on and after April 5, 2000.

b. Existing large-capacity cesspools that were in operation or were under construction before April 5, 2000, shall be permanently close by April 5, 2005.

3. Motor Vehicle Waste Disposal Wells

a. The permitting and construction start-up of new or converted motor vehicle waste disposal wells are prohibited on and after April 5, 2000.

b. Existing motor vehicle waste disposal wells that were in operation or were under construction before April 5, 2000, shall be permanently closed by January 1, 2005.

4. Well Abandonment (Closure). Before permanently closing a Class V well, the owner or operator shall submit to the commissioner a plan detailing the method and procedure for closure. The commissioner may either approve the plan or require the applicant to revise the plan. The closure plan shall include conditions to ensure that permanent closure will comply with the prohibition of fluid movement standard in §103.D by not allowing the movement of additional fluids into an underground source of drinking water or from one USDW to another.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:ID, 4C(16), and 4.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 8:83 (February 1982), Amended LR 11:640 (June 1985), Amended LR 12:26 (January 1986), LR 27:1700 (October 2001).

Philip N. Asproditos
Commissioner

0110#037

RULE

Port Commissions Board of River Port Pilot Commissioners

Continuing Education

In accordance with the Administrative Procedure Act R.S. 49:950 et seq. and R.S. 34:991(B)(3), the Board of River Port Pilot Commissioners has adopted Section 5 as follows.

Section 5. Continuing Education

Rule 1

A pilot must attend 40 hours of professional education classes and programs every five years. In addition a pilot must attend a ship simulator training program every five years. This requirement will be effective January 1, 2001.

Rule 2

The professional education classes and programs approved by the Board include but are not limited to:

- a. electronic ship simulation training;
- b. small scale ship simulation training;
- c. ARPA training;
- d. VTS/VTIS simulator training;
- e. bridge resource management training for pilots;
- f. any other courses or programs that the board deems appropriate.

Rule 3

Any pilot who fails to attend the required professional education classes and programs may be reprimanded, fined, and/or suspended until the pilot complies with this section.

Rule 4

It shall be the responsibility of the pilot to file with the board proof that the pilot attended the professional education classes and programs.

Rule 5

It shall be the responsibility of the pilot to attend professional education classes and programs approved by the board.

Rule 6

The cost of attending professional education classes shall not be at the expense of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991 et seq.

HISTORICAL NOTE: Promulgated by the Port Commissions, Board of River Port Pilot Commissioners, LR 27:1701 (October 2001).

Capt. Donald J. Short
President

0110#014

RULE

Department of Public Safety and Corrections Office of State Police

Collection of DNA Samples for Convicted Offenders (LAC 55:I.Chapter 27)

Editor's Note: This Rule is being repromulgated to correct a codification error. The original Rule may be viewed in its entirety on pages 205-207 of the February 2001 edition of the *Louisiana Register*.

Pursuant to R.S. 15:601 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 Public Safety and Corrections, Public Safety Service, Office of State Police adopts LAC 55:I.Chapter 27. Notice is further given that the department adopts the following rules and regulations which establish guidelines for the collection, submission, receipt, identification, storage and disposal of DNA samples for convicted offenders as defined in R.S. 15:601 et seq.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 27. Collection, Submission, Receipt, Identification, Storage and Disposal of DNA Samples

§2701. Scope, Purpose and Application

A. Scope, Purpose, and Application. To provide rules and regulations governing the collection, submission, receipt, identification, storage and/or disposal of DNA samples for convicted offenders for a state database/CODIS pursuant to R.S. 15:601 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:205 (February 2001), repromulgated LR 27:1701 (October 2001).

§2702. Definitions

AFIS the Automated Fingerprint Identification System operated by the Department of Public Safety and Corrections, Public Safety Services.

CAJUN the Corrections and Justice Unified Network operated by the Department of Public Safety and Corrections.

CODIS or Combined DNA Index System the Federal Bureau of Investigation's national DNA identification index system which facilitates the storage and exchange of DNA records submitted by state and local criminal justice and law enforcement agencies.

Crime Laboratory Louisiana State Police Crime Laboratory of the Department of Public Safety and Corrections, Public Safety Services.

Convicted Offender a person convicted of a felony sex offense, other specified offense or any other offense for which a DNA sample must be obtained pursuant to R.S. 15:601 et seq.

Department Department of Public Safety and Corrections, Public Safety Services.

Director the Director of the Louisiana State Police Crime Laboratory.

DNA deoxyribonucleic acid.

DNA Analysis DNA typing tests that generate numerical identification information and are obtained from a DNA sample.

DNA Database the DNA identification record system maintained and administered by the director.

DNA Database Blood Collection Kit or Kit the kit provided by the Department for the collection of DNA samples.

DNA Record DNA information that is derived from a DNA sample and DNA analysis and is stored in the state

DNA database or in CODIS, including all records pertaining to DNA analysis.

DNA Sample Biological evidence of any nature that is utilized to conduct DNA analysis.

DPS & CC Department of Public Safety and Corrections.

Evidence Technician Individual authorized by the Director to perform the duties set forth in LAC 55:I:2301 et seq.

FBIC Federal Bureau of Investigation within the United States Department of Justice.

FTA specialized paper that binds DNA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:205 (February 2001), repromulgated LR 27:1701 (October 2001).

§2703. Collection, Submission, and Identification of DNA Samples for Convicted Offenders

A. All DNA samples obtained for DNA Analysis from a convicted offender shall be collected using an approved Louisiana State Police Crime Laboratory DNA Database Collection kit as supplied by the department.

1. Each DNA Database Blood Collection Kit shall contain all necessary materials for blood collection via finger stick and for proper identification of the offender.

2. Each kit shall be numbered sequentially from one kit to the next so that each kit number shall serve as a unique identifier. Any DNA Database Collection Kit Envelope, Kit Shipping Envelope, DNA Database Information Card, DNA Database Collection Card or AFIS or CAJUN Printout identifying the convicted offender that may be used as part of the kit shall have the same number as the kit used for collection.

3. For blood collection, all DNA samples shall be collected by individuals trained and approved to serve as collectors by the Louisiana State Police Crime Laboratory.

4. The collector shall complete the DNA Database Information Card or utilize an AFIS or CAJUN Printout which contains the identifying information of the collected offender when obtaining a sample.

a. In the event a DNA Database Information Card is used, the collector shall fill in all requested information as completely as possible. This information shall include the offenders name in full, current address, social security number, date of birth, sex, race, state identification number, submitting agency, name and signature and agency of person obtaining the blood sample, date, and form of positive identification shown by the offender.

b. If an AFIS or CAJUN printout is used, identifying information of the offender will be contained on the printout.

c. A DNA Blood Collection Card or a space on the AFIS or CAJUN printout utilized for all necessary collection information shall be filled out as completely as possible and shall include the following information: race, sex, name of blood collector, signature of blood collector, date and time of sample collection, signature of person taking offender's fingerprint, date and time of fingerprint application.

d. The state identification number or Department of Corrections number and name of the offender shall be written on the FTA Blood Collection Paper in the information space provided.

5. Finger stick blood samples shall be obtained using recognized and approved medical procedures, and the following guidelines shall be followed.

a. Prior to each individual blood collection procedure, personnel performing the collection shall put on barrier gloves. The FTA Blood Collection Paper contained within the kit shall not be touched unless the individual collecting the offender's blood is wearing barrier gloves.

b. The tip of the offender's finger shall be wiped with an absorbent alcohol pad.

c. The offender's finger shall be pricked using a sterile, fixed depth lancet.

d. The offender's finger shall be positioned over one of the four circles printed on the FTA Blood Collection Paper, and the finger shall be milked, allowing two drops of blood to fall onto the FTA paper, within the circle. This procedure will be repeated for the remaining three circles if possible.

e. A sterile gauze pad shall be used to wipe off any remaining blood from the offender's finger, and an adhesive bandage shall be affixed to the offender's finger.

f. All medical supplies (lancet, absorbent alcohol pad, gauze pad, barrier gloves) shall be discarded in compliance with standard medical procedures.

g. The blood on the FTA Blood Collection Paper shall be allowed to air dry for approximately 30 minutes. The FTA Blood Collection Paper shall not be touched, nor shall it be allowed to come in contact with any other FTA Blood Collection Paper during the drying and packaging stages.

h. The FTA Blood Collection Paper shall be placed in the protective envelope provided in the kit and sealed. The sealed protective envelope shall be stapled to the DNA Database Collection Card or the Completed AFIS or CAJUN printout which shall then be placed in the kit envelope. The kit envelope flap shall be moistened and the envelope sealed. An evidence or security seal shall then be placed over the envelope seal, and the seal shall be dated and initialed.

i. The sealed kit envelope shall be placed in a pre-addressed mailing envelope which shall be conspicuously marked as containing dried blood specimens with a biohazard label.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:206 (February 2001), repromulgated LR 27:1702 (October 2001).

§2704 Shipping of DNA Samples for Convicted Offenders

A. DNA samples collected in accordance with these procedures shall be submitted to the Crime Laboratory in person by approved personnel or via delivery service, such as U.S. mail in accordance with the Crime Laboratory's Quality Manual. The mailing envelope shall be mailed or delivered to the Crime Laboratory after collection to the following address:

Louisiana State Police Crime Laboratory
376 East Airport Drive
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 27:207 (February 2001), repromulgated LR 27:1702 (October 2001).

§2705. Record Keeping of DNA Samples for Convicted Offenders

A. The individual who collects each DNA sample shall provide an accurate, up-to-date list of every DNA sample collected each day of collection. Any failed attempts to collect blood from an offender and the reason for the failure (e.g. refusal of offender to submit, failure to keep scheduled appointment) shall also be indicated. The list will include the following information: the kit number, the offender's name, the name of the person collecting the sample and the submitting agency together with any additional data which the director deems necessary. This information shall be forwarded in the form of an audit sheet to the director on a daily basis, via both facsimile and U.S. mail. If the mailing envelopes are hand delivered to the Crime Laboratory the audit sheet shall accompany the mailing envelopes being delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:207 (February 2001), repromulgated LR 27:1703 (October 2001).

§2706. Storage of DNA Samples for Convicted Offenders

A. The sealed kits containing DNA samples shall be stored in a dedicated storage area within the Crime Laboratory. Access to the sealed kits and to the storage area shall be limited to authorized personnel. Any access to or removal/return of the sealed kit or specimen bags shall be performed in accordance with Crime Lab Evidence and Handling Policies and Procedures. Only authorized personnel shall open a sealed kit or specimen bag and shall initial and date the broken seal and shall reseal the kit or specimen bag in accordance with standard forensic operating procedures.

B. DNA samples on FTA Blood Collection Paper, DNA Database Collection Cards, DNA Database Identification Cards, and AFIS or CAJUN printouts shall be stored indefinitely in a secure storage area unless otherwise required in accordance with R.S. 15:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:207 (February 2001), repromulgated LR 27:1703 (October 2001).

§2707. Severability

A. If any article, section, subsection, sentence, clause or phrase of LAC 55:I:2301 et seq. is for any reason determined to be unconstitutional, contrary to statute, in excess of authority, or otherwise inoperative, such determination shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of LAC 55:I:2301 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:207 (February 2001), repromulgated LR 27:1703 (October 2001).

Jerry W. Jones
Undersecretary

0110#039

RULE

**Department of Revenue
Policy Services Division**

Definition of Sales Price (LAC 61:I.4301)

Under the authority of R.S. 47:301 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.4301 relative to the definition of *sales price* for sales tax purposes.

These amendments provide guidance concerning the definition of *sales price* in R.S. 47:301(13). They contain descriptions of items included and excluded from that definition. Some items included in the price of a transaction and subject to sales tax are material, labor and overhead costs. Some items excluded from the taxable base are costs for shipping the product to the customer and federal retailers' excise tax that must be collected from the customer.

These amendments also provide guidance on items specifically excluded from the taxable sales price by R.S. 47:301(13). Charges excluded by definition are trade-ins, interest charges, service charges, cash discounts, installation charges, etc. Exclusions are also provided for manufacturer buy downs, the first \$50,000 paid for farm equipment used in poultry production, and funeral directing services. An explanation is also provided on the alternative valuation method of refinery gas and other petroleum products.

Title 61

DEPARTMENT OF REVENUE

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 43. Sales and Use Tax

§4301. Definitions

A. - C. ...

Sales PriceC

a. R.S. 47:301(13)(a) defines *sales price* as the total amount, including cash, credit, property, or services, that is received or paid for the sale of tangible personal property. Any part of the *sales price* that is related to costs incurred by the vendor to bring the product to market or make the product available to customers becomes part of the tax base and is subject to sales tax even if a separate charge is made on the invoice.

i. Costs included in the *sales price* are:

- (a). materials used;
- (b). resale inventory;
- (c). freight or shipping costs from the supplier to

the vendor, or from the vendor to the customer where the transportation by the vendor is an essential or necessary

element of the agreement of sale, as would normally be true in transactions for the sale and delivery of ready-mixed concrete or similar products:

(i). these transportation expenses are incurred by a seller in acquiring tangible personal property for sale or in transporting tangible personal property to the place of sale and form part of the seller's overhead, and

(ii). cannot be excluded from the taxable *sales price* even when separately stated to the purchaser;

(d). utilities;

(e). insurance;

(f). financing for business operations;

(g). labor;

(h). overhead;

(i). service costs:

(i). handling charges are considered service costs; and

(ii). are distinguishable from charges for transportation under the definition of *sales price* and related court decisions;

(j). costs incurred by a vendor that are charged for the procurement, or purchasing, of tangible personal property on behalf of the customer; and

(k). excise taxes imposed on the producer, processor, manufacturer or importer, as these taxes become a part of the dealer's cost.

ii. The following are examples of charges not considered part of the *sales price* because they are not related to costs incurred by the vendor to bring the product to market:

(a). freight, shipping, or delivery charges from the vendor or the vendor's agent directly to the customer after the sale has taken place when the following two conditions are met.

(i). The seller of the tangible personal property separately states the charges for the actual delivery or transportation of the sold property from the place of the sale to the destination designated by the purchaser.

(ii). On the invoices for the sale and transportation of tangible personal property, the place of the sale of the property, and the fact that the transportation is rendered subsequent to the sale and purchase and for the buyer's account, must be clearly determinable.

(b). federal retailers' excise tax that must be collected from the consumer or user.

(i). If these taxes are billed to the user or customer separately, they should be excluded from the tax base.

(ii). However, if the retailers' excise tax is not billed separately, the total selling price, including the excise tax, is taxable.

iii. R.S. 47:301(13)(a) specifically excludes the following charges from the definition of *sales price* provided they are separately stated:

(a). the market value of an item traded in on the sale, as specified in R.S. 47:301(13)(a):

(i). the trade-in item must be one the vendor would normally accept in the course of business and must be similar to the item being purchased. An example of this is trading in a motorcycle on the purchase of a pickup truck;

(ii). exchanging an item that is not similar to the item being purchased will be treated as a barter or exchange agreement as described in R.S. 47:301(12). An example of this would be the owner of a clothing store providing suits to the owner of an appliance store in return for a dishwasher. In this instance, each selling party must report the transaction on his sales tax return;

(iii). the transfer of ownership of the trade-in must occur simultaneously with the sales transaction;

(iv). the trade-in value must be established prior to the sale;

(b). interest charges not exceeding the legal interest rate to finance the sale;

(c). service charges for financing, up to six percent of the amount financed;

(d). cash discounts allowed by the vendor if the customer takes advantage of the discount;

(e). labor to install the tangible personal property;

(f). charges by a seller for installing property that he has sold;

(i). installing includes the charge by the seller of movable property for setting up that property on or the attachment of that property to other movable or immovable property that is already owned or possessed by the purchaser;

(ii). examples of the types of installation charges that are excludable from *sales price* under this provision are the charges for setting up an appliance in a home or business, or the first-time attachment of a new mobile telephone, new radio, or new speakers to a customer-owned vehicle that previously was without such property;

(iii). exclusion is not intended, however, for the charges for removal and replacement of worn or malfunctioning components of movables, such as the removal and replacement of tires and batteries in vehicles. These types of services constitute repairs to movables that are defined in R.S. 47:301(14)(g) as taxable "sales of services;"

(g). charges to set up the property on the taxpayer's premises;

(h). charges for remodeling or repairing the property sold if:

(i). these services are provided prior to the sale;

(ii). the vendor sends the property to another dealer or service provider for remodeling or repair and pays sales taxes on these taxable services; and

(iii). the services are separately itemized and identified in the billing to the customer;

(iv). if the remodeling or repairing is performed by the vendor either:

[a]. prior to the sale; or

[b]. after the sale but before the customer takes possession of the item;

[c]. then these would be costs of the vendor incurred to bring the product to market or make a product available to customers and would become part of the tax base;

(v). any services performed after the property is in the possession of the customer are taxable under R.S. 47:301(14).

iv. In all instances where an expense is required to be separately stated, the effect of combining the charge with another taxable item included in the *sales price* will subject the entire amount to sales tax.

v. R.S. 47:301(13)(b) provides an exclusion from *sales price* for the amounts of cash discounts and rebates that manufacturers and vendors of new vehicles offer to purchasers of vehicles.

(a). The exclusion will apply both to the discounts and rebates that are based on vehicle make and model, as well as to the discounts and rebates that are based on customer usage of manufacturer-issued credit cards.

(b). In order for this exclusion to apply, the customer must assign the discount or rebate to the selling dealer of the vehicle, so that the discount or rebate results directly in a reduction of the price to be paid for the vehicle.

(c). In cases where a customer accepts a rebate or discount in cash, and does not assign the amount to the selling dealer as a deduction from the listed retail price of the vehicle, the exclusion from *sales price* will not apply.

vi. R.S. 47:301(13)(c) excludes from taxable *sales price* the first \$50,000 paid for new farm equipment used in poultry production.

(a). This exclusion applies only to the price of property that is identifiable at the time of sale as being for use in poultry production.

(b). The exemption is available only to commercial producers who sell poultry or the products of poultry in commercial quantities.

(c). The portion of the sales price of any item of commercial farm equipment in excess of \$50,000 will be included in the taxable *sales price*.

vii. R.S. 47:301(13)(e) excludes the value of payments made directly to retail dealers by manufacturers seeking a reduction in the price retail dealers charge for the manufacturers' products. These payments, often called *buy downs*, are applied by the retail dealer to the selling prices of the manufacturer's products. Retail dealers must collect the tax on the discounted *sales price* after applying the manufacturers' payments.

viii. In cases where all or a part of the purchase price of tangible personal property is paid to the selling dealer by the presentation of a coupon, the determination of the taxable *sales price* will depend on the type of coupon that is presented.

(a). Manufacturer's coupons that the selling dealer accepts from the customer and can be redeemed through a manufacturer or coupon agent are not allowed as a reduction of the *sales price*. Because the retailer's total compensation includes the amount paid by the customer after presenting the coupon and the amount reimbursed by the manufacturer for the coupon's face value, the tax is based on the actual selling price of the item before the discount for the coupon.

(b). The retailer's own coupons, which the selling dealer is unable to redeem through another party, provides a cash discount that can be excluded from the *sales price*. The sales tax on a sale involving this type of coupon will be computed on the price paid after an allowance for the selling dealer's coupon discount.

ix. R.S. 47:301(13)(f) provides that *sales price* excludes any consideration received, given, or paid for the

performance of funeral directing services. The term *funeral directing services* is defined and further discussed at R.S. 47:301(10)(s).

(a). No exclusion from taxation is allowed on the sale, lease, or rental, of tangible personal property by funeral directors to customers, or

(b) on the purchase, lease, use, consumption, distribution, or storage for use of tangible personal property by funeral directors in connection with their performance of professional services.

b. R.S. 47:301(13)(d) provides that, in the case of the sale by a manufacturer of refinery gas or other petroleum byproducts that are to be used by the purchasers as other than feedstock, the taxable *sales price* shall be the greater of:

i. the actual sales price of the byproducts; or

ii. the average monthly spot market price per thousand cubic feet of natural gas delivered into pipelines in Louisiana, as reported by the Natural Gas Clearing House at the time of such sale.

* * *

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 28:1703 (October 2001).

Raymond E. Tangney
Senior Policy Consultant

0110#085

RULE

Department of Revenue Policy Services Division

Inventory Tax Credit (LAC 61:I.1902)

Under the authority of R.S. 47:6006 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 47:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:I.1902 relative to the application of inventory tax credits to different business associations.

Act 153 of the 1991 Regular Session of the Louisiana Legislature enacted R.S. 47:6005 to allow a credit against the corporate and personal income taxes and the corporation franchise tax for ad valorem taxes paid to political subdivisions on inventory held by manufacturers, distributors, and retailers. The section was redesignated as R.S. 47:6006 pursuant to the statutory revision authority of the Louisiana State Law Institute. This rule clarifies the application of inventory tax credits to different business associations.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 19. Miscellaneous Tax Exemptions

§ 1902. Inventory Tax Credits

A. Tax Credits for Local Inventory Taxes Paid. R.S. 47:6006 allows a credit for ad valorem taxes paid to local

governments on inventory held by manufacturers, distributors, and retailers.

B. Application to Corporations. All entities taxed as corporations for Louisiana income or corporation franchise tax purposes shall claim any credit allowable for inventory taxes paid by them on their corporation income and corporation franchise tax return. This includes, but is not limited to:

1. S corporations;
2. partnerships taxed as corporations for income tax purposes;
3. limited liability companies (LLC's) taxed as corporations for income tax purposes.

C. Application to Individuals, Estates, and Trusts

1. All individuals shall claim on their individual income tax returns any credit allowable for inventory taxes paid by them.

2. Estates or trusts shall claim on their fiduciary income tax returns any credit allowable for inventory taxes paid by them.

D. Application to Partnerships. Any credit allowable for inventory taxes paid by partnerships not taxed as corporations shall be claimed on the returns of the partners as follows.

1. Corporation partners shall claim the credit on their corporation income or corporation franchise tax returns.

2. Individual partners shall claim the credit on their individual income tax returns.

3. Partners that are estates or trusts shall claim the credit on their fiduciary income tax returns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6006 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 27:1705 (October 2001).

Cynthia Bridges
Secretary

0110#028

RULE

Department of Treasury Bond Commission

Fee Schedule and Fee Rebate (LAC 71:III.301, 1301, and 1901)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 39:1405.1, the Bond Commission has amended LAC Title 71, Part III in accordance with R.S. 39:1405.1(B) as amended by Act 431 of the 2001 Regular Session of the Legislature. This Act, in effect, removes the rebate of excess fees attributable to private purpose bonds.

Title 71 TREASURY

Part III. Bond Commission

Chapter 3. Non-Traditional Tax-Exempt Projects

§301. General

A. - A.13.k. ...

14. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Bond Commission, LR 5:365 (November 1979), amended LR 9:254 (April 1983), LR 10:409 (May 1984), LR 10:948 (November 1984), LR 12:538 (August 1986), LR 15:630 (August 1989), LR 27:1706 (October 2001).

Chapter 13. Disclosure

§1301. Disclosure of Agreements between Financial Professionals for Negotiated Transactions

A. - B. ...

C. In order to insure the integrity of the structure of the financing team which the commission is charged with the responsibility of choosing and/or approving for handling bond issues, the commission hereby amends the following rule regarding agreements by and between such financial professionals as to the sale of such bonds.

C.1. - C.4.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Bond Commission, LR 20:320 (March 1994), amended LR 27:1706 (October 2001).

Chapter 19. Fee Schedule

§1901. Fee Schedule

A. Pursuant to R.S. 30:1405.1(B), the treasurer is authorized after such appropriation, to rebate, on a pro rata basis, the amount of such excess fees attributable to general government agencies, as defined in the State Bond Commission's fee schedule, and otherwise in its rules and regulations, to the issuers of such general government issues paying closing fees for such issues in the fiscal year during which the fees were imposed. In no event, however, shall this rebate provision apply to application fees. The provisions of this rule apply to the Bond Commission fee schedule listed herein.

B. General Government Issues*

General Government Application Fee	Par	\$100.00** Percentage
Closing Fees		
First	\$500,000	0.065%
Next	\$4,500,000	0.060%
Next	\$5,000,000	0.055%
Next	\$10,000,000	0.050%
Next	\$30,000,000	0.045%
Next	\$50,000,000	0.035%
Certified Copy Fee		No charge for one copy \$5 for each additional copy

C. Private Purpose Bonds***

Private Purpose Application Fee		\$1,500.00**
Closing Fees	Par	Percentage
First	\$5,000,000	0.125%
Next	\$20,000,000	0.110%
Next	\$25,000,000	0.105%
Next	\$50,000,000	0.100%
Over	\$100,000,000	0.090%
Annual Agenda Subscription Fee		\$100.00 Private Sector \$50.00 Public Sector

* To be levied on debt instruments with maturities in excess of 12 months excluding budgetary loans made under the provisions of R.S. 39:745, 17:89, 33:9901.

**Application fee will be credited toward the closing fee when bonds are issued, sold or delivered.

*** Private purpose bonds are defined as bonds the proceeds of which are used primarily for the benefit of a private company or enterprise or the payment on such bonds, are paid from revenues derived from private enterprise or concern, regardless of the issuer or the tax exempt status of the debt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1405.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Bond Commission, LR 27:1706 (October 2001).

Ron J. Henson
First Assistant State Treasurer

0110#036