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III. RULES

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Executive Orders

EXECUTIVE ORDER MJF 97-1

Scenic By-Way Program

WHEREAS: the unique natural beauty of the State of Louisiana is to be shared with and enjoyed by the traveling public to the fullest extent possible;

WHEREAS: the Federal Highway Administration (hereafter "FHA") administers the Intermodal Surface Transportation Efficiency Act of 1991 and Scenic By-Way Program Grant Funds;

WHEREAS: the FHA requires states participating in the Scenic By-Way Program (hereafter "Program") to designate an agency to be responsible for the administration of the state's Program;

WHEREAS: pursuant to Article VII, §27(A) of the Louisiana Constitution of 1974, as amended, all monies received from the FHA shall, upon receipt, be deposited in the Transportation Trust Fund; and

WHEREAS: the Louisiana Tourism Development Commission (hereafter "Commission") has successfully worked with the Departments of Transportation and Development and of Tourism to administer the state's Program;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Commission is designated as the agency within the State of Louisiana to work with the Departments of Tourism and of Transportation and Development, to administer and coordinate the state's Program.

SECTION 2: Pursuant to Article VII, §27(A) of the Louisiana Constitution of 1974, as amended, the Department of Transportation and Development shall receive, deposit in the Transportation Trust Fund, and administer, all grant funds obtained from the FHA for the administration of the state's Program.

SECTION 3: Pursuant to its designation in Section 1, the duties and functions of the commission include, but are not limited to, working with the Departments of Tourism and of Transportation and Development to submit a grant application on behalf of the state for participation in the Program; to assure that any and all grant monies received for the Program are disbursed in accordance with the terms and conditions of the grant and/or the FHA; and fulfilling all other duties and functions designated by the governor.

SECTION 4: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Commission, and the Departments of Tourism and of Transportation and Development, in implementing the provisions of this Order.

SECTION 5: Upon signature of the governor, the provisions of this Order shall be made retroactive to August 11, 1996, and shall remain in effect until amended, modified,

terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana at the Capitol, in the City of Baton Rouge on this 22nd day of January, 1997.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9702#019

EXECUTIVE ORDER MJF 97-2

Bond Allocation—Housing Finance Agency

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1997 (hereafter "the 1997 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1997 Ceiling; and (3) a system of central record keeping for such allocation; and

WHEREAS: the Louisiana Housing Finance Agency has requested an allocation from the 1997 Ceiling to be used in connection with an elderly assisted care facility, Malta Square at Sacred Heart Project, in accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1997 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$7,300,000	Louisiana Housing Finance Agency	Malta Square at Sacred Heart

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation for a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before April 22, 1997.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 22nd day of January, 1997.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9702#020

EXECUTIVE ORDER MJF 97-3

Bond Allocation—Calcasieu Parish Public Trust Authority

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1997 (hereafter "the 1997 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1997 Ceiling; and (3) a system of central record keeping for such allocation; and

WHEREAS: the Calcasieu Parish Public Trust has requested an additional allocation from the 1997 Ceiling, in addition to the allocation granted to it in Executive Order Number 96-78, to be used in connection with a program of financing mortgage loans for first time home buyers throughout the Parish of Calcasieu in accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1997 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$5,200,000	Calcasieu Parish Public Trust Authority	Single Family Mortgage Bonds or Mortgage Certificate Program

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation for a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before April 22, 1997.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 22nd day of January, 1997.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9702#021

EXECUTIVE ORDER MJF 97-4

Automobile Insurance Rate Deduction Task Force

WHEREAS: Executive Order MJF 96-15, signed on June 13, 1996, created The Louisiana Task Force for the Reduction of Automobile Insurance Rates (hereafter "Task Force"); and

WHEREAS: it is necessary to extend the date on which the Task Force shall submit a comprehensive, detailed and actuarially-sound plan to both houses of the Louisiana Legislature;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The last sentence in Section 1 of Executive Order MJF 96-15, which refers to the date that a comprehensive, detailed and actuarially-sound plan shall be submitted to both houses of the Louisiana Legislature, is amended to provide as follows:

The Task Force shall prepare and submit a plan to both houses of the Louisiana Legislature, for their review, no later than March 10, 1997.

SECTION 2: All other Sections and Subsections of Executive Order MJF 96-15 shall remain in full force and effect.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 28th day of January, 1997.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9702#022

EXECUTIVE ORDER MJF 97-5

Office of the First Lady

WHEREAS: the First Lady is the official hostess of the State of Louisiana and, as a result, the First Lady holds both private status and *de facto* state officer status;

WHEREAS: the First Lady of Louisiana, Mrs. Alice Foster travels throughout Louisiana to promote its beautification and historic preservation, the health and safety of its inhabitants, and other worthy projects and causes, such as the Louisiana Governor's Mansion Foundation, litter prevention and elimination, breast cancer awareness, and the protection of children's health, safety and welfare;

WHEREAS: First Lady, Mrs. Alice Foster welcomes visiting dignitaries, makes speeches and public service announcements, authors articles pertaining to her projects, holds press conferences and interviews, participates in charity events, and performs numerous other duties and activities at the governor's request; and

WHEREAS: the numerous duties and activities of the First Lady place significant administrative demands on the office of the First Lady which necessitate that it be given formal recognition;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority

vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Office of the First Lady is created and established within the Executive Department, Office of the Governor. The First Lady shall be an ambassador and a spokesperson for the State of Louisiana, and shall perform other duties as directed by the governor.

SECTION 2: Support staff, office facilities, and reasonable operating expenses shall be provided to the Office of the First Lady by the Executive Department, Office of the Governor.

SECTION 3: The First Lady shall not receive compensation or a per diem. Nonetheless, she may receive reimbursement for actual travel expenses incurred in the representation of the Office of the First Lady, in accordance with state guidelines and procedures, contingent upon the availability of funds, and the approval of the commissioner of administration.

SECTION 4: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Office of First Lady in implementing the provisions of this Order.

SECTION 5: Upon signature of the governor, the provisions of this Order shall be made retroactive to January 1, 1997, and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or until terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 28th day of January, 1997.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9702#023

EXECUTIVE ORDER MJF 97-6

Bond Allocation—Parish of Ouachita

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1997 (hereafter "the 1997 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1997 Ceiling; and (3) a system of central record keeping for such allocation; and

WHEREAS: the Industrial Development Board of the Parish of Ouachita, Louisiana, Inc., has requested an allocation from the 1997 Ceiling to be used in connection with

EXECUTIVE ORDER MJF 97-7

Removal of Abandoned Barges and Vessels

the expansion, furnishing and equipping of a manufacturing project for EPCO Carbon Dioxide Products, Inc., located in Sterlington, Ouachita Parish, Louisiana;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1997 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$3,500,000	Industrial Development Board of the Parish of Ouachita, La., Inc.	EPCO Carbon Dioxide Products, Inc.

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation for a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before April 29, 1997.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 29th day of January, 1997.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9702#024

WHEREAS: a recent report entitled *Final Report of the Abandoned and Derelict Vessels Inventory in Fulfillment of Mandates of R.S. 30:2469* by the Office of the Governor, through the Office of the Oil Spill Coordinator, reveals that there are 160 abandoned barges in Louisiana which pose a substantial threat to the environment and to human health and safety;

WHEREAS: the United State Environmental Protection Agency and Coast Guard, acting pursuant to the federal Oil Pollution Act of 1990 and the Abandoned Barge Act of 1992, are willing to work with the Office of the Oil Spill Coordinator to abate and/or remove those 160 abandoned barges;

WHEREAS: by virtue of R.S. 30:2469, the Office of the Oil Spill Coordinator is presently authorized to remove only those vessels or structures that are in a wrecked, derelict, or substantially dismantled condition and which discharge or threaten to discharge oil in coastal waters, on public or private lands, or at a public or private port or dock;

WHEREAS: R.S. 34:843 provides broader removal authority than does R.S. 30:2469, in that it authorizes the federal, state, and local "governing authority" to remove abandoned barges and vessels;

WHEREAS: R.S. 34:843 does not name or limit which entities are a state governing authority; and

WHEREAS: to facilitate the joint federal and state abandoned barge abatement effort, it is necessary that the Office of the Oil Spill Coordinator be designated by the state as a state "governing authority" within the meaning and for purposes of R.S. 34:843;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Office of Oil Spill Coordinator is designated a state "governing authority" within the meaning and for the purposes of R.S. 34:843 and, therefore, possesses the jurisdiction and authority to remove abandoned barges and vessels.

SECTION 2: All departments, commissions, boards, agencies, and officers of the state, and any political subdivisions thereof, are authorized and directed to cooperate with the Office of Oil Spill Coordinator in implementing the provisions of this Order.

SECTION 3: This Order is effective upon signature of the Governor and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana at the Capitol, in the City of Baton Rouge on this 30th day of January, 1997.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9702#025

EXECUTIVE ORDER MJF 97-8

DWI/Vehicular Homicide Task Force

WHEREAS: Executive Order MJF 96-9, signed on April 15, 1996, establishes the Governor's DWI/Vehicular Homicide Task Force (hereafter "Task Force"); and

WHEREAS: it is necessary to expand the membership of that Task Force to include the commissioner of the Office of Alcohol Beverage Control, assistant secretary of the Department of Revenue and Taxation;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 1 of Executive Order MJF 96-9, is amended to add Subsection N, which shall provide as follows:

N. The commissioner of the Office of Alcohol Beverage Control, assistant secretary of the Department of Revenue and Taxation, or the commissioner's designee.

SECTION 2: All other Sections and Subsections of Executive Order MJF 96-9 shall remain in full force and effect.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 30th day of January, 1997.

M.J. "Mike" Foster Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9702#026

EXECUTIVE ORDER MJF 97-9

Individual Wastewater Treatment Systems Task Force

WHEREAS: the State of Louisiana has a duty to protect the health of its inhabitants and to prevent damage from occurring to the environment;

WHEREAS: serious environmental and health threats may exist due to the individual wastewater treatment systems in use in both urban and rural areas of the state which are inadequate or malfunctioning;

WHEREAS: epidemics, health risks, disease control problems, and environmental damage may be caused by and/or attributable to individual wastewater treatment systems which are discharging inadequately treated wastewater into the waters of the state; and

WHEREAS: it is in the best interest of the state for an in-depth study to be conducted on the health and environmental risks associated with individual wastewater treatment systems and on any corrective action which should be considered for uniform implementation throughout the State of Louisiana;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Governor's Task Force on Individual Wastewater Treatment Systems (hereafter "Task Force") is established within the Executive Department, Office of the Governor.

SECTION 2: The duties of the Task Force shall include, but are not limited to, the following:

A. preparing a preliminary report, due no later than March 24, 1997, which identifies potential health and environmental problems associated with individual wastewater treatment systems, which are those systems with a capacity of less than 1500 gallons per day, and the various concerns raised by those problems; and sets forth a review of the regulations concerning individual wastewater treatment systems in use in the region of the southern states, and a plan to study and address the identified potential health and environmental problems;

B. conducting in-depth studies of and compiling information on individual wastewater treatment systems;

C. preparing a comprehensive report based on the results of the in-depth studies and compiled information, due no later than July 1, 1997, which addresses all matters associated with individual wastewater treatment systems, including the impact such systems may have on the environment and public health and the need for uniform statewide regulation of such systems; and

D. recommending legislation and/or regulatory provisions.

SECTION 3: The Task Force shall consist of at least 16 members who shall be appointed by and serve at the pleasure of the governor. The membership of the Task Force shall be selected as follows:

Emergency Rules

DECLARATION OF EMERGENCY

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

**Registration of Pesticides; Certification of Commercial
Applicators; Licensing of Owner-Operators; and
Restrictions on Applications in Schools
(LAC 7:XXIII.Chapter 131)**

A. the secretary of the Department of Health and Hospitals, or the secretary's designee;

B. the secretary of the Department of Environmental Quality, or the secretary's designee;

C. the secretary of the Department of Wildlife and Fisheries, or the secretary's designee;

D. the assistant secretary of the Department of Health and Hospitals, Office of Public Health, or the assistant secretary's designee;

E. two members of the Louisiana Senate, nominated by the President of the Senate;

F. two members of the Louisiana House of Representatives, nominated by the Speaker of the House;

G. a representative of the Louisiana Police Jury Association;

H. a representative of the Federation of Wastewater Treatment Specialists;

I. an expert in the field of Environmental Health Science;

J. an environmental or civil engineer with expertise in the area of wastewater;

K. an attorney with expertise in environmental law, particularly on wastewater issues;

L. a representative of environmental/conservation organizations;

M. a representative of the Lake Pontchartrain Basin Foundation; and

N. a representative of consumer organizations or groups.

SECTION 4: The secretary of the Department of Health and Hospitals shall chair the Task Force. The membership of the Task Force shall select its vice-chairs and/or other officers.

SECTION 5: Support staff for the Task Force and facilities for its meetings shall be provided by the Department of Health and Hospitals.

SECTION 6: Task Force members shall not receive compensation or a per diem. Nonetheless, contingent upon the availability of funds, members who are not an employee of the State of Louisiana or one of its political subdivisions, or an elected state-wide public official, may receive reimbursement from the Office of the Governor for actual travel expenses incurred, in accordance with state guidelines and procedures, and upon the approval of the commissioner of Administration.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Task Force in implementing the provisions of this Order.

SECTION 8: The provisions of this Order are effective upon signature and shall remain in effect until July 1, 1997.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 31st day of January, 1997.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9702#027

In accordance with the Administrative Procedure Act, R.S. 49:953(B) and R.S. 3:3203(A), the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in adopting the following Emergency Rules for the implementation of regulations governing standard registrations of pesticides, certification of commercial applicators, licensing requirements of owner-operators, and special restrictions on pesticide applications in schools.

The Department has determined that these Emergency Rules are necessary in order that the Department can immediately put into place more stringent regulations governing the qualifications required for pesticide registrations, certification of commercial applicators, licensing requirements of owner-operators, and special restrictions on pesticide applications in, on, or around school buildings and grounds.

The Department has further deemed these regulations necessary to help ensure the safety and well-being of the citizens of Louisiana in general, as well as school children in Louisiana, in particular.

The effective date of this regulation is January 21, 1997 and it will remain in effect 120 days or until the final Rule takes effect through the normal promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 131. Louisiana Advisory Commission on Pesticides

Subchapter D. Registration of Pesticides

§13113. Standard Registrations

A. Application for registration shall consist of two types, namely initial registration and renewal registration. Initial registration application may be filed at any time of the year. Renewal registration application shall be filed by the first day of December each year. Application shall be made on forms or formats prescribed by the Commissioner, or on forms or formats which have the prior, written approval of the Commissioner.

1. Each application for the initial registration of a pesticide and for the re-registration of a pesticide for which the label has been changed shall be accompanied by the following information:

- a. the brand of the pesticide;

b. the name, address and contact person of the manufacturer of the pesticide;

c. two complete copies of the labeling of the pesticide, containing:

i. the specific name of each active ingredient in the pesticide;

ii. the percentage of the active ingredients in the pesticide;

iii. the percentage of the inert ingredients in the pesticide;

iv. the net contents of each package in which the pesticide will be sold;

v. a statement of claims made for the pesticide;

vi. directions for the use of the pesticide, including warnings or caution statements.

d. the material safety data sheet prepared in accordance with the requirements of the Environmental Protection Agency;

e. such other information as the commissioner may require.

2. Application for re-registration of a pesticide for which the label has not been changed shall be accompanied by the following information:

a. the brand of the pesticide;

b. the name, address and contact person of the manufacturer of the pesticide;

c. such other information as the commissioner may require.

3. The labeling requirements as described in LAC 7:XXIII.13113.A.1 shall be resubmitted for any pesticide for which the label has been changed within 60 days of the change.

B. Any registration may be denied by the commissioner if he determines that:

1. the composition of the pesticide is not sufficient to support the claims made for the pesticide;

2. the label on the pesticide does not comply with state and federal requirements;

3. use of the pesticide may produce unreasonable adverse effects on the environment;

4. information required in LAC 7:13113.A has not been furnished to the Commissioner by the manufacturer.

C. Any pesticide registered in Louisiana must comply with the following:

1. Any pesticide sold or offered for sale or distribution must bear a label consistent with the label submitted in the registration application.

2. Each shipping container must bear the lot or batch number of the pesticide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 15:76 (February 1989), LR 23:

Subchapter F. Certification

§13123. Certification of Commercial Applicators

A. ...

B. Categories are established on the basis of the location where the application of pesticides will be made, and each applicant for certification is required to successfully complete

an examination in the category in which the applicant desires certification.

1. Certification in a category authorizes the commercial applicator to make application of or supervise the application of restricted use pesticides in the areas listed for each category.

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

(Note: The classifications in this Subsection reflect national categories established by EPA.)

Category 1. - Category 6.

* * *

Category 7. Industrial, Institutional, Structural and Health Related Pest Control. This category includes commercial applicators and nonfee commercial applicators using or supervising the use of pesticides with restricted uses in, on or around food handling establishments, human dwellings, institutions, such as schools and hospitals, industrial establishments, including warehouses and grain elevators, and any other structures and adjacent area, public or private; and for the protection of stored, processed or manufactured products. This category has been subdivided into four subcategories:

i. ...

ii. Subcategory 7b is for applicators who apply or supervise the application of restricted use pesticides on a nonfee basis in, on or around institutions, motels, hotels, hospitals and like places as the owner or in the employ of the owner and for persons applying or supervising the application of any herbicide, rodenticide, or insecticide for grass and weed control and rodent and general pest control in, on, or around structures or grounds of government subsidized and administered housing and multiplex housing.

iii. ...

iv. Subcategory 7d is for applicators who apply or supervise the application of pesticides on a nonfee basis for grass and weed control and rodent and general pest control (roaches, wasps, and ants) or restricted use pesticides, in, on, or around structures and grounds of schools that provide education for classes kindergarten through 12. Pesticide applications for wood destroying insects shall be applied by licensed structural pest control operators.

Each 7d certified applicator shall annually train all persons applying pesticides under his/her supervision in the proper handling, storage, use, application and disposal of pesticides.

Category 8. Public Health Pest Control. This category is for commercial applicators and state, federal and other government employees using or supervising the use of pesticides in public health programs for the management and control of pests having medical and public health importance. This category has been subdivided into six subcategories, as follows:

i. Mosquito Control: Applicator. This subcategory is for commercial applicators and government employees who are applicators in mosquito control programs.

ii. Rodent Control. This subcategory is for commercial applicators and government employees who are applicators in rodent control programs.

iii. Community Public Health. This subcategory is for commercial applicators and government employees who are applicators concerned with the control of all arthropods and rodents of public health importance.

iv. Mosquito Control: Program Supervisor. This subcategory is for commercial applicators and government employees who are program supervisors in organized mosquito control programs.

v. Antimicrobial Pest Control. This subcategory is for commercial applicators engaged in antimicrobial pest control using restricted use pesticides.

vi. Sewer Root Control. This subcategory is for commercial applicators and government employees who are applicators engaged in root control in sewers using restricted use pesticides.

Category 9. Regulatory Pest Control. This category includes state, federal or other governmental employees using or supervising the use of pesticides with restricted uses in the control of regulated pests.

Category 10. Demonstration and Research Pest Control. This category includes individuals who demonstrate to the public the proper use and techniques of application of pesticides with restricted uses or supervise such demonstrations and persons conducting field research with pesticides, and in doing so, use or supervise the use of pesticides with restricted uses. This category has been subdivided into eight subcategories:

- i. Agricultural Pest Control;
- ii. Forest Pest Control;
- iii. Ornamental and Turf Pest Control;
- iv. Seed Treatment;
- v. Aquatic Pest Control;
- vi. Right-of-Way Pest Control;
- vii. Industrial, Institutional, Structural and Health Related Pest Control;
- viii. Public Health Pest Control.

C. In addition to a determination of competence in a specific category or subcategory, each commercial applicator shall demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides. In order to meet this requirement, each commercial applicator, at the time of initial certification in at least one or more categories, must take a general standards exam.

D. Examinations for certification for commercial applicators will be given upon request of the applicant at Baton Rouge at the Office of Pesticides and Environmental Programs or in any district office of the Department of Agriculture during office hours. Request for exams in district offices must be made seven days in advance.

E. Each person that has been certified in any category or subcategory as a commercial applicator, and whose certification has not been revoked or suspended, may renew that certification by attending a recertification meeting or training course for that category as designated by the commissioner.

F. The commissioner shall issue a certification card to each commercial applicator showing the categories or subcategories in which the applicator is certified. This certification card shall expire on December 31 of each year.

Each person wishing to renew a certification card shall do so by submitting an application form prescribed by the commissioner and by submitting the proper fee.

G. Each person who is certified as a commercial applicator need not be certified as a private applicator or a pesticide salesperson to apply or supervise the application of any restricted use pesticide as a private applicator or sell or supervise the sale of restricted use pesticides.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 23:

Subchapter H. Licensing Requirements

§13131. Owner-Operators

A. - N. ...

O. Grass-Cutter Exemption. A person, when applying a general use pesticide to the lawn or ornamental plants of an individual residential property owner using pesticides and pesticide application equipment owned and supplied by the property owner, is exempt from licensing provided the person does not advertise for or solicit herbicide (grass or weed control) application business and does not hold oneself out to the public as being engaged in herbicide (grass or weed control) application. The person shall not supply his/her own pesticide application equipment, use pesticide applying power equipment, or use any equipment other than a hand held container when applying the pesticide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3243.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:194 (March 1984), LR 12:87 (February 1986), LR 23:

Subchapter I. Regulations Governing the Application of Pesticides

§13144. Special Restrictions on Pesticide Applications in Schools

A. Any person who applies or supervises the application of pesticides on a nonfee basis for grass and weed control and rodent and general pest control (roaches, wasps, and ants) or restricted use pesticides, in, on, or around school structures and grounds shall be a certified commercial applicator or under the supervision of a certified commercial applicator.

B. School systems with 10 or more schools shall employ a minimum of two certified commercial applicators. School systems with less than 10 schools shall employ a minimum of one certified commercial applicator.

C. The governing authority (including but not limited to superintendents, headmasters, school boards, board of directors, chief executive officer, or principals) shall prepare and submit in writing, for each school under its authority, to the director of Pesticide and Environmental Programs (PEP), an annual integrated pest management (IPM) plan for pest control for grass and weed control and rodent and general pest control (roaches, wasps, and ants) in, on, or around school

structures and grounds. The IPM plan shall include all pest control methods employed, including pesticide and nonpesticide methods and strongly recommends the least toxic methods of control. The first IPM plan shall be submitted prior to any application of pesticides beginning March 1, 1995 and shall be submitted on an annual year of August 1 through July 31. The plan shall be available for review, upon request, by the commissioner and the general public, during normal school hours, at each school, in the business office. The annual IPM plan shall include, but not be limited to the following:

1. school name and mailing address, physical address, telephone number and contact person;
2. name and license or place of business number of company(s) and certification numbers of applicators, if contracted;
3. name and certification number of certified commercial applicator(s) of school system;
4. brand name and EPA registration number of all pesticides to be used;
5. for each pesticide to be used list the following:
 - a. pest to be controlled;
 - b. type of application to be used;
 - c. location of application;
 - d. restricted use pesticide or general use pesticide.
6. proposed location and date for noncertified applicator training;
7. other methods of pest control.

D. Any deviation from the integrated pest control management plan submitted shall be submitted in writing to LDAF, Director of PEP, 24 hours prior to any application.

E. Records of pesticide applications shall be maintained according to LAC 7:XXIII.13157 and records of inspections, identification, monitoring, evaluations, and pesticide applications for grass and weed control and general pest control, shall be maintained by the school and submitted with the annual integrated pest management plan to the department annually on a form prescribed by the department in accordance with LAC 7: XXIII.13157.

F. No pesticides shall be applied for general pest control inside school buildings when students are present or expected to be present for normal academic instruction or extracurricular activity for at least eight hours after application.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 21:928 (September 1995), amended LR 23:

Bob Odom
Commissioner

9702#010

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Boll Weevil Eradication Commission

Definitions; Red River Eradication Zone;
Cotton Acreage; and Program Participation
(LAC 7:XV.9903, 9914, 9919, and 9921)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:1609 and R.S. 3:1613, the Louisiana Boll Weevil Eradication Commission declares an emergency to exist and adopts by emergency process the following Rule setting forth definitions, creating a Red River Eradication Zone, reporting of cotton acreage, and fee payment in the Boll Weevil Eradication Program. This emergency adoption is necessary in order to prevent imminent peril to the health, safety or welfare of the citizens of Louisiana for the reasons set forth below:

The boll weevil is a pest which is destructive to the commercial crop of cotton and such destruction has persisted over decades despite use of control measures. The cost of destruction to the crop and the cost of efforts to control the boll weevil currently exceed \$30 per acre of cotton which is a cost sufficiently high to eliminate profit for some producers. Both the cost of destruction to the crop and cost of control efforts have risen and continue to do so. It is federal policy as well as the policy of the State of Louisiana to eradicate the boll weevil. The federal government has an eradication program which provides cost subsidies to participating states. The federal eradication program sets timelines for states to participate in the program. Failure of Louisiana to meet the federal timeline jeopardizes the much needed subsidy which could put at risk Louisiana's eradication program. Most cotton producing states are participating in the federal eradication program, in their own state eradication program, or in both eradication programs. Failure of Louisiana to achieve eradication of the boll weevil concurrently with other cotton producing states which do achieve eradication may cause Louisiana to be quarantined thus restricting the movement of cotton, equipment, and other regulated articles from the state.

Louisiana's eradication program is essential to the health, safety and welfare of the citizens of this state. Failure to adopt and amend these Rules on an emergency basis would jeopardize Louisiana's ability to meet the federal timeline and could result in a loss to Louisiana of the federal subsidy threatening the ability of Louisiana to conduct the eradication program. Failure to adopt these Rules on an emergency basis could also place Louisiana producers at an economic disadvantage when dealing with other cotton producing states which are participating in eradication programs and thus threaten Louisiana's ability to eradicate the Boll Weevil.

The effective date of this Emergency Rule is February 17, 1997, and it shall remain in effect for 120 days or until the final Rule takes effect through the normal promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 99. Boll Weevil

§9903. Definitions Applicable to Boll Weevil

ASCS—the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture, now known as FSA (Farm Service Agency).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 23:

§9914. Red River Eradication Zone: Creation

A. There is hereby created an eradication zone which shall hereafter be known as the Red River Eradication Zone.

B. The Red River Eradication Zone shall consist of all those territories within the boundaries of the following parishes: Acadia, Avoyelles, Bienville, Bossier, Caddo, Claiborne, DeSoto, East Baton Rouge, Evangeline, Grant, Natchitoches, Pointe Coupee, Rapides, Red River, St. Landry, St. Tammany, Webster, West Baton Rouge, West Feliciana.

C. The effective date of the establishment of the Red River Eradication Zone shall be effective immediately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 23:

§9919. Reporting of Cotton Acreage

C. Noncommercial cotton shall not be planted in an Eradication Zone unless an application for a written waiver has been submitted in writing to the Commissioner stating the conditions under which such written waiver is requested, and unless such written waiver is granted by the Commissioner. The Commissioner's decision to grant or deny a written waiver for noncommercial cotton shall include consideration of the location, size, pest conditions, accessibility of the growing area, any stipulations set forth in any compliance agreement between the applicant and the Commissioner, and any other factors deemed relevant to effectuate the boll weevil eradication program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1607 and R.S. 3:1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 23:

§9921. Program Participation, Fee Payment and Penalties

Upon passage of the referendum, all cotton producers growing cotton in an Eradication Zone shall be required to participate in the eradication program as follows:

1. Each year, during the first five years of the program, cotton producers shall submit to the ASCS Office the annual assessment as set by the Commission following the adjudicatory procedure of the Administrative Procedure Act, which assessment shall not exceed \$10 per acre the first year

and \$35 per acre for each of the remaining years, for each acre of certified cotton acreage on file with ASCS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, R.S. 3:1612, and R.S. 3:1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 21:669 (July 1995), LR 23:

Dan P. Logan, Jr.
Chairman

9702#003

DECLARATION OF EMERGENCY

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

**Diseases of Animals—Equine Infectious Anemia
Eradication Program (LAC 7:XXI.Chapter 117)**

This Declaration of Emergency and adoption of Rule by emergency process is in accordance with and under the authority of the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 3:2093, and R.S. 3:2095.

The Livestock Sanitary Board has been advised of allegations that legal defects exist in the equine infectious anemia eradication program. The Board has concluded that in the event the alleged legal defects are found to exist, the equine infectious anemia eradication program would be interrupted. The Board has and does now find that the interruption to the equine infectious anemia eradication program will occur. The Board hereby concludes that the resultant interruption in the equine infectious anemia eradication program would cause imminent peril to public health, safety, and welfare of the citizens of this state in that a major disease eradication program would be compromised. In order to insure that the equine infectious anemia eradication program remains in place and uninterrupted pending final adoption of an appropriate final Rule through the normal promulgation process, the Board declares an emergency to exist and adopts by emergency process the following Rule setting forth the equine infectious anemia eradication program.

The effective date of this Emergency Rule is February 17, 1997 and it shall be in effect for 120 days or until an appropriate final Rule takes effect through the normal adoption and promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter A. General Provisions

§11701. Definitions

Approved Livestock Auction Market—a place where livestock are assembled for sale, which is approved by the USDA to receive livestock restricted due to exposure to

certain diseases and has a permit to operate issued by the Louisiana Livestock Sanitary Board.

Direct to Slaughter—the shipment of livestock from the premises of origin directly to a slaughter establishment without diversion to assembly points, such as auctions, public stockyards and feedlots.

Equine Infectious Anemia—an infectious disease of equine caused by a lentivirus characterized by intermittent fever, depression, weakness, edema, anemia and sometimes death. The disease is also known as Swamp Fever and is referred to hereafter and sometimes as EIA.

Form VS 1-27—a form which must be secured from state or federal personnel before livestock may be moved from the premises. This document will be valid for 15 days from the date of issuance.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 12:289 (May 1980), LR 12:498 (August 1986), LR 14:219 (April 1988), LR 15:812 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 23:

§11709. Livestock Auction Market Requirements

E. Duties of an Auction Veterinarian and/or State-Federal Personnel

1. - 8. ...

9. To draw blood samples on all equine for testing for Equine Infectious Anemia unless the equine is presented for sale with a record of an official test for EIA conducted within six months.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:662, R.S. 3:665, R.S. 3:2221 and R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:233 (March 1985), amended LR 11:615 (June 1985), LR 23:

Subchapter C. Equine

§11759. General Requirements Governing the Admission of Equine

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:242

(March 1985), amended LR 11:615 (June 1985), LR 14:222 (April 1988), LR 20:405 (April, 1994), LR 23:

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:242 (March 1985), amended LR 11:615 (June 1985), LR 14:222 (April 1988), LR 20:405 (April 1994), LR 23:

§11763. Movement of Equine in Louisiana by Livestock Dealers

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 14:223 (April 1988), LR 20:406 (April 1994), LR 23:

§11765. Equine Infectious Anemia and Livestock Auction Market Requirements

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

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

B. Equine Required to be Tested

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

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

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

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

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

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

The branding and permit issuing shall be done by Louisiana Livestock Sanitary Board personnel.

5. All equine domiciled within the state of Louisiana shall be maintained with a current negative official test for Equine Infectious Anemia. A current negative official test is a written result of a test conducted by an approved laboratory where said official test was performed not more than 12 months earlier. An equine is domiciled within the state when the equine has been pastured, stabled, housed, or kept in any fashion in the state more than 30 consecutive days. Written proof of a current negative official test shall be made available in the form of negative results from an approved laboratory upon request by an authorized representative of the Louisiana Livestock Sanitary Board.

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

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

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

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

c. Any equine testing positive to the official EIA test prior to February 1, 1994, may be quarantined to the owner's premises and kept at least 200 yards away from any other equine. This equine shall be identified with a "72A" brand at

least 3 inches in height on the left shoulder. If the EIA positive equine is sold, it must be sold for slaughter and a VS Form 1-27 permit must be issued by Livestock Sanitary Board personnel to move the EIA positive equine from the owner's premises to slaughter. If the EIA positive equine is destroyed or dies, verification of said destruction or death by written and signed statement must be furnished to the office of the state veterinarian.

d. Any EIA positive equine found in violation of this quarantine shall be required to be sold for slaughter or destroyed within 20 days.

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

3. With the exception of the equine stabled at a racetrack regulated by the Louisiana State Racing Commission, the following shall be quarantined and officially tested for EIA no sooner than 30 days after the positive equine has been removed:

a. all equine on the same premises as an equine testing positive to the official EIA test;

b. all equine on all premises within 200 yards of the premises of the equine testing positive to the official EIA test; and

c. all equine which have been on these aforementioned premises within the past 30 days at the time the equine which is positive to the official EIA test was tested.

4. All equine stabled at a racetrack regulated by the Louisiana State Racing Commission which are stabled in the same barn or in a directly adjacent barn of an equine which tests positive to the official EIA test shall be quarantined until the positive equine is removed and all other horses in the aforementioned barns are tested negative to the official EIA test.

5. Equine which are required to be officially tested for EIA as a result of being quarantined due to the circumstances described in §11765.C.3-4 may be tested by an accredited veterinarian chosen by the owner or by a state-employed veterinarian if requested by the owner of the quarantined equine. In the event that the official testing for EIA is done by a state-employed veterinarian, the record will not be made available to the owner.

6. Equine positive to the official test for EIA shall be identified with a "72A" brand on the left shoulder at least 3 inches in height, by Louisiana Livestock Sanitary Board personnel. Equine positive to the official test for EIA will be retested prior to identification by branding upon request by

the owner, by Louisiana Livestock Sanitary Board personnel and the blood sample submitted to the Louisiana Veterinary Medical Diagnostic Laboratory for confirmation.

D. Collection and Submission of Blood Samples

1. All blood samples for official EIA testing must be drawn by an accredited veterinarian and submitted to either an approved laboratory or the Louisiana Veterinary Medical Diagnostic Laboratory as provided herein. The seller of any equine which sells at an approved livestock auction market in which the gross proceeds from the sale are less than \$50 may request that the blood sample be drawn by Louisiana Livestock Sanitary Board personnel.

2. Blood samples for official EIA testing shall be accompanied by a VS Form 10-11, Equine Infectious Anemia Laboratory Test Report, with completed information as to the equine owner's name, address, telephone number, and permanent individual identification of the equine. The VS Form 10-11 shall be considered the official record for all official EIA tests conducted in Louisiana.

3. Only serum samples in sterile tubes shall be accepted for testing.

4. Blood samples drawn for EIA testing at Louisiana livestock auction markets and blood samples drawn for EIA testing by Louisiana Livestock Sanitary Board personnel shall be submitted to the Louisiana Veterinary Medical Diagnostic Laboratory for testing.

E. Testing of Blood Samples Collected

1. Only laboratories approved by the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services, shall be authorized to conduct the official test for EIA in Louisiana and such laboratories must also receive approval by the Louisiana Livestock Sanitary Board.

2. Approved laboratories shall submit the original (white copy) of each VS Form 10-11 at the end of each week to the Louisiana Livestock Sanitary Board office.

3. Approved laboratories may charge a fee to the accredited veterinarian for conducting the official test.

F. Requirements for a permit for the operation of an Equine Quarantine Holding Area

1. Any buyer desiring to operate an equine quarantine holding area must file an application for approval of the facility on forms to be provided by the Louisiana Livestock Sanitary Board.

2. The facility to be operated as an equine quarantine holding area, must have an area where equine testing positive to the official EIA test and/or "S" branded horses are kept and where such horses are separated by at least 440 yards from all other horses.

3. The facility must be approved by the Louisiana Livestock Sanitary Board in an inspection of the premises prior to the issuance of the permit.

4. The buyer desiring to operate an equine quarantine holding area, must agree, in writing, to comply with the Rules and Regulations of the Louisiana Livestock Sanitary Board.

5. No other equine except equine consigned for slaughter, shall be kept in an equine quarantine holding area.

6. No equine shall be kept in the equine quarantine holding area longer than 60 days.

7. All permits must be renewed annually.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:243 (March 1955), amended LR 11:615 (June 1955), LR 14:223 (April 1988), LR 14:697 (October 1988), LR 20:406 (April 1994), LR 20:1257 (November 1994), LR 23:

§11766. Equine Infectious Anemia Testing Laboratory Requirements

A. No person shall operate an Equine Infectious Anemia testing laboratory without first obtaining approval from the Louisiana Livestock Sanitary Board.

B. Conditions for Approving an Equine Infectious Anemia Testing Laboratory

1. The person must submit an application for approval to the office of the state veterinarian.

2. An inspection of the facility must be made by someone representing the office of the state veterinarian and who shall submit a report to the Louisiana Livestock Sanitary Board indicating whether or not the person applying for an Equine Infectious Anemia testing laboratory approval has the facilities and equipment which are called for in United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

3. The applicant must agree, in writing, to operate the laboratory in conformity with the requirements of the regulation and United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

4. The applicant must show the Board that there is a need for the laboratory.

5. If the application is approved by the Louisiana Livestock Sanitary Board, the applicant will proceed with training, examination, and United States Department of Agriculture laboratory visitation.

6. Laboratory check test results shall be provided to the state veterinarian for final approval.

7. All Equine Infectious Anemia testing laboratories which have been approved by the United States Department of Agriculture, prior to the adoption of this regulation, shall be automatically approved at the time this regulation goes into effect.

C Conditions for Maintaining Equine Infectious Anemia Testing Laboratory Approval

1. Laboratories must maintain a work log clearly identifying each individual sample and tests results, which must be available for inspection, for a period of 18 months from the date of the test.

2. Laboratories must maintain on file and make available for inspection, a copy of all submitting forms for a period of 18 months.

3. Laboratories must continually meet all the requirements of United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

4. Samples shall be periodically collected and laboratories periodically inspected without prior notification.

5. Laboratories shall report, immediately, by telephone or telephonic facsimile, all positive results to the official test for EIA to the state veterinarian's office.

6. The state veterinarian shall renew the approval in January of each year, as long as laboratories maintain the standards required by this regulation and United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

D. Cancellation of Equine Infectious Anemia Testing Laboratory Approval. An Equine Infectious Anemia testing laboratory may have its approval canceled if the Louisiana Livestock Sanitary Board finds, at a public hearing, that the laboratory has failed to meet the requirements of this regulation or has falsified its records or reports.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 14:698 (October 1988), amended LR 20:408 (April 1994), LR 23:

Bob Odom
Commissioner

9702#008

DECLARATION OF EMERGENCY

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

Sanitary Disposal of Dead Poultry
(LAC 7:XXI.11701 and 11771)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), R.S. 3:2093, and R.S. 3:2095, the Department of Agriculture and Forestry, Livestock Sanitary Board finds that this Emergency Rule setting forth the regulations governing the sanitary disposal of dead poultry is necessary for the health and safety of the citizens of Louisiana. The Board has discovered that certain Subsections of §11771 of the Livestock Sanitary Board regulations which outline the approved methods for the sanitary disposal of dead poultry were deleted through a clerical error which occurred during an amendment of that Section which took place in August, 1994. The lack of approved methods of sanitary disposal of dead poultry and the resultant disposal of dead poultry through unapproved methods would cause imminent peril to public health, safety, and welfare of the citizens of this state in that other, unsanitary, disposal methods may be employed and could result in a health crisis in Louisiana. In order to insure that sanitary disposal of dead poultry remains in place and uninterrupted pending final adoption of this Emergency Rule through the normal promulgation process, the Board declares an emergency to exist and adopts by emergency process the following Emergency Rule setting forth the sanitary disposal of dead poultry.

The effective date of this Emergency Rule is February 17, 1997 and it shall be in effect for 120 days or until the final

Rule takes effect through the normal promulgation process, whichever occurs first.

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter A. General Provisions

§11701. Definitions

* * *

Digester—a specially designed water tight system which is buried in the ground below the frost line and has the ability and strength to hold liquid, without leakage or seepage, and is used to dispose of dead poultry through use of bacteria.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 12:289 (May 1986), LR 12:498 (August 1986), LR 14:217 (April 1988), LR 15:810 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 23:

Subchapter D. Poultry

§11771. Governing the Sanitary Disposal of Dead Poultry

A. All commercial poultry producers are required to obtain a certificate of approval. Failure to obtain a certificate shall be considered a violation of this regulation. Certificates of approval are continuous, but subject to review and cancellation should the poultry producer fail to dispose of dead poultry in accordance with this regulation.

B. Dead poultry must be removed from the presence of live poultry without delay. The carcasses, parts of carcasses and offal must be held in covered containers until disposal is made by one of the approved methods. In no instance, however, will the storage of dead poultry be allowed to create sanitary problems. Commercial poultry producers shall be required to dispose of dead poultry by one of the following methods:

1. Disposal Pits. Disposal pits shall be constructed in a manner and design capable of providing a method of disposal of dead poultry to prevent the spread of diseases. Disposal pits that are currently in use will be allowed to operate until July 1, 1997.

2. Incinerators. Incinerators shall be constructed in a manner and design capable of providing a method of disposal of dead poultry to prevent the spread of diseases. The design and construction must be approved by an authorized representative of the Livestock Sanitary Board.

3. Rendering Plant. Dead poultry, parts of carcasses and poultry offal may be transported in covered containers to approved rendering plants. Poultry carcasses may be held on the premises of commercial poultry producers as long as the storage does not create a sanitary problem. All such methods of storage and transportation of dead poultry to approved rendering plants must be approved by an authorized representative of the Livestock Sanitary Board.

4. Composting. The design, construction, and use of compost units must be approved by an authorized representative of the Livestock Sanitary Board.

5. Digesters. Poultry digesters may be used if the following conditions are met:

a. the design, construction, location, and use of digesters must be approved by an authorized representative of the Livestock Sanitary Board;

b. the bacteria being used in the digester must be approved by an authorized representative of the Livestock Sanitary Board;

c. the digester must be maintained according to recommendations of an authorized representative of the Livestock Sanitary Board.

C. In the event of the death of more than 1 percent of broilers or 0.5 percent of pullets or breeders over four weeks of age on the same premises within a 24-hour period of time, the death of which is not known to be caused by a contagious or infectious disease, the dead poultry may be disposed of by on-site burial. The State Veterinarian's Office must be notified immediately by telephone or facsimile in the event of excessive mortality requiring on-site burial.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 17:874 (September 1991), LR 18:1355 (December 1992), LR 20:550 (August 1994), LR 23:

Dr. Maxwell Lea, Jr.
Executive Secretary

9702#007

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1706—Exceptional Children

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and readopted as an Emergency Rule, Bulletin 1706, regulations for implementation of the Exceptional Children's Act. Readoption of the Emergency Rule is necessary in order to continue the federally required changes until they are finalized as a Rule. The effective date of this Emergency Rule is February 27, 1997. It will remain in effect for 120 days or until finalized as a Rule, whichever occurs first.

Emergency adoption is necessary because the Office of Special Education Programs in the U.S. Department of Education has been assured that these regulations would be in effect and enforceable by July 1, 1994. This is required in order for the Louisiana State Plan for Special Education to be approved and Part B dollars to be released to Louisiana.

**Part 100. Responsibilities of the Board
of Elementary and Secondary Education**

§101. Free Appropriate Public Education

A. The Louisiana State Board of Elementary and Secondary Education (the State Board) shall be responsible for the assurance of a free appropriate public education to all exceptional students, ages 3 through 21 years, and at the discretion of the local education agency (LEA) and with

parental approval to those students with disabilities who will turn 3 years old during the school year; and shall exercise supervision and control of public elementary and secondary education.

B. The State Board shall be directly responsible for the provision of a free appropriate public education to exceptional students, ages 3 through 21 years, who are within the jurisdiction of Special School District Number 1, or in the State Board special schools (Louisiana School for Visually Impaired, Louisiana School for the Deaf, or Louisiana Special Education Center).

§102. Issuance of Regulations

The State Board shall adopt, amend, or repeal Rules, regulations, standards, and policies necessary or proper for the provision of a free appropriate public education developed pursuant to R.S. 17:1944(c).

§103. Compliance with Federal Rules

The State Board has the responsibility of complying with Rules and Regulations governing grants for educational purposes from the federal government or from any other person or agency, which are not in contravention to the Constitution and laws, and the authority to take all action necessary to achieve compliance.

§104. Approval of Nonpublic Schools

The State Board shall approve each participating nonpublic school that provides special education in accordance with standards established by the State Board.

§105. Approval of IDEA - Part B State Plan

The State Board will review and approve the State Plan described in §330 of these Regulations before its submission to the U.S. Department of Education.

§106. Opportunity of Hearing

The State Board shall provide an opportunity for a hearing according to procedures set out in Education Division General Administrative Regulations (EDGAR) at 45 CFR 100b.401d before the department disapproves any school system application for federal entitlement funds for special education under Chapter 1 S.O.P. or IDEA - Part B.

§107-129. Reserved

§130. State Advisory Council

A. The State Board of Elementary and Secondary Education and the department shall appoint a state advisory council for the education of exceptional students. The membership shall be 11. Procedures shall follow existing State Board procedures for appointing such councils.

B. Membership of the council shall, at all times, include at least one person representing each of the following groups:

1. individuals with disabilities;
2. teachers of students with disabilities;
3. teachers of regular students;
4. parents of exceptional children;
5. state and local education officials;
6. special education program administrators;
7. representatives of recipients of special education and related services and their families;
8. representatives of advocate agencies for the disabled, for colleges and universities, and for vocational/technical schools.

C. The Advisory Council shall perform the following:

1. advise the State Board of unmet needs in the education of exceptional students, including needs identified through study and analysis of the findings and decisions of the hearings;

2. comment publicly on the state annual program plan and Rules or regulations proposed for issuance by the state regarding the education of exceptional students and the procedures for distribution of funds under IDEA - Part B;

3. assist the state in developing and reporting such information and evaluations as may assist the U.S. commissioner of Education in the performance of responsibilities under Section 618 of IDEA - Part B.

D. The Procedures of the Advisory Council

1. The advisory council shall meet as often as necessary to conduct its business.

2. By July 1 of each year, the advisory council shall submit an annual report of council activities and suggestions to the State Board. This report must be made available to the public in a manner consistent with other public reporting requirements under this Part.

3. Official minutes must be kept on all council meetings and shall be made available to the public on request.

4. All Advisory Council meetings and agenda items must be publicly announced prior to the meeting, and meetings must be open to the public.

5. Interpreting and other necessary services must be provided at council meetings for council members or participants.

6. The Advisory Council shall serve without compensation, but the State Department of Education must reimburse the council for reasonable and necessary expenses for attending meetings and performing duties.

§131-199. Reserved

Part 200. Responsibilities of the Superintendent of Public Elementary and Secondary Education and the Department of Education

§201. General Responsibilities and Authorities

The state superintendent of public Elementary and Secondary Education (the superintendent) and the State Department of Education (the department) shall administer those programs and policies necessary to implement R.S. 17:1941 et seq. Responsibilities of the state superintendent and the department include the following:

A. approving, in accordance with standards approved by the State Board, each public school program that delivers special education;

B. recommending to the State Board approval, in accordance with standards approved by the State Board, of each participating nonpublic school program that delivers special education;

C. receiving, administering, and directing distribution of federal funds for education of exceptional students, except those received directly by school systems;

D. recovering any funds made available under IDEA-B for services to any student who was determined to be erroneously classified as eligible to be counted.

§202-204. Reserved

§205. Preparation of Annual Budget

The department shall prepare and submit to the State Board for review and approval a comprehensive budget for the next fiscal year that at a minimum proposes the appropriations by the Louisiana Legislature of whatever state funds are needed by the department, Special School District Number 1, and city/parish school systems to comply fully with all of the requirements established by the Regulations for the Implementation of the Exceptional Children's Act (with due regard to federal maintenance of effort, nonsupplanting, comparability, and excess cost requirements).

§206-219. Reserved

§220. Certification of Personnel

The department must develop as needed, Louisiana standards for state certification of school and other program personnel, subject to approval by BESE, for all public and participating nonpublic program staff who provide special education, administrative, ancillary, pupil appraisal and related services to exceptional students (birth through age 21) under Part B and Part H of IDEA.

§221-229. Reserved

§230. Review of Enforcement Recommendations

The state superintendent, after review of the recommendations from the office, submits to the State Board at the next regularly scheduled meeting all recommendations of the department to withhold state or federal funds for special education or to take other necessary enforcement action in accordance with the procedures described in the *Louisiana Administrative Code*.

§231-239. Reserved

§240. Hearing Officers

The department and each local agency shall maintain a list of qualified hearing officers. The list will include a statement of the qualifications of each of those persons and, to the extent possible, include representation from all regions of the state. The department ensures that these hearing officers have successfully completed an inservice training program approved by the department and meet all other criteria established by the department. Additional inservice training shall be provided whenever warranted by changes in applicable legal standards or educational practices.

§241-250. Reserved

§251. Relationship Between Special Education and Competency-Based Education

§252. Competency-Based Assessment Program

A. No exceptional student shall be automatically excluded from participation in any educational assessment program. Individual exemption from any such assessment program requires formal parental approval and will be reflected in the student's IEP.

B. Individual exemption from any such assessment program will be appropriate for exceptional students who are not following a curriculum based on Louisiana's grade level

standards for and who are not pursuing a regular high school diploma.

C. Exceptional students who take part in the testing program shall have available to them certain procedural modifications in the administration of the tests when indicated on the student's IEP.

§253-259. Reserved

§260. Full Educational Opportunity

The department must ensure that all public education programs of the state strive to meet the goal of providing full service to all exceptional students, ages birth through 21 years, by the year 2010.

§261. Arts for Students with Disabilities

The department shall encourage the use of the arts as a teaching tool and the recognition of the importance of artistic and cultural activities in the education of students with disabilities.

§262-269. Reserved

§270. Interagency Agreements

The department is authorized to enter into any agreement developed with another public or private agency, or agencies, which is:

- A. consistent with Part 800 of these Regulations;
- B. essential to the achievement of full compliance with these Regulations;
- C. designed to achieve or accelerate the achievement of the full educational goal for all exceptional students;
- D. necessary to provide maximum benefits appropriate in service, quality, and cost to meet the full educational opportunity goal in the state;
- E. necessary to promote the successful transition of youths with disabilities into adult services and agencies.

§271. Approval of Out-of-District Placement

The department shall approve or disapprove each request made by a school system to place an exceptional student outside the geographic boundaries of that school system unless the placement is in an approved cooperative operated by the school system.

§272-274. Reserved

§275. Fiscal Agent

The department shall act as the fiscal agent in disbursing funds under Chapter 1, State Operated Programs (SOP) for Students with Disabilities, including transfers of such funds to city/parish school systems. No provision of the Louisiana competency-based education program shall be construed to interfere with the provision of a free appropriate public education to exceptional students under these Regulations [R.S. 17:24.4(D)]. from state-operated programs and state-supported programs.

§276-289. Reserved

§290. Nondiscrimination

The State Department shall comply with the following statutes and regulations:

Subject	Statute	Regulation
Discrimination on basis of race, color, or national origin	Title VI of the Civil Rights Act of 1964 (45 U.S.C. 2000d through 2000d-4)	45 CFR Part 80
Discrimination on basis of sex	Title IX of the Education Amendments of 1972 (20 U.S.C. 1681-1683)	45 CFR Part 86
Discrimination on basis of handicap	Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 974) Act 665 of the 1980 La. Legislature (R.S. 46:2251-2256)	45 CFR Part 84
Discrimination on basis of age	The Age Discrimination Act (42 U.S.C. 6101 et seq.)	45 CFR Part 90

§291-299. Reserved

Part 300. Responsibilities and Activities of the Office of Special Educational Services

§301. General Supervision

The Office of Special Educational Services is established within the department to provide general supervision of all education programs for exceptional students within the state, including all participating nonpublic school programs and all education programs administered by other state or local agencies. *General Supervision* is defined as the responsibility to perform the following:

A. ensure that all necessary state standards for implementation of the act are established;

Comment: Any state standard affecting other state agencies and established under the general supervision requirement shall be developed in cooperation with such agencies.

B. disseminate such standards and revisions to all public and nonpublic agencies bound by them and provide parents and all citizens with information requested regarding implementation of such state standards;

C. provide technical assistance to all public and nonpublic agencies bound by such standards in their proper implementation;

D. monitor according to written procedures the implementation of state standards in each public and each participating nonpublic agency. Such monitoring shall include child identification and programmatic, administrative, and fiscal issues;

E. institute a system for complaint management and investigation regarding the implementation of state standards.

§302. Monitoring, Complaint Management and Investigation

A. The office is authorized to implement the monitoring, complaint management and investigatory provisions of these Regulations.

B. The office must monitor in accordance with the procedures established in the *SDE Monitoring Procedures*, Bulletin 1922, all public and participating nonpublic schools and other education agencies for compliance with these and other applicable federal regulations, state statutes and standards.

C. The office, through its complaint management procedures, shall:

1. investigate allegations of failure to comply with any provision of these regulations and other applicable state or federal laws, regulations or state standards;
2. conduct hearings when necessary; and
3. issue subpoenas on behalf of the department to require attendance, testimony by witnesses and the production of documentary evidence.

D. The office, in carrying out its investigatory responsibilities, may require school systems and participating nonpublic education agencies to keep certain records, and submit to the office complete and accurate reports at such time and in such form and containing such information as is determined necessary to enable the office to fulfill its responsibilities of ensuring compliance.

§303-328. Reserved

§329. State Plan under the Individuals with Disabilities Education Act

The office shall prepare for submission to the State Board the state plans required under IDEA according to applicable federal requirements for such plans.

§330. The State Plan: Public Notice and Participation

A. In the preparation of the State Plan required under IDEA - Part B, the office must perform the following:

1. publish in newspapers of general circulation throughout the state, other media, or both, a summary of the proposed program plan indicating its purpose and scope, its public availability, the timetable for final approval, the procedures for submitting written comments, any policy changes from previous plans, and a list of the times and places of public meetings to be held. Such notice shall occur between 45 and 60 calendar days prior to submission of the program plan to the State Board;

2. distribute to any parent organization, child and youth advocacy organization, school board, approved nonpublic school program, public college or university, or affected state agency, operating in Louisiana, which has previously registered with the office, a copy of the proposed plan and a list of the times and places of public meetings to be held. This distribution must occur no less than 30 calendar days prior to submission of the proposed plan to the State Board;

3. publish on each of the three days preceding a public meeting a description of the time, place, and purpose of the meeting in newspaper(s) of general circulation in the area of the state in which the meeting will be held;

4. hold a series of open public meetings in which parents and other interested persons throughout the state are afforded a reasonable opportunity to comment on the proposed plan;

5. file in a publicly available location a written or electronic verbatim record of the public meetings and any written comments received;

6. review and consider all public comments which might warrant modification of the plan;

7. attach a summary of the comments made during the public meeting or received by the State Board to the proposed final plan submitted to the State Board;

8. publicize the approval by the State Board of a final plan and the location at which copies of the plan can be obtained by the public;

9. publicize the approval or disapproval by the U.S. Department of Education of the annual plan and the location at which copies of the plan can be obtained by the public.

B. The office must make all reasonable efforts to inform potentially interested parent and child advocacy organizations throughout the state, and all school boards, approved nonpublic school programs, public colleges and universities, and affected state agencies of the requirements of this Subpart and of §488.

C. The office shall maintain a list of each interested group identified as a result of Subsection B above.

§331-339. Reserved

§340. Review and Approval of Annual Applications of School Systems

A. The office must review each annual application for IDEA - Part B funds submitted by a school system, and:

1. provide written notice of whether an application is or is not in substantially approvable form (and if not, the reasons therefore) within 45 days from the receipt of the application;

2. provide formal written approval (or disapproval) within 10 operational days following receipt by the department of an approved grant award document for expenditure of IDEA - Part B funds from the U.S. Department of Education.

B. Applications for federal and/or state funds in periods during which they may be applied for shall be approved or disapproved by the office according to applicable federal or state procedures.

§341. Provisions for FAPE by the Department

When the department does not distribute IDEA - Part B funds to a school system in accordance with §230 and §373.B, the office shall use those funds to ensure the provision of a free appropriate public education to students with disabilities residing in the area served by the school system either directly, by contract, or through other arrangements. The department may provide special education and related services in the manner and at the location the department considers appropriate, consistent with the requirements of these Regulations.

§342-354. Reserved

§355. Confidentiality of Records

The office must comply with all of the requirements of §517 pertaining to confidentiality of personally identifiable education records.

§356. Notification of Child Identification Effort

Notice of the child identification effort regularly undertaken by the department and school systems must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the state.

§357-369. Reserved

§370. Comprehensive System of Personnel Development

In planning, coordinating, implementing, and evaluating the comprehensive system of personnel development (CSPD) required under IDEA, the Office of Special Educational Services is responsible for the following tasks:

A. conduct a comprehensive needs assessment at least once every three years in conjunction with the development of the Special Education Annual Plan to determine supply/demand personnel projections for the subsequent five-

year period for qualified special education instructional, leadership, pupil appraisal, related services, and support personnel required to assure a free appropriate public education for all exceptional students (birth through age 21). After the initial comprehensive needs assessment, follow-up assessment in targeted areas of need will be conducted during the ensuing two years to determine changes or corrections in the course of action for the three-year program plan. The comprehensive needs assessment may be conducted more often if deemed appropriate;

B. identify, on the basis of the comprehensive needs assessment, target populations for personnel preparation (preservice) and personnel development (continuing education), and describe procedures to ensure that activities are carried out and the program plan is on schedule;

C. coordinate and facilitate efforts among the department, LEAs, IHEs, professional associations, parent associations, and other support groups and councils, to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel with disabilities through support of CSPD statewide committee activities, regional CSPD activities, and multi-agency and interdisciplinary collaborative planning;

D. establish, with the approval of BESE, a system for dissemination, statewide, of information on effective practices for the delivery of special educational services, and procedures for replication and/or adoption of effective practices and/or programs.

§371. Preservice Training Agreements

The office of Special Educational Services shall develop, in concert with colleges and universities within the state, preservice training arrangements necessary to support approved local public and participating nonpublic school systems and service providers in complying with the requirements of IDEA in achieving the goal of full educational opportunity in the least restrictive environment for exceptional students in Louisiana.

§372. Training of Personnel in Participating Nonpublic Schools

The office, for the department, shall provide the opportunity for continuing education (inservice training) of personnel of participating nonpublic schools.

§373. Administration of Funds

A. The office shall ensure the proper receipt and disbursement of all state and federal funds administered by the department specifically for the provision of special education and related services for exceptional students.

B. The office shall not distribute funds to a school system in any fiscal year if the school system:

1. does not submit an annual application that meets the requirements of §487 of these Regulations;

2. is unable or unwilling to establish and maintain programs of free appropriate public education;

3. is unable or unwilling to enter into a cooperative agreement with other school systems in order to establish and maintain those programs;

4. has not implemented the provisions of a hearing officer's decision which was adverse to the school system; or

5. has failed to comply with a corrective action plan developed to eliminate compliance deficiencies found through state monitoring, a complaint investigation, or a due process hearing order.

C. An on-site fiscal review and compliance monitoring will be conducted in accordance with the *SDE Monitoring Procedures*, Bulletin 1922.

D. The BESE establishes the policy to seek to recover any funds made available under IDEA-B for services to any student who is determined to be erroneously classified as eligible to be counted.

E. Determination of misclassified students shall be accomplished through the verification procedures of the SDE regarding the child count as detailed in §491. In order to verify the accuracy of each count submitted, the office will conduct the following activities:

1. The current child count from each school system will be compared with the previous count. Discrepancies of ± 10 percent in any disability category will be noted.

2. The current child count incidence figures from each school system will be compared with incidence figures from the previous state child count. Discrepancies of ± 2 percent in any disability category will be noted.

3. An on-site child count review will be conducted in accordance with the *SDE Monitoring Procedures*, Bulletin 1922. If necessary, each system can be monitored for previous years to verify the accuracy of the child count. During fiscal monitoring of each school system, the monitors will randomly select at least 10, but not more than 20, cells from the child count report. For each cell, the school system must provide the student name, date of birth, evaluation report, IEP, class rolls, and any other information that may be necessary to verify the accuracy of the count.

4. Administrative on-site reviews are conducted in accordance with the *SDE Monitoring Procedures*, Bulletin 1922. Any multidisciplinary evaluation reviewed which are not in compliance with state guidelines, to the extent that it cannot be determined that the student is disabled, will result in the exclusion of that student from the child count.

5. If a student's IEP is monitored during the on-site administrative review process and it is determined that the student is not receiving all the special education and related services specified on the IEP, the student will be excluded from child count.

6. The school system will be afforded an opportunity to present supportive or explanatory documentation to refute OSES and must be formally accepted. If the evidence cannot justify the count, the count will be disallowed.

F. Recovery of Funds for a Misclassified Student. If the school system has received funds based on an erroneous count and the office has documented the extent of the error, the department will reduce the grant award if the error occurred in the current budget and all of the funds have not been expended or request that the school system return such funds. In the event the school system refuses to comply within 10 operational days, these procedures will be followed:

1. The Office of Special Educational Services will submit written documentation of the error in the count to the state superintendent of Education.

2. Within 10 days of this submission, the state superintendent will request the State Board of Elementary and Secondary Education (BESE) to require the school system to repay the funds.

3. BESE has the responsibility to offer an opportunity for a hearing to a school system prior to a determination to withhold funds.

4. Funds recovered by the department and BESE will be handled within the guidelines set forth by OSEP, U.S. of Education.

G. Comparison of State National Child Count Data. The office will compare the incidence figures for the state with national figures provided by Office of Special Education and Rehabilitative Services, U.S. Department of Education. Discrepancies of ± 2 percentage points will be analyzed to determine if changes are required in the statewide student evaluation procedures.

§374. Nonbias of Testing and Evaluation Materials

The office, on the behalf of the department, shall, with the approval of the State Board, establish procedures to ensure that testing and evaluation materials used for evaluation and placement are free of racial, cultural, and/or sexual bias.

§375-399. Reserved

Part 400. Responsibilities of City and Parish School Boards, Special School District Number 1 and State Board Special Schools

§401. Responsibilities of Public School Systems

A. Each school system shall identify, locate, and evaluate each student suspected to have disabilities (regardless of the severity of the disabilities), birth through 21 years of age, and each student suspected to be gifted or talented, 3 through 21 years of age, residing within its jurisdiction.

B. Each school system is responsible for providing, or causing to be provided, a free appropriate public education to each eligible exceptional student who resides within its jurisdiction except those voluntarily enrolled in a nonpublic school program.

§402. Definitions

A. Free Appropriate Public Education (FAPE)

1. *Appropriate Public Education*—all special education and related services provided each exceptional student which:

a. meet State Board standards, including these Regulations and all applicable bulletins approved by the State Board (e.g., Bulletin 741, Bulletin 746, Bulletin 1508); and

b. are provided in conformity with an IEP at public expense, under public supervision and direction, and without charge, including preschool, elementary school, or secondary school education.

2. *Free*—without charge, including the following:

a. costs for all room, board, and nonmedical care provided when residential educational placement is necessary;

b. transportation costs provided in order to assure access of persons to services necessary to implement a student's IEP. Exceptional students shall be provided, on a comparable basis with that of students who are nonexceptional, an opportunity to receive transportation services funded out of state or local resources;

c. The term *free* does not preclude incidental fees normally charged to nondisabled students or their parents/guardians) as a part of the regular educational program.

3. Nothing in these Regulations shall relieve in any way, an insurer, similar third party, or other public state or local agency from an otherwise valid obligation to provide or to pay for services to which an exceptional student is entitled as a client or beneficiary of such third party under state or federal entitlement or laws or under policies or contracts. This does not prohibit the use of insurance payments or private donations for use in the provision of a free appropriate public education.

4. Whatever state, local, federal, and private sources of support are available may be used to provide a free appropriate public education, including joint agreements between agencies for sharing the costs of those services.

B. Jurisdiction is the right of a school system to exercise authority over all students residing within its geographic area and over each student placed by the school system in an educational program within the geographic area of another school system or in an approved educational program out of the state.

1. For city/parish school systems, the geographic area is the boundary of the school board as defined in the Louisiana Revised Statutes.

2. For SSD#1, the geographic area is the boundary of the state-operated treatment and care residential facilities.

3. For a State Board special school, the geographic area is the boundary of the educational facility.

Comment:

1. If there is a transfer of jurisdiction from one system to another for the provision of a free appropriate public education initiated by a school system, this is indicated by using the word "referral." According to these Regulations, such a referral culminates in the establishment of responsibility for FAPE for the student by the receiving school system. All transfers of jurisdiction are considered significant changes in placement.

2. If there is a placement of a student in another school system or an approved nonpublic school, the student so placed remains within the jurisdiction of the placing school system. The responsibility for FAPE remains with the placing school system and, in the case of placement in an approved nonpublic facility, also with the State Board.

C. Eligible Students

1. Free appropriate public education must be available to all exceptional students reaching the age of 3 years, regardless of when the birthday occurs during the school year. At the discretion of the LEA and with parental approval, FAPE may be provided to an eligible student with disabilities whose third birthday occurs during the school year.

2. An exceptional student remains eligible until reaching age 22 unless such student was terminated to participate in elementary or secondary education as indicated by a state diploma or Certificate of Achievement. An exceptional student whose twenty-second birthday occurs during the course of the regular school year (as defined by the school system), shall be regarded as eligible for the entire school year.

§403. Reserved

§404. Day Care and Adult Services

A. School systems which operate a day care program or activity for nondisabled students may not exclude any person

with disabilities and must take into account the need(s) of these persons in determining services to be provided.

B. School systems which operate an adult education program or activity for nondisabled adults may not exclude disabled or other exceptional persons and must take into account the need(s) of these persons in determining services to be provided.

§405. Special Education and Early Intervention Services for Infants and Toddlers with Disabilities Less Than 3 Years of Age

School systems may provide special education and early intervention services to infants and toddlers with disabilities who are from birth to 3 years of age. The ratios established in Appendix I, Part B shall be used for those programs serving infants and toddlers with disabilities.

§406 - 409. Reserved

§410. Child Search Definitions

A. *Identified*—a student is suspected of being exceptional and in need of special education and related services as a result of:

1. child search activities as defined in §411;
2. school building level identification activities as defined in §413.

B. *Locate*—determining where an identified student is residing and whether the person with whom the student is residing is one of the following:

1. a natural parent,
2. the legal guardian of the student, or
3. a parent as defined in §959.

Comment: If neither a natural parent nor a legal guardian is located, the school system shall refer to §516.

§411. Child Search Activities

A. Each school system, in accordance with the requirements of this Subpart, shall document that the effort of ongoing identification activities are conducted to identify and locate each student who is under its jurisdiction, suspected of being exceptional, in need of special education and related services, and is one of the following:

1. enrolled in an educational program operated by a school system;
2. enrolled in a nonpublic school program;
3. enrolled in a public or nonpublic preschool or day care program;
4. is out of school, except for students who have graduated or otherwise successfully completed a program as documented by a state diploma or Certificate of Achievement.

B. If, in the process of implementing these Regulations, any school system locates a student who is suspected of being in need of treatment, care, or habilitation and rehabilitation, the school system should request that the agency designated by the state to provide such assistance explore this suspected need with the parents.

§412. Responsibilities of the Child Search Coordinator

Each school system shall designate a child search coordinator who shall be responsible for:

1. tracking the progress of referral and evaluation activities required by §411, §413-414, and §430-436 for each student suspected of being exceptional;
2. ensuring that the parent of each student initially identified as suspected of being exceptional and in need of

special educational services is provided a copy of all safeguards available to the parents on rights of parents and students at the time of referral for an individual evaluation;

3. activities assigned under IDEA - Part H.

§413. Students in A Regular Education Program

A. A school system shall identify a student as suspected of being exceptional by the School Building Level Committee (SBLC) conducting and documenting results of educational screening, sensory screening, speech and language screening, motor screening, and results of the intervention efforts as defined in the *Pupil Appraisal Handbook*, Bulletin 1508.

B. The SBLC referral to pupil appraisal for an evaluation which determines eligibility for services under IDEA shall be made through the principal or designee for pupil appraisal services and shall include documentation of all screening activities.

C. An immediate referral may be made to pupil appraisal services for an individual evaluation of any student suspected of a severe or low-incidence impairment, or who is of danger to himself or others. Screening activities, such as educational, sensory, and motor screenings, should be completed as part of the evaluation for these students.

D. Pre-evaluation activities as listed in Bulletin 1508, under "Initial Responsibilities" of the evaluation coordinator, must be conducted within 10 days after receipt of the referral by the pupil appraisal office for an individual evaluation.

§414. Students in Nonpublic School Programs

Students enrolled in nonpublic school programs shall be identified according to the procedures noted in §413.A and shall be referred to the school system's child search coordinator.

§415. Students Out of School

Students out of school, including students ages birth through 5 years and students who have left school without completing their public education by obtaining a state diploma or Certificate of Achievement shall be referred to the school system's child search coordinator, who shall locate and offer enrollment in the appropriate public school program and refer them for an individual evaluation, if needed. Students may be enrolled with the development of an interim IEP during the evaluation process if they meet the criteria in §416 below. If the Louisiana evaluation is current, students may be enrolled with the development of a review IEP within five operational days.

§416. Students with a Documented Severe or Low-Incidence Impairment; Students who may be Transferring from Out of State; and Infants and Toddlers with Disabilities

Students who possess a severe or low-incidence impairment documented by a qualified professional; and who may have been receiving special education in another state shall be initially enrolled special education program concurrent with the conduct of the evaluation according to the requirements of Bulletin 1508. Students with other documented impairments; and who may have been receiving special education in another state may be initially enrolled in a special education program concurrent with the conduct of the evaluation according to the requirements of Bulletin 1508. This enrollment process, from

the initial entry into the school system to placement, shall occur within 10 calendar days and will include the following steps:

1. approval by the city/parish school system's supervisor of special education;

2. a review of all available evaluation information by pupil appraisal personnel;

3. the development of an interim IEP in accordance with §440-446; and

4. obtaining formal parental approval for the temporary placement.

The duration of the completion of the evaluation and the interim placement shall not exceed the evaluation timelines specified in §436, with the initial IEP/Placement document developed within 30 calendar days from the date of dissemination of the written evaluation report to the city/parish school system's supervisor of special education.

Any infant or toddler moving to Louisiana who has an Individualized Family Service Plan (IFSP) will be referred to the child search coordinator who will assist the family in accessing family service coordination. The student will be evaluated to determine eligibility for Part H services in Louisiana.

§417. Exceptional Students Transferring from one LEA to Another LEA Within Louisiana

Students who have been receiving special education in one school system in Louisiana and transfers to another school system within Louisiana shall be enrolled in the appropriate special education program in the new school system with the current IEP or the development of a review IEP within five operational days.

Infants and toddlers with disabilities who have an Individualized Family Service Plan (IFSP) and who receive services from a LEA and transfer to another LEA must receive those services from the LEA in which the student resides.

§418. Formal Parental Approval

A. Initial Evaluation. For an initial evaluation the school system must obtain formal parental approval. If the parent denies or fails to give formal approval for the individual evaluation, the school system may seek appropriate legal action.

B. Re-evaluation. Formal parental approval is not required for the re-evaluation of a student currently enrolled in a special education program, but full and effective notice, including a copy of the parents' rights, must be provided to the parents prior to the re-evaluation.

§419-429. Reserved

§430. Pupil Appraisal Personnel

School systems shall regularly employ pupil appraisal personnel to conduct individual evaluations and may, when necessary:

A. use qualified examiners who are available from the Department of Health and Hospitals, the Department of Public Safety and Corrections, the State Board special schools, or other public agencies;

B. contract with individuals or organizations to provide specialized assessments needed to provide a comprehensive individual evaluation of an identified student;

C. use a combination of the approaches listed above;