

Rules

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Minimum Specifications for Termite Control Work (LAC 7:XXV.121 and 141)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, adopts regulations regarding the completion of the wood destroying insect report and the minimum specifications for termite control work.

The Department of Agriculture and Forestry deems the continuation of these rules and regulations necessary to insure the safety of individuals who might come in contact with termiticides if an operator left a pre-treatment of a slab prior to completion of a job. These rules and regulations will also give instructions as to completing WDIR form LPCA - 142. It is also necessary to provide the requirement that pest control operators must call certain information into the Department's closest District office prior to making a pre-treatment of a slab application. These rules comply with and are enabled by LSA R.S. 3:3203.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§121. Wood Infestation Report

A. - B.2. ...

C. Regulations for completing wood destroying insect reports (LPCA-142). The following numbered sections correspond to the numbered sections on WDIR form LPCA-142, and shall be completed as follows:

1. - 8. ...

9.A. Check this block only when there is no visible evidence of wood destroying insects in accessible areas on the structure(s) inspected. Evidence includes but is not limited to: live or dead wood destroying insects, wood destroying insect parts, shelter tubes, shelter tube stains, frass, exit holes or damaged wood due to wood destroying insects.

9.B. - 9.C. ...

9.D. Treatment was or will be performed by inspection company? YES or NO. If Yes, explain as follows:

a. Inspecting company with a current treatment contract on the structure(s) inspected: list the original treatment date for all structures treated and contract type.

b. Inspecting company without a current treatment contract on the structure(s) inspected: list the structure(s) to be treated and the type of treatment and contract.

10. Additional comments (If necessary, continue on reverse side).

11. Do not mark in this section.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:856 (July 1997), LR 25:235 (February 1999).

§141. Minimum Specifications for Termite Control Work

A. - D.3.c. ...

E. Pre-treatment of Slabs

1. Treat as required by label and labeling.

2. Within 12 months after initial treatment of the outside of the foundation, the perimeter wall will be trenched and treated as required by label and labeling. The licensee shall report the completion of the application to the outside of the foundation, to the Louisiana Department of Agriculture and Forestry on the Termite Perimeter application form. Rodding will be acceptable where trenching may damage flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

3. If, during the treatment of any area which will be beneath a slab foundation, the operator must leave the site for any reason prior to the completion of the application as specified in §141.E.1. above, the operator must prominently display a poster, to be furnished by the Louisiana Department of Agriculture and Forestry, which states that the treatment of the area under the slab is not complete.

4. All pre-treatment of slabs must be called or faxed in to the Department of Agriculture and Forestry District Office nearest the pre-treatment property, a minimum of one (1) hour prior to beginning the application of termiticides. The information provided shall include a street address, city, directions to the property being pre-treated, and time of beginning the application of termiticides to the property. All pest control operators must keep a log of all pretreats including the information noted. The following is a list of parishes in which the seven Department of Agriculture and Forestry Districts operate. Pre-treatments in those parishes shall be called into the corresponding District Office.

a. Shreveport District—Caddo, Bossier, Webster, Claiborne, Bienville, Red River, and Desoto.

b. Monroe District—Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Lincoln, Jackson, Winn, Caldwell, Franklin, Tensas, Concordia, and Catahoula.

c. Alexandria District—Sabine, Natchitoches, Grant, LaSalle, Avoyelles, Rapides, and Vernon.

d. Crowley District—Beauregard, Allen, Acadia, Jefferson Davis, Cameron, Calcasieu.

e. Opelousas District—Evangeline, St. Landry, St. Martin, Iberia, St. Mary, Vermillion, and Lafayette.

f. Baton Rouge District—Point Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Washington, St. Tammany, Livingston, St. James, Lafourche, Terrebonne, Assumption, Ascension, Iberville, West Baton Rouge, and East Baton Rouge.

g. New Orleans District—St. John the Baptist, St. Charles, Jefferson, Orleans, St. Bernard, and Plaquemines.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 21:931 (September 1995), LR 23:1285 (October 1997), LR 25:235 (February 1999).

Bob Odom
Commissioner

9902#023

RULE

Department of Agriculture and Forestry Office of Marketing Market Commission

Certification of Poultry, Poultry Products, and Shell Eggs
(LAC 7:V.911)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, State Market Commission, adopts regulations regarding the cost of all examination and certification services on all eggs and poultry requiring a federal grade certificate to be written by a Louisiana Department of Agriculture and Forestry employee.

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing

Chapter 9. Market Commission—Poultry and Eggs Subchapter A. Certification of Official State Grades of Poultry, Poultry Products and Shell Eggs

§911. Contractor's Obligations

A. - B. ...

C. The cost of all examination and certification services on all eggs and poultry requiring a federal grade certificate to be written by a Louisiana Department of Agriculture and Forestry employee shall be paid by the vendor at the current U.S.D.A. rate for each hour required to conduct the examination, provided that no specific charge shall be made for certification of product when inspection is simultaneously performed. The cost of all examination and certification services on all eggs and poultry that does not require a federal grade certificate to be written by a Louisiana Department of Agriculture and Forestry employee shall be charged at a rate of .025 cents per pound for each hour required to conduct the examination, provided that no specific charge shall be made

for certification of product when inspection is simultaneously performed.

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:272 (June 1982), amended LR 9:411 (June 1983), amended by the Department of Agriculture and Forestry, Market Commission, LR 19:1121 (September 1993), LR 25:236 (February 1999).

Bob Odom
Commissioner

9902#076

RULE

Department of Culture, Recreation and Tourism Office of State Museum

Small Museum Matching Grant Program
(LAC 25:III.Chapter 5)

The Department of Culture, Recreation and Tourism, Office of State Museum adopts the following rule relative to the Office of State Museum, providing matching funds for grants to small museums with rules promulgated to establish eligibility standards, per authority of R.S. 25:342. The rule is to establish eligibility standards for the small museums within the State of Louisiana to apply for a program grant and to outline program and accountability requirements.

Title 25

CULTURAL RESOURCES

Part III. Office of State Museums

Chapter 5. Small Museum Matching Grant Program in the State Museum

§501. Policy for Administration of the Program

A. A small museum matching grant program was established within the Louisiana State Museum by Section 15 of Act 19, the General Appropriations Act of 1998, Regular Session.

B. This program is limited annually to only those funds appropriated by the Legislature within the State Museum budget which are specifically included for this grant program and are so designated for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum, LR 25:236 (February 1999).

§503. Eligibility Requirements

A. Small museums throughout the State of Louisiana may apply for a grant based on a one-to-one match in accordance with the guidelines below.

1. Eligibility is restricted to museums with documented total annual operating budgets of less than \$100,000 from all sources of income.

2. Eligible museums must be open to the public a minimum of twenty (20) hours per week, have a permanent

staff operating the museum, and have collections and/or offer exhibitions that pertain to Louisiana culture, heritage and history.

3. Grants will be limited to not more than \$40,000 per museum per year.

4. Each recipient must match the grant from the state on a one-to-one basis, although documented and measurable in-kind services may be substituted for cash.

5. Such grants *may not* be used for operating support but are limited to care of collections, educational programs, or exhibits.

6. No museum may be eligible for an additional grant until all reporting/accounting and other requirements for a previous state grant have been successfully completed and submitted.

7. Only one grant per parish may be awarded annually through this program.

8. State-operated museums *are not eligible* for this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum, LR 25:236 (February 1999).

§505. General Guidelines

A. The program year will be the State's fiscal year for the purposes of appropriations by the Legislature for the program.

B. Small museums receiving grants will have one year from the date of the award to complete their program and submit a final report.

C. Grant recipients must comply with all State laws, rules and requirements for expenditure of State provided funds.

D. The initial application will fully describe the program, its objectives, performance indicators to measure the success of the program, and a complete breakdown of the funds required, how they are to be used, and the one-to-one match in cash or in-kind services. The application must show how the program relates to care of collections, educational programs, and/or exhibitions, and explain the benefits to the people of Louisiana.

E. Each grant recipient will submit quarterly reports which outline their compliance with the program as submitted and to applicable state laws, rules and requirements regarding accountability of state funds.

F. Each program must be completed within one year of the date of the grant award. A final report will be submitted to the Department of Culture, Recreation and Tourism, Office of Management and Finance, citing program success as measured against the initial performance indicator projections. A copy of all reports must be provided to the State Museum.

G. Museums failing to comply with these grant guidelines will be ineligible for additional grants.

H. The State Museum Statewide Curator will visit with and assist each grant recipient during their grant cycle.

I. The Department of Culture, Recreation and Tourism, Office of Management and Finance shall have oversight responsibility to ensure fiscal reliability and that all guidelines and State requirements are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum, LR 25:237 (February 1999).

James F. Sefcik
Assistant Secretary

9902#021

RULE

Department of Economic Development Office of the Secretary

Economic Development Award Program (EDAP) (LAC 13:I.Chapter 60)

The Department of Economic Development, Office of the Secretary, adopts the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority of R.S. 51:2341 et seq.

Title 13

ECONOMIC DEVELOPMENT

Part I. Commerce and Industry

Subpart 3. Financial Incentives

Chapter 60. Economic Development Award Program (EDAP)

§6001. Purpose

The purpose of the program is to finance publicly owned infrastructure for industrial or business development projects that promote economic development and that require state assistance for basic infrastructure development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999).

§6003. Definitions

Applicant—the sponsoring entity requesting financial assistance from DED under this program.

Award—funding approved under this program for eligible applicants.

Awardee—an applicant (and/or company(ies)) receiving an award under this program.

Basic Infrastructure—refers to the construction, improvement or expansion of roadways, parking facilities, equipment, bridges, railroad spurs, water works, sewerage, buildings, ports, waterways and publicly owned or regulated utilities.

Company—the business enterprise for which the project is being undertaken.

DED—Louisiana Department of Economic Development.

Program—the Economic Development Award Program.

Project—an expansion, improvement and/or provision of basic infrastructure that promotes economic development, for which DED assistance is requested under this program as an incentive to influence a company's decision to locate in Louisiana, maintain or expand its Louisiana operations, or increase its capital investment in Louisiana.

Secretary—the secretary of the Department of Economic Development.

Sponsoring Entity—the public or quasi-public entity responsible for performing and/or monitoring implementation of the project and monitoring the company's compliance with the terms and conditions of the award agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999).

§6005. General Principles

The following principles will direct the administration of the Economic Development Award Program.

1. Awards are not to be construed as an entitlement for companies locating or located in Louisiana.

2. An award must reasonably be expected to be a significant factor in a company's location, investment and/or expansion decisions.

3. Awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities.

4. The retention and strengthening of existing businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state.

5. The anticipated economic benefits to the state will be considered in making the award.

6. Appropriate cost sharing among project beneficiaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), amended LR 25:238 (February 1999).

§6007. Eligibility

A. An eligible applicant for the Grant Award must be one of the following:

1. a public or quasi-public state entity; or
2. a political subdivision of the state.

B. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:238 (February 1999).

§6009. Criteria

A. Preference will be given to projects for industries identified by the state as target industries, and to projects located in areas of the state with high unemployment levels.

B. Preference will be given to projects intended to expand, improve or provide basic infrastructure supporting mixed use by the company and the surrounding community.

C. Companies must be in full compliance with all state and federal laws.

D. No assistance may be provided for Louisiana companies relocating their operations to another labor market area (as defined by the US Census Bureau) within Louisiana, except

when company gives sufficient evidence that it is otherwise likely to relocate out of Louisiana.

E. The minimum award request shall be \$25,000.

F. Projects must create or retain at least 10 permanent jobs in Louisiana.

G. Preference given for wages substantially above the prevailing regional wage.

H. If a company does not begin construction of the project within 365 calendar days after application approval, the secretary, at his discretion, may cancel funding for the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), amended LR 25:238 (February 1999).

§6011. Application Procedure

The sponsoring entity must submit an application on a form provided by DED which shall contain, but not be limited to, the following:

1. an overview of the company, its history, and the business climate in which it operates;

2. a description of the project along with the factors creating the need, including construction, operation and maintenance plans, and a timetable for the project's completion;

3. evidence of the number, types and compensation levels of jobs to be created or retained by the project;

4. any additional information the Secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), amended LR 25:238 (February 1999).

§6013. Submission and Review Procedure

A. Applicants must submit their completed application to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant, other divisions of the Department of Economic Development, and other state agencies as needed in order to:

1. evaluate the strategic importance of the project to the economic well-being of the state and local communities;

2. validate the information presented;

3. determine the overall feasibility of the company's plan.

B. An economic cost-benefit analysis of the project, including an analysis of the net economic and fiscal benefits to the state and local communities, will be prepared by DED.

C. Upon determination that an application meets the criteria for this program, DED staff will then make a recommendation to the secretary of the Department of Economic Development.

1. The application will then be reviewed and approved by the following entities in the following order:

a. the secretary of the Department of Economic Development;

b. the governor; and

c. the Joint Legislative Committee on the Budget.

2. The secretary can invoke emergency procedures and approve an application under the following conditions. The company documents in writing to the secretary of Economic

Development with copies to the governor and chairman of the Joint Legislative Committee on the Budget that a serious time constraint exists and that a new plant, expansion or closure decision is to be made in fewer than 21 days or more than 31 days before the next scheduled meeting of the Joint Legislative Committee on the Budget.

D. The final 15 percent of the grant amount will not be paid until DED staff or its designee inspects the project to assure that all work in the EDAP contract has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), amended LR 25:238 (February 1999).

§6015. General Award Provisions

A. Award Agreement. A contract will be executed between DED, the sponsoring entity and the company. The agreement will specify the performance objectives expected of the company(ies) and the sponsoring entity and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for investment and job creation. Under the agreement, the sponsoring entity will monitor the progress of the project. DED will disburse funds to the sponsoring entity in a manner determined by DED.

B. Funding

1. Eligible project costs may include, but not be limited to, the following:

- a. engineering and architectural expenses;
- b. site acquisition;
- c. site preparation;
- d. construction expenses;
- e. building materials;
- f. capital equipment.

2. Project costs ineligible for award funds include, but are not limited to:

- a. recurrent expenses associated with the project (e.g., operation and maintenance costs);
- b. company moving expenses;
- c. expenses already approved for funding through the state's capital outlay process for which the Division of Administration and the Bond Commission have already approved a line of credit and the sale of bonds;
- d. improvements to privately-owned property, unless provisions are included in the project for the transfer of ownership to a public or quasi-public entity;
- e. refinancing of existing debt, public or private;
- f. furniture, fixtures, computers, consumables, transportation equipment, rolling stock or equipment with useful life of less than seven years.

C. Amount of Award

1. The portion of the total project costs financed by the award may not exceed:

- a. 90 percent for projects located in parishes with per capita personal income below the median for all parishes; or
- b. 75 percent for projects in parishes with unemployment rates above the statewide average; or

c. 50 percent for all other projects.

2. Other state funds cannot be used as the match for EDAP funds.

3. The award amount shall not exceed 25 percent of the total funds available to the program during a fiscal year.

4. The secretary, in his discretion, may limit the amount of awards to effect the best allocation of resources based upon the number of projects requiring funding and the availability of program funds.

D. Conditions for Disbursement of Funds

1. Grant award funds will be available to the sponsoring entity on a reimbursement basis following submission of required documentation to DED from the sponsoring entity. Only funds spent on the project after the secretary's approval will be considered eligible for reimbursement.

2. Award funds will not be available for disbursement until:

- a. DED receives signed commitments by the project's other financing sources (public and private);
- b. DED receives signed confirmation that all technical studies or other analyses (e.g., environmental or engineering studies), and licenses or permits needed prior to the start of the project have been completed or obtained;
- c. all other closing conditions specified in the award agreement have been satisfied.

E. Compliance Requirements

1. Companies and sponsoring entities shall be required to submit progress reports, as specified in the award agreement, describing the progress towards the performance objectives specified in the award agreement.

2. In the event a company or sponsoring entity fails to meet its performance objectives specified in its agreement with DED, DED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

3. In the event a company or sponsoring entity knowingly files a false statement in its application or in a progress report, the company or sponsoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in La. R.S. 14:133.

4. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the sponsoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), amended LR 25:239 (February 1999).

Kevin P. Reilly, Sr.
Secretary

9902#073

RULE

**Department of Economic Development
Office of the Secretary**

Regional Initiatives Program
(LAC 13:I.Chapter 70)

In accordance with the provisions of R.S. 49:950 et seq. of the Administrative Procedure Act and the authority of R.S. 51:2341 et seq., the Department of Economic Development, Office of the Secretary, hereby adopts the following rule.

Title 13

ECONOMIC DEVELOPMENT

Part I. Commerce and Industry

Subpart 3. Financial Incentives

Chapter 70. Regional Initiatives Program

§7001. Purpose

The purpose of the program is to stimulate regional economic development efforts by encouraging existing public and private organizations to combine financial and leadership resources to market their shared strengths to overcome their common deficits. The program serves to help create a "spirit of regional cooperation."

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:240 (February 1999).

§7003. Definitions

Applicant—the entity requesting financial assistance from DED under this program.

Award—grant funding approved under this program for eligible applicants.

Awardee—an applicant receiving an award under this program.

DED—Louisiana Department of Economic Development.

Operating Costs—ongoing administrative, salary and travel expenses of the organization(s) applying for program funds.

Program—the Regional Initiatives Program.

Secretary—the Secretary of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:240 (February 1999).

§7005. General Principles

The following principles will direct the administration of the Regional Initiatives Program.

1. Awards should be considered to be one time only funding to achieve a specific goal for a regional (multi-parish) economic development organization or coalition of organizations.

2. Grant proposals must delineate clearly what is proposed and what is to be achieved by the award.

3. Awards are not for the purpose of replacing existing costs, creating new, additional organizations, paying salaries, construction of facilities or acquisition of equipment, unless approved by the secretary.

4. Projects to be funded must augment the Louisiana Economic Development Council's plan and the objectives and strategies of DED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:240 (February 1999).

§7007. Eligibility

An eligible applicant for the Grant Award can include but is not limited to one of the following.

1. An existing regional economic development organization.

2. Local chambers of commerce.

3. Local economic development organizations.

4. Multi parish organizations funded by local governing authorities and the federal government with an agreement signed by parish heads of government authorizing the group to apply for funds under the Regional Initiatives Program.

5. Consortium of local economic development organizations as evidenced by a written agreement to enter into a proposal for the purposes of the Regional Initiatives Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:240 (February 1999).

§7009. Criteria

A. Preference will be given to projects that are regional (multi-parish) in scope.

B. Projects must have a positive economic impact on at least an entire parish.

C. Preference will be given to projects that enhance, expand or are intended to foster cooperation among both public and private development entities on a regional basis.

D. Preference will be given to rural areas and to proposals from organizations not already receiving economic development funds from the state.

E. No DED award funds can be used to fund ongoing operating costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:240 (February 1999).

§7011. Application Procedure

The applicant must submit an application on a form provided by DED which shall contain, but not be limited to, the following.

1. A narrative proposal (maximum of three pages) that states the objectives and details of the project, what is to be accomplished, the duration of the project, how the proposed project will have a positive economic impact on the parish or region and how the proposed effort will be continued beyond the funding requested.

2. Copy of letter(s) notifying the applicant's local governments, area legislators, and the prevailing economic development organization of your intent to apply for R.I.P. funding.

3. Quantifiable objectives and deliverables for the project and plans to measure the effectiveness of the project according to those objectives and deliverables.

4. A detailed budget for the project including sources of funds and letters of commitment from the funding sources as well as written commitment of the 25 percent match to be used for the project.

5. Résumé(s) of consultants involved with the project.

6. Any additional information the Secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:240 (February 1999).

§7013. Submission and Review Procedure

A. Applicants must submit their completed application and proposal to the secretary of DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant and other state agencies as needed in order to:

1. evaluate the strategic importance of the project to the economic well-being of the state and region;
2. determine whether the project's funding requirements are best met by the proposed award;
3. validate the information presented;
4. determine the overall feasibility of the applicant's plan.

B. Upon determination that an application meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state, DED staff will then make a recommendation to the Secretary. If the Secretary finds the application complies with the requirements of this program, he may approve the application for funding.

1. No funds spent on the project prior to the Secretary's approval will be considered eligible project costs.

2. The Secretary will issue a Letter of Commitment to the applicant within five working days of the application review and approval.

3. The final 10 percent of the award amount will not be paid until DED staff reviews the deliverables of the grant agreement to assure that all work has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:241 (February 1999).

§7015. General Award Provisions

A. Award Agreement. A grant agreement will be executed between DED and the awardee. The agreement will specify the performance objectives and deliverables expected of the awardee and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for program completion.

B. Use of Funds

1. Any salary of the applicant related to the project is to be funded through the applicant's match.

2. Project costs ineligible for award funds include, but are not limited to:

- a. ongoing operating costs;

b. furniture, fixtures, computers, transportation equipment, rolling stock or equipment, unless approved by the secretary.

C. Amount of Award

1. The portion of the total project costs financed by the award may not exceed 75 percent of the total project cost.

2. The applicant shall provide at least 25 percent of the total cost; 12½ percent of the total project cost may be in kind. For the purposes of this program, in kind is the use, as a match, of the awardee's own resources to accomplish the goals of the project being funded.

3. The Secretary, in his discretion, may limit the amount of awards to effect the best allocation of resources based upon the number of projects requiring funding and the availability of program funds.

D. Conditions for Disbursement of Funds

1. Upon notification of the award by the Secretary, the awardee can begin spending funds on the project.

2. Award funds will be available to the awardee upon execution of a grant agreement.

3. Award funds will not be available for disbursement until:

- a. DED receives signed commitments by the project's other financing sources (public and private);
- b. all other closing conditions specified in the award agreement have been satisfied.

E. Compliance Requirements

1. The awardee shall be required to submit progress reports, as specified in the award agreement, describing the progress towards the performance objectives specified in the award agreement.

2. In the event an awardee fails to meet its performance objectives specified in its agreement with DED, DED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the awardee in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

3. In the event an awardee knowingly files a false statement in its application or in a progress report, the company or sponsoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in La. R.S. 14:133.

4. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the sponsoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:241 (February 1999).

Kevin P. Reilly, Sr.
Secretary

9902#072

RULE

**Department of Economic Development
Office of the Secretary**

**Workforce Development and Training Program
(LAC 13:I.Chapter 50)**

The Department of Economic Development, Office of the Secretary, adopts the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to the authority of R.S. 51:2331 et seq.

Title 13

ECONOMIC DEVELOPMENT

Part I. Commerce and Industry

Subpart 3. Financial Incentives

**Chapter 50. Workforce Development and Training
Program**

§5001. Purpose

The purpose of the program is to develop and provide customized workforce training programs to existing and prospective Louisiana businesses as a means of:

1. improving the competitiveness and productivity of Louisiana's workforce and business community;
2. upgrading employee skills for new technologies or production processes; and
3. assisting Louisiana businesses in promoting employment stability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:242 (February 1999).

§5003. Definitions

Applicant—the entity requesting training assistance from DED under this program.

Award—funding approved under this program for eligible training activities.

Awardee—an applicant (and/or company(s)) receiving a training award under this program.

Contract—a legally enforceable agreement between DED, the awardee and a monitoring entity governing the terms and conditions of the training award.

Contractee—the awardee and monitoring entity that are party to a training award contract with DED under this program.

DED—Louisiana Department of Economic Development.

Labor Demand Occupation—an occupation for which there is, or is likely to be, greater demand than supply of adequately trained workers.

Monitoring Entity—a public or not-for-profit entity contracted to monitor the compliance of an awardee with the terms and conditions of a training award contract, and to reimburse the awardee for eligible training costs.

Program—the Workforce Development and Training Program.

Secretary—the secretary of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary LR 23:1641 (December 1997), LR 25:242 (February 1999).

§5005. General Principles

The following principles will direct the administration of the Workforce Development Training Program:

1. training awards are not to be construed as an entitlement for companies locating or located in Louisiana;
2. awards must reasonably be expected to be a significant factor in companies' location, investment, and/or expansion decisions;
3. awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities;
4. the retention and strengthening of existing Louisiana businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state;
5. the anticipated economic benefits to the state will be considered in making the award;
6. awards will be coordinated with the existing plans and programs of other government agencies whenever appropriate; and
7. a train-the-trainer approach will be adopted whenever appropriate in order to strengthen the institutional capacity of public and private sector training providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary LR 23:1641 (December 1997), LR 25:242 (February 1999).

§5007. Program Descriptions

This program provides 3 types of training assistance for companies seeking prospective employees who possess sufficient skills to perform the jobs to be created by the companies. The training to be funded can include:

1. pre-employment training for which prospective employees are identified and recruited for training with the knowledge that the company will hire a portion of the trainees;
2. on-the-job (and/or upgrade) training for employees that is needed to bring the employees up to a minimum skill and/or productivity level; and
3. incumbent training for companies seeking to improve the skills of existing employees in response to technological advances or improved production processes, or the need to ensure compliance with accepted international and industrial quality standards (e.g., ISO standards, proprietary technology).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic

Development, Office of the Secretary LR 23:1641 (December 1997), LR 25:242 (February 1999).

§5009. Eligibility

A. An eligible applicant is: an employer, labor organization, or community-based organization that seeks customized training services to provide training for a labor demand occupation in a particular industry.

B. Employees to be trained must be employed in Louisiana, except for projects locating at Stennis Space Center in Mississippi. Employees to be trained for projects at Stennis Space Center must be Louisiana residents.

C. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary LR 23:1641 (December 1997), LR 25:243 (February 1999).

§5011. Criteria

A. General (These apply to all training programs administered under these rules.)

1. Preference will be given to applicants in industries identified by the state as target industries, and to applicants located in areas of the state with high unemployment levels.

2. Employer(s) must be in full compliance with Louisiana unemployment insurance laws.

3. If a company does not begin the project within 365 days of application approval, the secretary, at his discretion, may cancel funding of the training.

B. Pre-employment and On-the-job Training

1. Applicants must create at least 10 net new jobs in the state.

2. Participation in pre-employment training does not guarantee students a job upon completion of their training.

C. Incumbent Retraining. Applicants must request training for at least five employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary LR 23:1641 (December 1997), LR 25:243 (February 1999).

§5013. Application Procedure

DED will provide a standard form which applicants will use to apply for assistance. The application form will contain, but not be limited to, detailed descriptions of the following:

1. an overview of the company, its history, and the business climate in which it operates;

2. the company's overall training plan, including a summary of the types and amounts of training to be provided and a description of how the company determined its need for training;

3. the specific training programs for which DED

assistance is requested, including descriptions of the methods, providers and costs of the proposed training; and

4. any additional information the secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary LR 23:1641 (December 1997), LR 25:243 (February 1999).

§5015. Submission and Review Procedure

A. Applicants must submit their completed application to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant, other divisions of the Department of Economic Development, and other state agencies as needed, in order to:

1. evaluate the importance of the proposed training to the economic well-being of the state and local communities;

2. identify the availability of existing training programs which could be adapted to meet the employer's needs;

3. verify that the business will continue to operate during the period of the contract;

4. determine if employer's training plan is cost effective.

B. A cost-benefit analysis tailored to applicants' specific industries shall be conducted by DED to determine the net benefit to the state of the proposed training award. Such analysis will include, but not be limited to, evaluations of:

1. the importance of the proposed training to the recruitment/retention of businesses and/or jobs in the state;

2. the training award is expected to be a significant factor in the company's location, investment, and/or expansion decision; and

3. the fiscal impact of the proposed training on state and local governments.

C. Upon determination that an application meets the criteria for this program, DED staff will then make a recommendation to the secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

1. the secretary of the Department of Economic Development;

2. the governor; and

3. the Joint Legislative Committee on the Budget.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary LR 23:1641 (December 1997), LR 25:243 (February 1999).

§5017. General Award Provisions

A. Award Agreement

1. A contract will be executed between DED, the applicant (and/or company(s) receiving training) and an appropriate monitoring entity from the same geographic area as the applicant. The contract will specify the performance objectives expected of the company(s) and the compliance requirements to be enforced in exchange for state assistance,

including, but not limited to, time lines for job training and job creation.

2. DED will disburse funds to the monitoring entity in a manner determined by DED.

3. The monitoring entity will monitor the progress of the training and reimburse the applicant from cost reports submitted by the applicant on a form approved by DED. DED, at its discretion, may request the monitor to obtain additional information.

4. The cost associated with this contract incurred by the monitoring entity will be considered part of the total training award, but will not exceed 5 percent of the award amount or \$10,000.00, whichever is less.

5. Funds may be used for training programs extending up to two years in duration.

6. Contracts issued under previous rules may be amended to reflect current regulations as of the date of the most recent change, upon request and approval of the contractor and the secretary.

B. Funding. Award may include pre-employment, new employee and/or incumbent training not to exceed \$500,000 for total amount.

1. The Louisiana Workforce Development and Training Program offers financial assistance in the form of a grant for reimbursement of eligible training costs specified in the award agreement.

2. Eligible training costs may include the following:

a. Instruction Costs—wages for company trainers and training coordinators, Louisiana public and/or private school tuition, contracts for vendor trainers, training seminars;

b. Travel Costs—travel for trainers and training coordinators, and travel for trainees;

c. Materials and Supplies Costs—training texts and manuals, audio/visual materials, raw materials and Computer Based Training (CBT) software; and

d. Other Costs—facility rental and fees or service costs incurred by the monitoring entity associated with the contract to monitor the training and to disburse award funds, as limited by §5017.A.4 above.

3. Training costs ineligible for reimbursement include:

a. trainee wages and fringe benefits;

b. non-consumable tangible property (e.g., equipment, calculators, furniture, classroom fixtures, non-Computer Based Training (CBT) software), unless owned by a public training provider;

c. out-of-state, publicly supported schools;

d. employee handbooks;

e. scrap produced during training;

f. food, refreshments; and

g. awards.

4. Training activities eligible for funding consist of:

a. transferable skills: skills which will enhance an employee's general knowledge, employability and flexibility in the workplace (e.g., welding, computer skills, blueprint reading, etc.);

b. company-specific skills: skills which are unique to a company's workplace, equipment and/or capital investment;

c. quality standards skills: skills which are intended to increase the quality of a company's products and/or services and ensure compliance with accepted international and industrial quality standards (e.g., ISO standards); and

d. skills pertaining to instructional methods and techniques used by trainers (e.g., train-the-trainer activities).

C. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of required documentation to DED by monitoring entity. Funds will not be available for reimbursement until a training agreement between the applicant (and/or company(s) receiving the training) and an approved training provider has been executed. Only funds spent on the project after the secretary's approval will be considered eligible for reimbursement.

2. Companies will be eligible for reimbursement at 90 percent until all contracted performance objectives have been met. After the company has achieved 100 percent of its contracted performance objectives, the remaining 10 percent of the grant award will be made available for reimbursement.

D. Compliance Requirements

1. Contractees shall be required to complete quarterly reports describing progress toward the performance objectives specified in their contract with DED.

2. The termination of employees during the contract period who have received program-funded training shall be for documented cause only, which shall include voluntary termination.

3. In the event a company or sponsoring entity fails to meet its performance objectives specified in its contract with DED, DED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

4. In the event a company or monitoring entity knowingly files a false statement in its application or in a progress report, the company or monitoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in La. R.S. 14:133.

5. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the monitoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary LR 23:1641 (December 1997), LR 25:243 (February 1999).

Kevin P. Reilly, Sr.
Secretary

9902#071

RULE

**Department of Economic Development
Used Motor Vehicle and Parts Commission**

Licensing Requirements and Hearing Procedures
(LAC 46:V.2905, 2909, 3101, 3303, 4701,
4703, 4705, 4707, 4709, 4711, 4713, 4715)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Department of Economic Development, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission has adopted sections of existing rules and regulations regarding licensing requirements, proposed rules regarding hearing procedures and repealed §2909 which pertains to sign requirements.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 29. Used Motor Vehicle Dealer

§2905. Qualifications and Eligibility for Licensure

A. ...

1. The ability of the applicant to establish an adequate place of business properly zoned in the municipality, provide a suitable office, have a permanently affixed sign, clearly visible from the street or roadway at a minimum of 16 square feet and subject to local zoning laws, in front of the establishment which denotes that vehicles are offered for sale at the location to which the sign is affixed. Existing signs prior to adoption of this rule will not have to meet the new requirements. If two or more dealers share a location, each dealer must display his own sign. Applicant must have an installed telephone listed in the business name at the place of business, the number of which should be listed on the application for license. Each dealer must have their own listed business telephone. No cellular telephones will be allowed in lieu of an installed business telephone. The commission must be notified of any change in the telephone number.

2. All dealers are required to furnish and keep in force the minimum required liability insurance coverage on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of this state. For those dealers who, in addition to selling vehicles, conduct the business of daily vehicle rentals, a separate renter's policy must be in effect.

3. ...

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Part Commission, LR 15:258 (April 1989), amended LR 15:375 (May 1989), LR 25:245 (February 1999).

§2909. Sign Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 2:119 (April 1976), repealed by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 25:245 (February 1999).

Chapter 31. License for Salesman

§3101. Qualifications and Eligibility for Licensure

A. - A.1. ...

2. A license for a salesman will not be issued, renewed or endorsed until the employing dealer is licensed and has certified that the applicant for said license is in his employ and applicant is listed on the insurance statement and covered under the dealer's liability insurance policy. It is not intended that the dealer pay for licenses for its salesmen. However, for convenience, the dealer may do so on a reimbursable basis or any other plan satisfactory to its organization. All salesmen's licenses will be sent to the dealer for distribution to the respective applicants, and the dealer will determine that all its personnel required to obtain licenses have done so.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 25:245(February 1999).

Chapter 33. Automotive Dismantler and Recycler

§3303. Qualifications and Eligibility for Licensure

A. ...

1. The ability of the applicant to establish an adequate place of business, properly zoned in the municipality, provide a suitable office, have a permanently affixed sign, clearly visible from the street or roadway at a minimum of 16 square feet and subject to local zoning laws, in front of the establishment. Existing signs prior to adoption of this rule will not have to meet the new requirements. Applicant must have an installed telephone listed in the business name at the place of business, the number of which should be listed on the application for license. No cellular telephones will be allowed in lieu of an installed business telephone. The commission must be notified of any change in the telephone number.

2. ...

B. - D. ...

E. At least one salesman's license shall be issued for each business. License fees charged and received by the commission shall be the same as for all other salesmen licensed by the commission as is described in R.S. 32:754.

F. No person, firm, or corporation may advertise, sell or display for sale used parts without first obtaining a used parts dealer's license to do business in this state. All these types of license numbers will be prefixed by UP, followed by a four digit number then the current year of license.

1. Used parts are broadly described as those parts necessary for operation of a vehicle and have been removed from a vehicle for resale. They include, but are not limited to,

the following: motors, wheels, generators, alternators, water pumps, glass, radiators, spark plugs, fuel tanks, etc.

2. License fees charged and received by the commission for licenses issued on dealers above shall be the same as for all other dealers licensed by this agency as is described in R.S. 32:754.

3. At least one salesman's license shall be issued for each business. License fee charged and received by the commission shall be the same as for all other salesmen licensed by the commission as is described in R.S. 32:754.

4. A surety bond will not be required for dealers whose principal business is selling used parts.

G. An out of state parts dealer may open a parts business in this state. License for an out of state parts dealer to open a used parts business is \$500 per location.

H. Dealers whose only business is selling rebuilt or remanufactured parts, used batteries, tires and/or wheel covers are not included herein. Service stations are also specifically excluded from the above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:752, 32:753, 32:754, 32:755 and 32:756, 32:772(E), and R.S. 32:773(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 20:535 (May 1994), repromulgated LR 20:645 (June 1994), amended LR 25:245 (February 1999).

Chapter 47. Hearing Procedures

§4701. Hearing Officer

A. A hearing may be conducted by a hearing officer designated by the Chairman.

B. The hearing officer shall have all the powers of the Commission in connection with the hearing and shall have authority to issue subpoenas, order the taking of depositions, administer oaths, hear testimony, admit evidence, make rulings on objections and motions, and prepare a proposed order consisting of findings of fact and conclusions of law and submit the proposed order to the commission for its consideration.

C. Any party who feels that he cannot receive a fair and impartial hearing from the hearing officer shall make a motion either orally at the time of the hearing or in writing requesting that such hearing officer withdraw from the case. That request must set forth the specific grounds in accordance with LSA C.C.P. art. 151. The hearing officer may withdraw without further proceedings and immediately refer the matter to the chairman for reassignment; otherwise, the request shall be heard before the commission sitting at a regular monthly meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 25:246 (February 1999).

§4703. Time for Hearing

A. The time set for a hearing, specified in the notice, shall not be less than 15 days after the date the notice is completed.

B. Any request for a continuance of a hearing shall be made in writing in a reasonable time prior to the hearing and shall state the reasons for the request. The hearing officer is

authorized to rule on the motion for continuance. The hearing may be continued from time to time as announced openly before the hearing is recessed without further notice or otherwise by giving reasonable notice less than 15 days before the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 25:246 (February 1999).

§4705. Subpoenas

A. Subpoenas for the attendance of witnesses, and/or for the furnishing of information required by the commission, and/or for the production of evidence of records of any kind shall be issued by the hearing officer. Subpoenas shall be served and a return made in any manner prescribed by general civil law.

B. Any party to a hearing desiring the attendance of witnesses upon his behalf shall have the right to seek compulsory attendance of such witnesses and the production of relevant documents provided said party shall file a list of names and addresses of such witnesses with the hearing officer at least 10 days before the date set for the hearing.

C. Upon the failure of any person to obey a subpoena, upon the refusal of any witness to be sworn or make an affirmation, or to answer a lawful question put to him in the course of the hearing, the hearing officer may institute appropriate judicial proceedings under the laws of the state for an order to compel compliance with the subpoena or the giving of testimony, as the case may be. The hearing shall proceed, so far as it is possible, but the hearing officer or the commission, in its discretion, at any time may continue the proceeding for the purpose of taking the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 25:246 (February 1999).

§4707. Rights of the Parties

Any party whose rights may be affected at any hearing shall have the right to appear personally and by counsel, to cross-examine adverse witnesses, to produce evidence and witnesses in their own behalf and to provide arguments on all issues involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 25:246 (February 1999).

§4709. Evidence

The commission shall not be bound by the technical rules of evidence and may admit material and relevant evidence. The principles underlying the *Louisiana Code of Evidence* shall serve as a guide to the admissibility of evidence in hearings before the commission. The specific exclusionary rules and other provisions shall be applied only to the extent that they tend to promote the purposes of proceedings before the commission, in the discretion of the chair or the presiding member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 25:246 (February 1999).

§4711. Record of the Hearing

A. The record in every individual proceeding shall include the following:

1. all pleadings, motions, and intermediate rulings;
2. evidence received and considered;
3. a statement of matters officially noticed;
4. questions and offers of proof, objections and rulings thereon;
5. the proposed order;
6. any decision, opinion, or report by the person(s) presiding at the hearing;
7. all staff memorandum or data submitted to the hearing officer of the commission in connection with their consideration; and
8. the minutes from the commission meeting in which action was taken on the proposed order.

B. A recording and a transcript of the hearing will be performed by a certified court reporter. The record and the file containing the pleadings will be maintained in a place designated by the hearing officer. Any party requesting a transcript of the hearing will pay a fee according to a schedule established by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 25:247 (February 1999).

§4713. Rulings

A. When a hearing officer is used and a majority of the commissioners have not heard the case or read the record, any decision adverse to any party other than the commission shall be postponed until a copy of the proposed order is served upon all parties and each is given an opportunity to reply, either orally or in writing. The proposed order shall be prepared by the person(s) who conducted the hearing. A statement of the reasons for the order and each issue of fact or law necessary to the order shall accompany the proposed order. This requirement may be waived by the written stipulation of all parties, or where there is no contest (as in the failure of a party to appear after due notice), the commission may eliminate compliance therewith.

B. Any party affected by the proposed order may prepare a written brief which must be filed with the commission within 10 days from receipt of the proposed order, or the affected party may present an oral response at the next monthly meeting of the commission.

C. During its regular monthly meetings (or upon a special meeting as called by the chairman and upon reasonable notice to all parties), the commission shall make the final decision based on the record and the proposed order.

D. A final decision or order adverse to a party in an adjudication proceeding shall be in writing. A final decision shall include findings of fact and conclusions of law. Parties shall be notified either personally or by mail of any decision or order along with their attorney of record, if any. The parties by written stipulation may waive, and the commission in the

event there is no contest may eliminate, compliance with this paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 25:247 (February 1999).

§4715. Rehearings

No rehearing shall be permitted from any ruling of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 25:247 (February 1999).

John M. Torrance
Executive Director

9902#014

RULE

Board of Elementary and Secondary Education

Budgets and Minimum Foundation Program
(LAC 28:I.1709 and 1712)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the State Board of Elementary and Secondary Education adopted the following revision to the Minimum Foundation Program Student Membership Definition.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 17. Finance and Property

§1709. Budgets

- A. - G. ...
H. - I. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:398, 541 (September, December 1975), amended LR 23:55 (January 1997), LR 25:247 (February 1999).

§1712. Minimum Foundation Program

A. MFP: General Provisions

1. Board Adoption

a. The State Superintendent of Education shall prepare and recommend to the Board for adoption a minimum foundation formula for the equitable allocation of funds to local school systems for the operation of their educational programs. In considering this recommendation, the State Superintendent shall comply with all appropriate state laws and regulations regarding elementary and secondary education.

b. The Board shall adopt a minimum foundation formula for the equitable allocation of funds to local school systems. Once adopted, the Board shall transmit the formula to the Joint Legislative Committee on the Budget and all other

appropriate entities and offices of the executive and legislative branches of government.

2. Local Responsibility. It shall be the responsibility of local school systems to submit to the State Department of Education in a timely manner all necessary and required information for the computation of an individual school system's allocation from the minimum foundation formula. This information shall be submitted to the Department in the form required by the Department. It shall also be the responsibility of all local school systems to follow all circulars issued by the Department providing instructions for the preparation of the required data and other instructions regarding the computation of a local school system's allotment from the formula.

B. MFP: Payments. Each parish and city school system shall receive an allocation from the annual Minimum Foundation Program in 12 payments. These payments shall be incorporated into monthly amounts received from the state for implementation of the Minimum Foundation Program.

C. MFP: Student Membership Definition

1. Definition. For state reporting for public education for the purpose of establishing the base student count for state funding, each parish and city school system shall adhere to the following.

a. All students included for membership in school shall be identified with the following minimum required identification elements: state identification number, full legal name, date of birth, sex, race, district and school code, entry date, and grade placement.

b. For establishing the base student membership count for state funding the following guidelines will be adhered to.

i. No student will be counted more than one time. Students attending more than one school will be counted in membership only one time.

ii. All students, including special education students and students in ungraded class settings, will be included in the base student membership count who meet the following criteria:

(a). have registered or pre-registered on or before October 1*;

(b). are actively attending school (All current state laws and BESE policies concerning attendance should be carefully followed. Appropriate documentation [either written or computer documents] such as dates of absences, letters to parents, notification to Child Welfare and Attendance Officers should be placed in individual permanent records for any students who may have absences which raise questions about the student's active attendance.);

(c). and/or have not officially exited from school (Students are considered to have officially exited if a notification of transfer has been provided by the student's parent/legal guardian or received from another school.).

iii. Students who are in BESE and parish/city school system approved alternative programs (schools), will be included in the base student count for membership.

iv. Students who reside in Louisiana, attend school in another state, and are supported by Louisiana funding will be included in the base student count for membership.

v. All special education preschool (ages 3-5)

students will be included in the base student count for membership.

vi. All special education infant (ages birth-2) students for whom the district provides one or more of the sixteen identified services shall be included in the base student count for membership.

vii. Regular pre-kindergarten (four-year-old program) students will not be included in the base student count for membership.

viii. Private school students receiving services through the public school system will not be included in the base student membership.

ix. Students will be included in the base student count for membership until the chronological age of twenty-one years. A student whose twenty-second birthday occurs during the course of the regular school year, will be counted in the base student count for membership for that school year.

*If October 1 falls on a Saturday, report membership on September 30. If October 1 falls on a Sunday, report membership on October 2.

D. MFP: Add-on Students/Units

1. Required Data: For purposes of establishing the data sets used in determining the add-on students/units, the following will be adhered to.

a. At-Risk Student Count shall be determined by the number of students whose family income is at or below income eligibility guidelines or other guidelines as provided by BESE. The current guidelines include those students who have approved applications to participate in the federal free and reduced price breakfast and lunch program. The count is determined by the number of approved applications for the free and reduced price lunch program during the month of October as reported in the Student Information System (SIS).

b. Vocational Education Unit Count shall be determined by the number of Secondary Vocational Education courses per student as reported by the school districts through the Annual School Report for the prior year.

c. Special Education. Other Exceptionalities Student Count shall be determined by the number of Special Education students identified as having "other exceptionalities" in the LANSER database as of October 1 including:

i. infants and toddlers ages 0-2, who are currently receiving services; and

ii. both public and nonpublic, special education students ages 3-21 identified as having a disability as defined by R.S. 17:1943 who are receiving services from the local school district only (students serviced by SSD Number 1 and certain correctional facilities are excluded).

d. Special Education. Gifted and Talented Student Count shall be determined by the number of Special Education students identified in the LANSER database as of October 1 which includes both public and nonpublic special education students ages 3-21 identified as gifted and talented as defined by R.S. 17:1943 who are receiving services from the local public school district only.

e. Economy of Scale Student Count shall be determined by the number of students in the base student count as defined in LAC 28:I.1712.C.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:247 (February 1999).

Weegie Peabody
Executive Director

9902#085

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Adult and Evening Instructional Programs (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Standard 1.124.03 of *Bulletin 741, Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901A. The amendment no longer requires individuals 19 years of age and above to take a pretest (California Achievement Test or the Test of Adult Basic Education) and score a 12.9 on all parts of the pretest in order to qualify for the GED Test. The amendment further requires individuals 17 or 18 years of age or 16 years of age with an approved age waiver to take the Official Half-Length GED Practice Test and score a minimum of 40 on each part with an average score of 45 to qualify for the GED at state approved sites of instruction.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations §901. School Approval Standards and Regulations

A. Bulletin 741—Louisiana Handbook for School Administrators

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7(5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6); R.S. 17:151.1; R.S. 17:151.3; R.S. 17:176; R.S. 17:232; R.S. 17:191.11; R.S. 17:1941; R.S. 17:2007; R.S. 17:2050; R.S. 17:2501-2507; P.L. 94-142; R.S. 17:154(l); R.S. 17:402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education, LR 24:1085 (June 1998), LR 25:249 (February 1999).

Louisiana Handbook for School Administrators, Bulletin 741

* * *

Adult and Evening Instructional Programs

To qualify for the General Educational Development (GED) Test, an individual shall be 19 years of age or above. Individuals between 17-18 years of age or 16 years of age with an approved age waiver may qualify for the General Educational Development (GED) Test by taking the Official Half-Length GED Practice Test and scoring a minimum of 40 on each part with an average score of 45. Qualifying scores on the Official Half-Length GED Practice Test shall be certified

by State-approved adult education sites of instruction.

* * *

Weegie Peabody
Executive Director

9902#083

RULE

Board of Elementary and Secondary Education

Bulletin 904—Charter School Start-Up Loan Program (LAC 28:I.904)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted Guidelines for the Charter School Start-Up Loan Program. In accordance with Act 477, the Guidelines provide a source for funding no-interest loans to assist new Type 1 or Type 2 Charter Schools with initial start-up funding and for funding the administrative costs associated with the loan program. The Guidelines are an amendment to Bulletin 904 and LAC 28:I.904 is amended as follows.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations §904. Charter Schools

A. ...

B. Charter School Start-Up Loan Program

1. Act 477 of the 1997 Legislative Session allows for the operation of up to 20 charter schools statewide in 1998-99 and increases that number to 42 in subsequent years. It also created the Louisiana Charter School Start-Up Loan Fund within the State Treasury for the purpose of providing a source for funding no-interest loans to assist new Type 1 or Type 2 Charter Schools with initial start-up funding and for funding the administrative costs associated with the loan program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3971-3973, 3981-3983, 3991-3993, 3995-3999, and 4001; and R.S. 39:75(C)(1)(b).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:249 (February 1999).

Guidelines for the Louisiana Charter School Start-Up Loan Fund

Under the authority of H.B. 2065, Part V, the LA Charter School Start-Up Loan Fund was created within the state treasury for the purposes of providing a source for funding no-interest loans to assist type 1 and type 2 Charter Schools with initial start-up funding and for funding the administrative costs associated with the loan program. The Act further provided for the SBESE to administer the monies appropriated from the fund and to adopt rules governing the loan application and approval process.

In accordance with the Act, the SBESE hereby adopts the following rules to govern approval of loan requests of Charter Schools for initial start-up funding.

A. Organization. The SBESE will establish a Loan committee consisting of three (3) members, and contract a third party financial analyst to review loan requests and make recommendations to the committee for approval or rejection. The Board will also designate a contact person and a collection person. The contact person will be available to discuss and address complaints or problems of the borrowers and present to the committee for approval any requests for minor restructure of the original terms of loans. The collections person will be responsible for coordinating collection efforts on troubled loans, including major restructure requests and retaining legal support for advice, foreclosure, and/or suit.

B. Credit Quality. The financial analyst will review credit requests to determine repayment ability, adequacy of collateral, and character of persons principally involved in the forming of the charter school. The complete loan request will at minimum include the following executed documents:

1. fully completed SBESE Loan Application Form;
2. interim financial statements for the current year (if applicable);
3. copy of Charter School Application containing detailed budget and projections for the succeeding five years;
4. narrative business plan covering the succeeding three years;
5. personal financial statements and resumes on each of the Officers, Directors and others principally involved in the forming of the charter school; and
6. Authorization to Release Information. The financial analyst will obtain a credit report on each of the natural persons involved to determine credit history and outstanding liens, claims and bankruptcy proceedings.

C. Collateral. Collateral acceptable to SBESE is described as follows:

1. mortgages on real estate and other tangible assets owned by the Charter School;
2. tangible assets purchased with loan proceeds;
3. assets of individuals principally involved in the forming of the Charter School, its officers and directors;
4. guarantees of credit worthy individuals, including but not limited to those involved in the forming of the Charter School, its officers and directors.

Collateral not acceptable to SBESE includes, but is not limited to:

1. assets on which the title is clouded or a lien cannot be perfected;
2. assets titled in undivided interests;
3. stock in closely-held corporations, or with no determinable or ready market value;
4. assets which are inappropriate, are potential environmental hazards, or the value of which is indeterminable.

Third party appraisers acceptable to SBESE will be retained at the applicants cost to determine the market value of the assets offered. Tangible assets purchased with loan proceeds and pledged as collateral may be valued at costs with appropriate invoices. Fire, casualty and other appropriate insurance, to cover assets pledged, will be obtained and maintained by the Charter School, through underwriters

acceptable to SBESE in amounts to provide adequate protection, and naming SBESE as loss payee.

D. Closings. Loans will be closed by attorney(s) acceptable to SBESE, at the cost of the borrower, and in accordance with closing instructions from SBESE. Perfection and rank of liens will be outlined and assured by means of a title opinion letter signed by the closing attorney.

E. Repayment. Loans approved will provide for a maximum repayment term of three years, payable in equal monthly installments. The SBESE may approve repayment on a quarterly, semi-annual or annual basis, but, in any case, 1/3 of the debt must be retired each year. If 1/3 is not retired each year, the loan is accelerated and the whole amount becomes due. Prepayment is encouraged.

F. Default. Default occurs on the first day after a payment is due and not paid. In the event that a loan becomes delinquent or cannot perform as agreed, the designated collection person will immediately counsel with the officers of the charter school to determine the nature, extent and severity of the problems. Minor or temporary difficulties may be solved by a restructure of repayment terms, with loan committee approval. In more serious situations in which repayment is doubtful, the following actions will be taken: The loan will be recalled; a demand for payment will be sent to the borrower, allowing twenty days for repayment; and, the account will be placed with the Attorney General's Office for collection if payment is not made. In the event of a default, the borrower will be responsible for 33 1/3 percent attorney's fees plus legal interest on the principal amount from the date of default until paid, as well as all costs of collection.

G. Loan Committee. Loan Applications approved for funding must be recommended by the financial analyst and approved unanimously by the committee. Also, no loan may be restructured in any way without unanimous committee approval.

All actions taken by the loan committees will be reported monthly to the SBESE Board.

H. Acceptable Loans. The following describes loan applications which are acceptable to SBESE.

1. The proceeds of the credit are to be used to purchase equipment and other tangible assets appropriate to school operations which are then pledged as collateral on the note.

2. The proceeds of the credit are to be used to provide working capital, and other appropriate and adequate collateral is pledged to secure the loan.

3. Analysis of loan applications, financial statements and collateral reveals good credit quality and repayment ability.

I. Unacceptable Loans. The following describes loan applications which are not acceptable to SBESE.

1. Repayment is based solely on liquidation of collateral.

2. Financial analysis of the loan applications, financial statements and collateral offered indicate the repayment ability is weak and/or the collateral is inadequate or inappropriate.

3. The proceeds of the credit are used to pay prior debts of school or principal charterers or any former or current

business of any principal charterer or pay members of the immediate family of any principal charterer or to make investments.

4. The applicant, any principal charterers, or any former business or nonprofit venture of any such charterer has outstanding or presently pending in any court any claim of liability relating to failure or inability to pay promissory notes or other evidence of indebtedness, or any bankruptcy proceeding, or if any such corporation, business or person has pending any court proceeding concerning denial or revocation of a necessary license or permit to operate a charter school.

J. Non-discriminatory Policy. Legal department to submit.

K. Complaints. All written complaints received will be handed to the contact person for review, analysis and investigation to determine the facts and to recommend resolution. Upon completion of the internal review, the complainant will be notified in writing of the results of the review. Each complaint will be handled in a fair and consistent manner and responded to within 15 working days of receipt.

L. No departure from these guidelines is allowed without unanimous consent from SBESE.

Interested persons may submit written comments until 4:30 p.m., November 9, 1998 to Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

9902#081

RULE

Board of Elementary and Secondary Education

Bulletin 1525—Guidelines for Personnel Evaluation Standards for School Principals in Louisiana (LAC 28:I.917)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 1525, Guidelines for Personnel Evaluation. The Bulletin has been revised to incorporate the approved Standards for School Principals, as Appendix C. The Principal Standards are the criteria by which public school principals will be evaluated under the Local Personnel Evaluation Program beginning with the 1999-2000 school year. Bulletin 1525 is referenced in LAC 28:I.917. A complete text of Bulletin 1525 may be viewed in the Office of the State Register, 1051 North Third Street, Baton Rouge; the Office of the State Board of Elementary and Secondary Education; or the Office of Quality Educators, Professional Accountability, State Department of Education.

Appendix C, to be included in Bulletin 1525, is printed below in its entirety.

Title 28 EDUCATION

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

Subchapter A. Bulletins and Regulations

§917. Personnel Evaluation Standards and Regulations

A. Bulletin 1525

* * *

4. Bulletin 1525 also includes the Standards for School Principals in Louisiana as Appendix C, addendum 1998.

* * *

AUTHORITY NOTE: Mandated by the Act 1 of the 1994 Louisiana Legislature, Third Extraordinary Session under the authority of R.S. 17:3881-3884, R.S. 17:3901-3904, and R.S. 16:3765.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 5:168 (July 1979), amended LR 25:251 (February 1999).

APPENDIX C

Standards for Principals

Vision: The principal engages the school community in developing and maintaining a student-centered vision for education which forms the basis for school goals and guides the preparation of students as effective, lifelong learners in a pluralistic society.

Teaching and Learning: The principal uses a knowledge of teaching and learning in working collaboratively with the faculty and staff to implement effective and innovative teaching practices which engage students in meaningful and challenging learning experiences.

School Management: The principal promotes the success of all students by ensuring management of the organization, operations, and resources for a safe and orderly learning environment.

School Improvement: The principal works with the school community to review data from multiple sources to establish challenging standards, monitor progress, and foster the continuous growth of all students.

School-Community Relations: The principal uses an understanding of the culture of the community to create and sustain mutually supportive school-community relations.

Professional Development: The principal works collaboratively with the school faculty and staff to plan and implement professional development activities that promote both individual and organizational growth and lead to improved teaching and learning.

Professional Ethics: The principal demonstrates honesty, integrity, and fairness to guide school programs in an ethical manner.

Elaborated Standard: Vision

Vision: The principal engages the school community in developing and maintaining a student-centered vision for education which forms the basis for school goals and guides the preparation of students as effective, lifelong learners in a pluralistic society.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- a "preferred" future regarding the success of all students;
- group process strategies for melding the diverse values and expectations of the school community into a shared understanding of desired student outcomes;
- theories of child and human development, the teaching-

learning process, and models of and processes for on-going school improvement;

-relevant research findings and strategies for using data to develop and maintain the school vision.

Dispositions

The principal believes in, values, and is committed to:

- the centrality of students to the school vision and goals;
- involving the school community in establishing the school vision and goals;
- respecting the existing school and community cultures while working for changes that improve outcomes for all students;
- stewardship of the school vision, and sponsorship of school goals;
- enabling students to think critically about complex issues.

Performances

The principal demonstrates the ability to:

- work collaboratively with the school community to develop and maintain a shared school vision;
- bring the school vision to life by using it to guide decision making about students and the instructional programs;
- maintain faculty focus on developing learning experiences that will enable students to prosper in subsequent grades and as adults;
- maintain open communication with the school community, and effectively convey high expectations for student learning to the community;
- provide opportunities and support for collaboration, the exchange of ideas, experimentation with innovative teaching strategies, and ongoing school improvement;
- monitor, assess, and revise the school vision and goals as needed;
- foster the integration of students into mainstream society while valuing diversity.

Elaborated Standard: Teaching and Learning

Teaching and Learning:

The principal uses a knowledge of teaching and learning in working collaboratively with the faculty and staff to implement effective and innovative teaching practices which engage students in meaningful and challenging learning experiences.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- research and theories related to teaching, learning, curriculum development and integration, and motivation;
- methods for effectively communicating high standards and high expectations for student achievement;
- strategies for creating an empowering environment that supports innovative teaching and powerful learning;
- supervisory and observational techniques that promote effective teaching and learning in a growth oriented environment;
- authentic, psychometrically sound, methods for assessing student learning;
- emerging technologies and their use in enhancing student learning.

Dispositions

The principal believes in, values, and is committed to:

- all children's learning at high levels;

-excellence and life-long learning;

-collaborative development of teaching strategies and curricular modifications that ground student learning in real-world situations and promote critical thinking;

-developing a caring environment that nurtures teaching and learning.

Performances

The principal demonstrates the ability to:

-recognize, model, and promote effective teaching strategies that enable students to apply what they learn to real world experiences;

-encourage and support both the use of innovative, research-based teaching strategies to engage students actively in solving complex problems and methods of student assessment which will enhance learning for all students;

-conduct frequent classroom visits and periodic observations, provide constructive feedback to faculty and staff, and suggest models of effective teaching techniques when needed;

-foster a caring, growth-oriented environment for faculty and students where high expectations and high standards for student achievement are emphasized;

-promote collaboration and team building among faculty.

Elaborated Standard: School Management

School Management: The principal promotes the success of all students by ensuring management of the organization, operations, and resources for a safe and orderly learning environment.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- organizational theory and principles of organizational development;
- human resources management and development, including related/support/ancillary services;
- local, state, and federal laws, policies, regulations, and procedures;
- sound fiscal procedures and practices;
- time management to maximize the effectiveness of the organization;
- current technologies that support management functions.

Dispositions

The principal believes in, values, and is committed to:

- building a safe, orderly environment;
- upholding local, state, and federal laws, policies, regulations, and procedures, including being fiscally responsible and ensuring quality support services;
- upholding high standards in the day-to-day operations of the school and using current technology;
- making management decisions to enhance learning and teaching;
- involving members of the school community in shared decision-making processes.

Performances

The principal demonstrates the ability to:

- maintain a safe, secure, clean, and aesthetically pleasing physical school plant;
- establish and/or implement laws, policies, regulations, and procedures that promote effective school operations;
- maintain a positive school environment where good student

discipline is the norm;

- manage fiscal resources responsibly, efficiently, and effectively and monitor whether others do so as well;

- manage human resources responsibly by selecting and inducting new personnel appropriately, assigning and evaluating all staff effectively, and taking other appropriate steps to build an effective school staff;

- monitor support services such as transportation, food, health, and extended care responsibly;

- provide and coordinate appropriate co-curricular and extra-curricular activities;

- use shared decision making effectively in the management of the school;

- manage time and delegate appropriate administrative tasks to maximize attainment of the school goals;

- use available technology effectively to manage school operations;

- monitor and evaluate school operations and use feedback appropriately to enhance effectiveness.

Elaborated Standard: School Improvement

School Improvement: The principal works with the school community to review data from multiple sources to establish challenging standards, monitor progress, and foster the continuous growth of all students.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- methods by which information from various sources can be used to establish challenging standards for self, faculty, students, and the school;

- strategies for monitoring progress toward reaching the standards established;

- professional literature related to teaching, learning, curriculum, organizational and staff development, and change processes;

- the school culture, community expectations, and the strengths and weaknesses of self, faculty, students, and community;

- methods of data collection, analysis, interpretation, and program evaluation.

Dispositions

The principal believes in, values, and is committed to:

- empowering others by engaging in collaborative problem solving and decision making, building capacity through staff development, and encouraging divergent perspectives from the school community;

- working toward consensus and compromise among members of the school community, guided by the school vision and goals;

- examining one's own assumptions, practices, and beliefs in the light of new knowledge;

- accepting limitations and mistakes from self and others while maintaining commitment to the standards established;

- encouraging faculty experimentation in order to maximize opportunities for all students to learn well;

- promoting a school culture that values and promotes individual and collaborative reflection and learning.

Performances

The principal demonstrates the ability to:

- provide ongoing opportunities for staff to reflect on their

roles and practices in light of student standards and school goals;

- grow professionally by engaging in professional development activities and making such activities available to others;

- facilitate school-based research and use these and other research findings to plan school improvement initiatives, pace the implementation of these changes, and evaluate their impact on teaching and learning;

- foster the genuine continuous involvement and commitment of the school community in promoting the progress of all students toward attaining high standards;

- enhance school effectiveness by appropriately integrating the processes of teacher selection/evaluation and professional development with school improvement.

Elaborated Standard: Professional Development

Professional Development: The principal works collaboratively with the school faculty and staff to plan and implement professional development activities that promote both individual and organizational growth and lead to improved teaching and learning.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- theories related to motivation, adult learning, and staff development;

- sound pedagogical practices and emerging technologies;

- current trends in terms of social, political and cultural influences on education;

- research, measurement, and assessment strategies;

- organizational learning for school cultures, goal setting, change processes, and group dynamics;

- resource management.

Dispositions

The principal believes in, values, and is committed to:

- life long learning for self and others;

- ongoing change processes;

- faculty expertise and collaborative work strategies;

- fostering creativity and establishing high expectations in self and others.

Performances

The principal demonstrates the ability to:

- communicate a focused vision for both school and individual professional growth;

- use research and data from multiple sources to design and implement professional development activities;

- secure the necessary resources for meaningful professional growth, including the time for planning and the use of emerging technologies;

- provide opportunities for individual and collaborative professional development;

- provide incentives for learning and growth and encourage participation in professional development activities at the national, state, and parish levels;

- assess the overall impact of professional development activities on the improvement of teaching and student learning.

Elaborated Standard: School-Community Relations

School-Community Relations: The principal uses an

understanding of the culture of the community to create and sustain mutually supportive school-community relations.

Knowledge and Skills

- The principal has knowledge, skills, and understanding of:
 - the composition of the school community including relevant demographic statistics and trends, competing issues and values, and available resources;
 - successful strategies for establishing positive school-community relations and fostering parental and community participation;
 - techniques for promoting the positive aspects of the school and communicating with the media effectively;
 - effective interpersonal communication skills.

Dispositions

- The principal believes in, values, and is committed to:
 - establishing a partnership with the school’s community for mutually supportive relationships;
 - promoting the school as an integral part of the community;
 - diversity as a strength;
 - promoting the positive aspects of the school, celebrating successes, acknowledging the school’s shortcomings, and involving the community in overcoming problems within the school.

Performances

- The principal demonstrates the ability to:
 - be visible and involved in the community and treat members of the school community equitably;
 - involve the school in the community while keeping the school community informed;
 - use school-community resources to enhance the quality of school programs, including those resources available through business and industry;
 - publicly recognize and celebrate school successes;
 - communicate effectively both interpersonally and through the media.

Elaborated Standard: Professional Ethics

Professional Ethics: The principal demonstrates honesty, integrity, and fairness to guide school programs in an ethical manner.

Knowledge and Skills:

- The principal has knowledge, skills, and understanding of:
 - various perspectives on ethics;
 - his/her own principled convictions about what is best for students and the ethical implications of those convictions;
 - relevant laws, policies, regulations, and procedures and the relationship of these to protecting the rights of individuals;
 - ethical means for improving school programs.

Dispositions

- The Principal believes in, values, and is committed to:
 - being accurate in providing information while respecting the rights of others;
 - caring for the feelings of others;
 - principled action in upholding the substance of laws, policies, regulations, and procedures;
 - using the influence of the principalship constructively and productively in the service of all students.

Performances

- The principal demonstrates the ability to:
 - model ethical behavior at both the school and community levels;

- communicate to others expectations of ethical behavior;
- respect the rights and dignity of others;
- provide accurate information without distortion or violating the rights of others;
- develop a caring school environment in collaboration with the faculty and staff;
- apply laws, policies, regulations, and procedures fairly, consistently, wisely, and with compassion;
- minimize bias in self and others and accept responsibility for one’s own decisions and actions;
- address unethical behavior in self and others.

Weegie Peabody
Executive Director

9902#078

RULE

Board of Elementary and Secondary Education

Bulletin 1934—Starting Points Preschool Program
(LAC 28:I.906)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement a revision to Bulletin 1934, Starting Points Preschool Program. The revision amends the Section under Length of School Day and School Year. The school days that systems operate shall be a full day with a minimum of 360 minutes instructional time per day.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§906. Early Childhood Programs**

* * *

B. Bulletin 1934, Starting Points Preschool Regulations is adopted, revised June 1998.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19:1549 (December 1993), amended LR 21:1221 (November 1995), LR 24:295 (February 1998), LR 25:254 (February 1999).

Starting Points Preschool Program, Bulletin 1934

* * *

Length of the School Day and School Year

The length of the school day and the school year shall follow the provisions established in R.S. 17:154.1. The school day that systems operate shall be a full day with a minimum of 360 minutes instructional time per day. Instructional days will be based upon the school calendar of each local nonpublic school/school system with a minimum of 175 days of instruction.

* * *

Weegie Peabody
Executive Director

9902#077

RULE

Board of Elementary and Secondary Education

Required Services (LAC 28:I.1713)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement, a revision to LAC 28:I.1713 A.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 17. Finance and Property**

§1713. Nonpublic Sector

A. Mandated Costs

1. The Required Services Program is intended to reimburse nonpublic schools for the actual cost of performing selected activities. Pursuant to the provisions of La. R.S. 17:361, annual reimbursement of each approved nonpublic school shall be for the actual mandated service, administrative, and clerical costs incurred by such school during the preceding school year in preparing, maintaining, and filing reports, forms and records, and in providing such other administrative and clerical services that are not an integral part of the teaching process as may be required by the state law or regulation or requirement of the state department, state agency, or local school board.

B. Required Services Act: Guidelines

1. - 3.a. - d. ...

4. The original form, signed by the school administrator (e.g., principal, headmaster, etc.) shall be submitted to the Superintendent of Education by September 30 each year.

5. Three supplemental categories are added to the required services:

- a. asbestos testing and abatement;
- b. auditory and visual testing; and
- c. criminal history and finger printing of school employees.

6. Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 6.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 25:255 (February 1999).

Weegie Peabody
Executive Director

9902#084

RULE

Board of Elementary and Secondary Education

Special Education Advisory Council
(LAC 28:I.105)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved a revision to LAC 28:I.105.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 1. Organization**

§105. Board Advisory Councils

A. - B.1. ...

2. Special Education Advisory Council

a. ...

b. Membership. The State advisory panel shall consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, that is representative of the State population and that is composed of individuals involved in, or concerned with, the education of children with disabilities, including:

- i. parents of children with disabilities;
- ii. individuals with disabilities;
- iii. teachers;
- iv. representatives of institutions of higher education that prepare special education and related services personnel;
- v. state and local education officials;
- vi. administrators of programs for children with disabilities;
- vii. representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;
- viii. representatives of private schools and public charter schools;
- ix. at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; and
- x. representatives from the State juvenile and adult corrections agencies.

c. Appointments. As provided in R.S. 17:1954(A), the advisory council shall be appointed by the State Department of Education with the approval of the State Board. Each Board member shall recommend to the Superintendent of Education one name to serve on the advisory body from one of the membership categories to be chosen on the basis of lots drawn by Board members as vacancies occur. A majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities.

d. ...

e. Functions

i. As stated in federal regulations, the functions of the advisory council shall be to:

- (a). advise the State educational agency of unmet needs within the State in the education of children with disabilities;
- (b). comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;
- (c). advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 618;
- (d). advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this part; and

(e). advise the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 4:427 (November 1978), amended LR 19:1310 (October 1993), LR 21:550 (June 1995), LR 22:99 (February 1996), LR 23:1303 (October 1997), LR 24:1093 (June 1998), LR 25:255 (February 1999).

Weegie Peabody
Executive Director

9902#086

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students
(TOPS) (LAC 28:IV.301, 701-705, 1703)

The Louisiana Student Financial Assistance Commission (LASFAC) is amending rules of the Tuition Opportunity Program for Students (R.S. 17:3048.1), as follows.

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

* * *

ACT Score—the highest composite score achieved by the student on the official American College Test (including National, International, Military or Special test types) on or before the official April test date in the academic year in which the student graduates from high school or an equivalent score, as determined by the comparison tables used by LASFAC, on an equivalent Scholastic Aptitude Test (SAT) taken on or before May 1 of the academic year in which the student graduates from high school. ACT or SAT test scores which are unofficial, including so-called *residual* test scores, are not acceptable for purposes of determining program eligibility. For 1997 and 1998 high school graduates who have not previously taken an ACT test, the ACT Score shall include those scores obtained from a national ACT test taken not later than the October 1998 national test date.

* * *

Louisiana Resident—

1. any student or at least one parent or legal guardian of any dependent student who has resided in the state for a minimum of 24 consecutive months immediately preceding a certain date or the date of a specified event that is further defined by the programs found in Part IV of these rules, or some other period of residency which is required to qualify the person for a specific program administered by the

LASFAC. To qualify for a program under Part IV of these rules, in addition to the certification of residency found on the application form, the administering agency may require an independent student or the parent(s) or legal guardian of a dependent applicant to show proof of residency. Residency may be established by completion of a standard affidavit developed by the administering agency. Such affidavits must be completed in their entirety by the independent student applicant or by at least one parent or legal guardian of the dependent student applicant and be sworn to and notarized by a licensed notary public. Further, the affiant shall be required to submit records in support of the affidavit to include the following records and such other records as may be required by the administering agency:

- a. if registered to vote, a Louisiana voters registration card; and
- b. if licensed to drive a motor vehicle, a Louisiana driver's license; and
- c. if owning a motor vehicle located in Louisiana, a Louisiana registration for that vehicle; and
- d. if earning a reportable income, a Louisiana tax return;

2. any member of the Armed Forces on active duty whose official military personnel or pay records show that the member claims Louisiana as his home of record and who has filed a Louisiana tax return for the most recent two years in compliance with §301.1.d above.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:256 (February 1999).

Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity; Performance and Honors Awards

§701. General Provisions

A. - E.7. ...

8. Students funded under the Tuition Assistance Plan (TAP) or the Louisiana Honors Scholarship program during the 1997-98 award year, who lost eligibility due to their failure to maintain the required grade point average, shall be continued as TOPS Opportunity or Performance recipients, respectively; however, their eligibility for an award shall be suspended pending their satisfaction of the continuation requirements of §705.A.8 and 9. If a student satisfies the applicable requirements of §705.A.8 and 9 no later than the end of the 2000 Spring semester, he/she shall be eligible for reinstatement of the award in accordance with §705.B, for the semester following the satisfaction of the requirements of §705.A.8 and 9.

9. Prior recipients of the Louisiana Honors Scholarship who attend a campus of the Louisiana Technical College may continue to attend that institution as a recipient of TOPS Performance award; however, they are not eligible to receive the stipend that normally accompanies that award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:256 (February 1999).

§703. Establishing Eligibility

A. - 4.e. ...

f. High school graduates of 1997 and 1998 who are otherwise eligible applicants attending ineligible schools for the 1998-99 academic year, may request a waiver from LASFAC to enroll in an eligible school and accept the award no later than the 1999 Fall Semester by establishing, to the satisfaction of LASFAC, that his/her failure to accept the award for the 1998-99 academic year was due to circumstances which could not be changed without the student or his family experiencing a significant, negative financial impact or which establish that it was not otherwise feasible to enroll in an eligible school due to the timing of the notification to the student of his/her eligibility for a TOPS award. To apply for a waiver from LASFAC, the student must submit a written request addressed to the Office of Student Financial Assistance, Attention: Scholarship and Grant Division, and submit documentation which clearly establishes the hardship which would have resulted had the student not attended the out-of-state college or university.

A.5. - C. ...

D. Students who have qualified academically for more than one of the TOPS awards, excluding the TOPS Teacher Award, shall choose the award they wish to receive and thereafter must meet the renewal requirements of the award chosen. This choice, once made, is irrevocable. If the student fails to choose an award within 30 days by completing the acceptance form sent by LASFAC and indicating an appropriate award choice, the student shall be awarded the lowest award for which the student is eligible, and thereafter, the student must meet the renewal requirements of the award made.

E. ...

F. In the event that a student applicant was determined ineligible by the administering agency for an award under this program or for a higher level award than that initially offered the student and such determination was based upon data that was subsequently found to be in error, then the student's eligibility shall be reevaluated based upon the corrected data and, if found eligible, the student shall be offered the award for which he qualifies. The award shall begin with the academic year during which the reevaluation occurred and eligibility first established. The requirement that a student be a first-time freshman shall be waived for those students who are determined eligible under these circumstances subsequent to the commencement of their postsecondary education.

G.1. A student who enters a college or university under an early admissions program prior to completion of four years of high school will be eligible for an appropriate award under the following conditions.

a. The college early admissions program is one that meets the requirements of the Louisiana Department of Education as set forth in the latest edition of Bulletin 741.

b. The student has satisfied all core curriculum

requirements not completed in high school by making passing scores on equivalent college courses.

c. The college courses taken to satisfy core curriculum requirements and the grades reported on those courses are reflected on the student's high school transcript. The student is awarded a high school diploma and the grade point average and core curriculum are certified to LASFAC by the high school in the same manner as that of other high school graduates.

d. The student's core curriculum requirements are completed no later than the conclusion of the first two semesters or three quarters of college attendance following entrance into the college early admissions program.

2. Students entering a college or university under an early admissions program shall not be considered *First-Time Freshman*, as defined in §703, until the semester following the conclusion of the first two semesters or three quarters of college attendance following entrance into the college early admissions program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 25:257 (February 1999).

§705. Maintaining Eligibility

* * *

B. Students failing to meet the requirements listed in §705.A.8 or §705.A.9.a or b may have their tuition awards reinstated upon the lifting of academic probation and/or attainment of the required GPA, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility. To be reinstated, the student must request reinstatement for the semester following the lifting of academic probation and/or the achievement of the required GPA by submitting a written request to the Office of Student Financial Assistance, Attention: Scholarship and Grant Division, and enclosing a certified original transcript from the school attended. Students who are reinstated to a Performance or Honors Award are no longer eligible to receive the annual stipends that normally accompany these awards.

C. In the event the administering agency determines that an ineligible student has received an award as the result of an administrative error or erroneous information provided by the student or the student's parent(s) or legal guardian or incorrect certification from the student's high school, the student's eligibility for the award shall be terminated and no further awards shall be made to the ineligible student. If it is further determined that the administrative error or incorrect certification was not due to an intentional misrepresentation by the student or the student's parent(s) or legal guardian, the administering agency may elect not to pursue recoupment from the student of funds that were awarded. If an intentional misrepresentation by the student or the student's parent(s) or legal guardian is suspected and the misrepresentation resulted in an award being made to the student, then the administering agency shall refer the case to the Attorney General for investigation and prosecution. If a student or the student's parent(s) or legal guardian is suspected of having intentionally misrepresented the facts which were provided to the

administering agency and used by it to determine the eligibility of the student for the program and the administering agency has referred the case to the Attorney General for investigation, then the student shall remain ineligible for future award consideration pending an outcome of said investigation which is favorable to the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999).

§1703. High School's Certification of Student Achievement

A. - B.3.b.i. - iii. ...

B.4.a. - d. Repealed.

C. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999).

Jack L. Guinn
Executive Director

9902#003

RULE

Department of Environmental Quality Office of Air Quality and Radiation Protection Air Quality Division

Exemption of Methyl Acetate as a VOC (LAC 33:III.2117)(AQ182)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.2117 (Log Number AQ182).

Methyl acetate is added to the list of compounds that are exempt from the requirements of LAC 33:III.Chapter 21. As of May 11, 1998, EPA will no longer give SIP (State Implementation Plan) credit for controls on methyl acetate emissions. This compound has a negligible contribution to tropospheric ozone formation and has potential for use in paints, inks, and adhesives. The basis and rationale for this rule are to mirror the federal regulations.

This rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

§2117. Exemptions

The following compounds are considered exempt from the control requirements of this Chapter: methane; ethane; 1, 1, 1 trichloroethane (methyl chloroform); methylene chloride (dichloromethane); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); 1,1,2-trichloro 1,2,2-trifluoroethane (CFC-113); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); acetone; parachlorobenzotrifluoride (PCBTF); perchloroethylene (tetrachloroethylene); cyclic, branched, or linear completely methylated siloxanes; 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC-43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OCH₃); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OC₂H₅); and methyl acetate. The following classes of perfluorocarbons are also considered exempt from the control requirements of this Chapter: cyclic, branched, or linear, completely fluorinated alkanes; cyclic, branched, or linear, completely fluorinated ethers with no unsaturations; cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:118 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:289 (March 1994), LR 21:681 (July 1995), LR 21:1330 (December 1995), repromulgated LR 22:14 (January 1996), amended LR 22:703 (August 1996), LR 23:1661 (December 1997), LR 24:22 (January 1998), LR 25:258 (February 1999).

Gus Von Bodungen
Assistant Secretary

9902#035

RULE

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division**

**Prevention of Significant Deterioration (PSD)
and Public Inspection (LAC 33:III.509) (AQ164)**

(Editor's Note: The following rule published on pages 653-654 of the April 20, 1998 *Louisiana Register* is being repromulgated to include text which was inadvertently omitted. Although the correct language was present in the legislative oversight document, the words "permit or" were omitted from both paragraphs of the rule when it was submitted for publication in the *Louisiana Register*.)

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 5. Permit Procedures
§509. Prevention of Significant Deterioration**

* * *

[See Prior Text in A-Q.6]

7. The administrative authority shall make all comments available for public inspection at the Headquarters of the Department of Environmental Quality, Office of Air Quality and Radiation Protection. In accordance with 40 CFR 51.166 (g)(2)(ii-vii), the regional office having jurisdiction for the parish in which the permit or permit modification is being sought will be the regional location of all materials. In addition, the administrative authority may elect to provide certain parts of permits or permit modifications at other locations in the region.

* * *

[See Prior Text in Q.8-8.a]

b. notify the applicant in writing of the final determination and make such notification available for public inspection at the Headquarters of the Department of Environmental Quality, Office of Air Quality and Radiation Protection. In accordance with 40 CFR 51.166 (g)(2)(ii-vii), the regional office having jurisdiction for the parish in which the permit or permit modification is being sought will be the regional location of all materials. In addition, the administrative authority may elect to provide certain parts of permits or permit modifications at other locations in the region.

* * *

[See Prior Text in R-S.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), repromulgated LR 25:259 (February 1999).

Gus Von Bodungen
Assistant Secretary

9902#039

RULE

**Department of Health and Hospitals
Licensed Professional Counselors Board of Examiners**

Disciplinary Proceedings (LAC 46:LX.Chapter 13)

The Licensed Professional Counselors Board of Examiners, under authority of the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101-1115, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby repeals and adopts the following with regard to licensing.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LX. Licensed Professional Counselors
Board of Examiners**

Chapter 13. Disciplinary Proceedings

§1301. Causes for Administrative Action

A. The board, after due notice and hearing as set forth herein and the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq., may withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed professional counselor on a finding that the person has violated the Louisiana Mental Health Counselor Licensing Act, any of the rules and regulations promulgated by the board, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the licensed professional counselor or applicant for licensure. Sometimes hereinafter in this Chapter, where the context allows, a licensed professional counselor or applicant for licensure may be referred to as *person*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:84 (February, 1988), amended by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 15:837 (October, 1989), LR 17:778 (August, 1991), amended LR 18:52 (January 1992), repealed and repromulgated by the Licensed Professional Counselors Board of Examiners LR 25:259 (February 1999).

§1303. Disciplinary Process and Procedures

A. The purpose of the following rules and regulations is to supplement and effectuate the applicable provisions of the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq., regarding the disciplinary process and procedures incident thereto. These rules and regulations are not intended to amend or repeal the provisions of the Louisiana Administrative Procedure Act, and to the extent any of these rules and regulations are in conflict therewith, the provisions of the Louisiana Administrative Procedure Act shall govern.

B. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

C. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the person

did certain acts or omissions and, if he did, whether those acts or omissions violated the Louisiana Mental Health Counselor Licensing Act, the rules and regulations of the board, the Code of Ethics of the American Counseling Association, or prior Final Decisions and/or Consent Orders involving the licensed professional counselor or applicant for licensure and to determine the appropriate disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:259 (February 1999).

§1305. Initiation of Complaints

A. Complaints may be initiated by any person or by the board on its own initiative.

B. All complaints shall be addressed confidential to the Ad Hoc Committee for Disciplinary Affairs of the board and shall be sent to the board office. The Ad Hoc Committee for Disciplinary Affairs of the board shall, during an executive session of the board, convey the complaint to the board members. The board members by a vote of four of the seven members shall agree to investigate the charges or deny the charges. If a denial, the chairperson of the board shall request the Ad Hoc Committee for Disciplinary Affairs to prepare the letters of denial for his signature. If the board agrees to investigate, the board shall request the Ad Hoc Committee for Disciplinary Affairs to notify the person that allegations have been made that he may have committed a breach of statute, rule and regulation, ethical code, and/or prior final decisions or consent orders and that he must respond in writing to the board within a specified time period. A response is to be made to the Ad Hoc Committee for Disciplinary Affairs of the board at the board office address. The complaint letter of alleged violations shall not be given initially to the person. However, sufficiently specific allegations shall be conveyed to the person for his response. Once the person has answered the complaint, a determination will be made if a disciplinary proceeding is required.

C. Pursuant to its authority to regulate this industry, the board through its Ad Hoc Committee on Disciplinary Affairs, may issue subpoenas to secure evidence of alleged violations of the Louisiana Mental Health Counselor Licensing Act, any of the rules and regulations promulgated by the board, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the licensed professional counselor or applicant for licensure. The confidential or privileged records of a patient or client which are subpoenaed are to be sanitized by the custodian of such records so as to maintain the anonymity of the patient or client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:260 (February 1999).

§1307. Informal Disposition of Complaints

A. Some complaints may be settled informally by the board and the person accused of a violation without a formal hearing. The following types of informal dispositions may be utilized.

1. Disposition by Correspondence. For complaints less serious, the Ad Hoc Committee for Disciplinary Affairs of the board may write to the person explaining the nature of the complaint received. The person's subsequent response may satisfactorily explain the situation, and the matter may be dropped. If the situation is not satisfactorily explained, it shall be pursued through an informal conference or formal hearing.

2. Informal Conference

a. The Ad Hoc Committee for Disciplinary Affairs of the board may hold a conference with the person in lieu of, or in addition to, correspondence in cases of less serious complaints. If the situation is satisfactorily explained in conference, a formal hearing is not scheduled.

b. The person shall be given adequate notice of the conference, of the issues to be discussed, and of the fact that information brought out of the conference may later be used in a formal hearing. Board members may not be involved in informal conferences.

3. Settlement. An agreement worked out between the person making the complaint and the person accused of a violation does not preclude disciplinary action by the board. The nature of the offense alleged and the evidence before the board must be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:260 (February 1999).

§1309. Formal Hearing

A. The board has the authority, granted by LSA R.S. 37:1101 et seq., to bring administrative proceedings against persons to whom it has issued a license to practice as a licensed professional counselor or any applicant requesting a license. The person has the right to:

1. appear and be heard, either appearing alone or with counsel;
 2. the right of notice;
 3. a statement of what accusations have been made;
 4. the right to present evidence and to cross-examine;
- and
5. the right to have witnesses subpoenaed.

B. If the person does not appear, either in person or through counsel, after proper notice has been given, the person may be considered to have waived these rights and the board may proceed with the hearing without the presence of the person.

C. The process of administrative action shall include certain steps and may include other steps as follows.

1. The board received a complaint alleging that a person has acted in violation of the Louisiana Mental Health Counselor Licensing Act, the rules and regulations of the board, or the Code of Ethics of the American Counseling Association. Communications from the complaining party shall not be revealed to any person until and unless a formal complaint is filed except those documents being subpoenaed by a court.

2.a. The complaint is investigated by the board's agent or attorney to determine if there is sufficient evidence to warrant disciplinary proceedings. No board member may communicate with any party to a proceeding or his representative concerning

any issue of fact or law involved in that proceeding.

b. A decision to initiate a formal complaint or charge is made if one or more of the following conditions exists:

- i. the complaint is sufficiently serious;
- ii. the person fails to respond to the board's correspondence concerning the complaint;
- iii. the person's response to the board's letter or investigation demand is not convincing that no action is necessary;
- iv. an informal approach is used, but fails to resolve all of the issues.

3. A Notice of Hearing is issued pursuant to La. R.S. 49:955, charging the violation of one or more of the provisions of the Louisiana Mental Health Counselor Licensing Act, the rules and regulations promulgated thereto, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the person.

4. A time and place for a hearing is fixed by the chairman or an agent of the board.

5.a. At least twenty days prior to the date set for the hearing, a copy of the charges and a notice of the time and place of the hearing are sent by certified mail to the last known address of the person accused. If the mailing is not returned to the board, it is assumed to have been received. It is the person's obligation to keep the board informed of his whereabouts. The board will conduct the hearing, with the accused person in absentia, in the event that certified mail at the last known address is unsuccessful.

b. The content of the charges limits the scope of the hearing and the evidence which may be introduced. The charges may be amended at any time up to ten days prior to the date set for the hearing.

c. If the board is unable to describe the matters involved in detail at the time the sworn complaint is filed, this complaint may be limited to a general statement of the issues involved. Thereafter, upon the person's request, the board shall supply a more definite and detailed statement to the person.

6. Except for extreme emergencies, motions requesting a continuance of a hearing shall be filed at least five days prior to the time set for the hearing. The motion shall contain the reason for the request, which reason must have relevance to due process. The decision to grant or deny a motion to continue shall be left to the discretion of the board chair and may only be granted for compelling reasons.

7.a. The chairman, or an authorized agent of the board, issues subpoenas for the board for disciplinary proceedings, and when requested to do so, may issue subpoenas for the other party. Subpoenas include:

- i. a subpoena requiring a person to appear and give testimony; and
- ii. a subpoena *dues tecum*, which requires that a person produce books, records, correspondence, or other materials over which he has custody.

b. A motion to limit or quash a subpoena may be filed with the board, but not less than seventy-two hours prior to the hearing.

8.a. The hearing is held, at which time the board's primary role is to hear evidence and argument, and to reach a decision. Any board member who, because of bias or interest, is unable to assure a fair hearing, shall be recused from the particular proceeding. The reasons for the recusal are made part of the record. Should the majority of the board members be recused for a particular proceeding, the governor shall be requested to appoint a sufficient number of pro tem members to obtain a quorum for the proceeding.

b. The board is represented by its agent who conducted the investigation and presents evidence that disciplinary action should be taken against the person and/or by the board's attorney. The person may present evidence personally or through an attorney, and witnesses may testify on behalf of the person.

c. Evidence includes the following:

i. oral testimony given by witnesses at the hearing, except that, for good cause, testimony may be taken by deposition (cost of the deposition is borne by the requesting party);

ii. documentary evidence, i.e., written or printed materials including public, business, institutional records, books and reports;

iii. visual, physical and illustrative evidence;

iv. admissions, which are written or oral statements of a party made either before or during the hearing;

v. facts officially noted into the record, usually readily determined facts making proof of such unnecessary.

d. All testimony is given under oath. If the witness objects to swearing, the word *affirm* may be substituted.

9. The chairman of the board presides and the customary order of proceedings at a hearing is as follows.

a. The board's representative makes an opening statement of what he intends to prove, and what action, he wants the board to take.

b. The person, or his attorney, makes an opening statement, explaining why he believes that the charges against him are not legally founded.

c. The board's representative presents the case against the person.

d. The person, or his attorney, cross-examines.

e. The person presents evidence.

f. The board's representative cross-examines.

g. The board's representative rebuts the person's evidence.

h. Both parties make closing statements. The board's representative makes the initial closing statement and the final statement.

10. Motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time according to the nature of the request. Motions made before or after the hearing shall be in writing. Those made during the course of the hearing may be made orally since they become part of the record of the proceeding.

11. a. The record of the hearing shall include:

- i. all papers filed and served in the proceeding;
- ii. all documents and/or other materials accepted as evidence at the hearing;
- iii. statements of matters officially noticed;

- iv. notices required by the statutes or rules; including notice of hearing;
- v. affidavits of service or receipts for mailing or process or other evidence of service;
- vi. stipulations, settlement agreements or consent orders, if any;
- vii. records of matters agreed upon at a prehearing conference;
- viii. reports filed by the hearing officer, if one is used;
- ix. orders of the board and its final decision;
- x. actions taken subsequent to the decision, including requests for reconsideration and rehearing;
- xi. a transcript of the proceedings, if one has been made, or a tape recording or stenographic record.

b. The record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

12.a. The decision of the board shall be reached according to the following process.

- i. Determine the facts at issue on the basis of the evidence submitted at the hearing.
 - ii. Determine whether the facts in the case support the charges brought against the person.
 - iii. Determine whether charges brought are a violation of the Louisiana Mental Health Counselor Licensing Act or rules and regulations of the board.
- b. Deliberation
- i. The board will deliberate in closed session.
 - ii. The board will vote on each charge as to whether the charge has been supported by the evidence. (The standard will be *preponderance of the evidence*).
 - iii. After considering and voting on each charge, the board will vote on a resolution to dismiss the charges, withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed professional counselor or applicant for licensure.
 - iv. The board by affirmative vote of at least four of its seven members, shall be needed to withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of Chapter 13 or otherwise discipline a licensed professional counselor or applicant.

c. Sanctions against the person who is party to the proceeding are based upon findings of fact and conclusion of law determined as a result of the hearing. The party is notified by mail of the final decision of the board.

13. Every order of the board shall take effect immediately on its being rendered unless the board in such order fixes a probationary period for an applicant or licensee. Such order shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees of any action taken against a licensee and may make public its orders and judgement in such manner and form as it deems proper if such orders and judgments are not consent orders or compromise judgments.

14.a. The board may reconsider a matter which it has

decided. This may involve rehearing the case, or it may involve reconsidering the case on the basis of the record. Such reconsideration may occur when a party who is dissatisfied with a decision of the board files a motion requesting that the decision be reconsidered by the board.

b. The board shall reconsider a matter when ordered to do so by a higher administrative authority or when the case is remanded for reconsideration or rehearing by a court to which the board's decision has been appealed.

c. A motion by a party for reconsideration or rehearing must be in proper form and filed within ten days after notification of the board's decision. The motion shall set forth the grounds for the rehearing, which include one or more of the following.

- i. The board's decision is clearly contrary to the law and evidence.
- ii. There is newly discovered evidence by the party since the hearing which is important to the issues and which the party could not have discovered with due diligence before or during the hearing.
- iii. There is a showing that issues not previously considered ought to be examined in order to dispose of the case properly.
- iv. It would be in the public interest to further consider the issues and the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:260 (February 1999).

§1311. Consent Order

A. An order involving some type of disciplinary action may be made by the Board with the consent of the person. A consent order requires formal consent of four of seven members of the board. It is not the result of the board's deliberation; it is the board's acceptance of an agreement reached between the board and the person. The consent order is issued by the board to carry out the parties' agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:262 (February 1999).

§1313. Withdrawal of a Complaint

A. If the complainant wishes to withdraw the complaint, the inquiry is terminated, except in cases where the board judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of public welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1315. Refusal to Respond or Cooperate with the Board

A. If the person does not respond to the original inquiry within a reasonable period of time as requested by the board, a follow-up letter shall be sent to the person by certified mail, return receipt requested.

B. If the person refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue

its investigation. The board shall record the circumstances of the person's failure to cooperate and shall inform the person that the lack of cooperation may result in action which could eventually lead to the withholding, denial, revocation or suspension of his license, or application for licensure, or otherwise issue appropriate disciplinary sanction.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:262 (February 1999).

§1317. Judicial Review of Adjudication

A. Any person whose license, or application for licensure, has been withheld, denied, revoked or suspended or otherwise disciplined by the board shall have the right to have the proceedings of the board reviewed by the state district court for the parish of East Baton Rouge, provided that such petition for judicial review is made within thirty days after the notice of the decision of the board. If judicial review is granted, the board's decision is enforceable in the interim unless the court orders a stay.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:262 (February 1999).

§1319. Appeal

A. A person aggrieved by any final judgment rendered by the state district court may obtain a review of said final judgment by appeal to the appropriate circuit court of appeal. Pursuant to the applicable section of the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq., this appeal shall be taken as in any other civil case.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:263 (February 1999).

§1321. Reinstatement of Suspended or Revoked License

A. The board is authorized to suspend the license of a licensed professional counselor for a period not exceeding two years. At the end of this period, the board shall re-evaluate the suspension and may recommend to the chairman the reinstatement or revocation of the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective. The board may, upon favorable action by a majority of the board members present and voting, recommend such reinstatement.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:263 (February 1999).

§1323. Declaratory Statements

A. The board may issue a declaratory statement in response to a request for clarification of the effect of the provisions contained in the Louisiana Mental Health Counselor Licensing Act, LSA R.S. 37:1101 et seq., the rules and regulations promulgated by the board and/or the Code of Ethics of the American Counseling Association.

1. A request for declaratory statement is made in the form of a petition to the board. The petition should include at least:

- a. the name and address of the petitioner;
- b. specific reference to the statute, rule and regulation, or provision of the Code of Ethics to which the petitioner relates; and
- c. a concise statement of the manner in which the petitioner is aggrieved by the statute, rules and regulations, or provision of the Code of Ethics by its potential application to him in which he is uncertain of its effect.

2. The petition shall be considered by the board within a reasonable period of time taking into consideration the nature of the matter and the circumstances involved.

3. The declaratory statement of the board in response to the petition shall be in writing and mailed to the petitioner at the last address furnished to the board.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:263 (February 1999).

§1325. Injunction

A. The board may, through the attorney general of the state of Louisiana, apply for an injunction in any court of competent jurisdiction to enjoin any person from committing any act declared to be a misdemeanor by Chapter 13.

B. If it is established that the defendant has been or is committing an act declared to be a misdemeanor by Chapter 13, the court, or any judge thereof, shall enter a decree enjoining said defendant from further committing such act.

C. In case of violation of any injunction issued under the provision of §1325, this court, or any judges thereof, may summarily try and punish the offender for contempt of court.

D. Such injunctive proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in Chapter 13.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:263 (February 1999).

Gary S. Grand
Board Chair

9902#032

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code—Commercial Seafood Inspection Program (Chapter IX)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has amended Chapter IX of the State Sanitary Code as follows.

Chapter IX. Seafood

9:006. Construction and Cleanliness of Shellfish Boats

All boats utilized for the harvesting or transporting of shellfish shall be provided with a false deck or bottom to prevent the contamination of shellfish with bilge water. For the purpose of this regulation, bilge water may be defined as any water that collects in the lowest inner part of a boat's hull. Decks, holds or bins used for storage of shellfish shall be washed daily with either potable water, or water drawn from an approved growing area. Unless otherwise exempted, in writing, by the Department of Health and Hospitals, a suspended awning shall be provided on harvest boats to protect shellfish from direct exposure to sun, birds and other adverse conditions. *The suspended awning shall be a minimum of 12 inches above the shellfish with a maximum height of 7 feet. The suspended awning shall be of such width and length so as to extend to the outer edges of the harvesting or transporting vessel. The provisions of this rule shall apply to all types of harvesting and transporting vessels.* Small children in diapers, dogs, cats or other forms of wildlife shall not be permitted on board harvesting vessels while shellfish are being fished or transported. Violation of any of the requirements in this Section shall result in one of the following penalties:

A. seizure and destruction of shellfish at violator's expense;

B. bedding of shellfish on a Department of Wildlife and Fisheries managed seed reservation at violator's expense.

9:052-3. General Provisions

A. - D. ...

E. *Log Sheet Instructions: A Harvester-Dealer Time/Temperature Log Sheet (see table 1) shall be completed by both the harvester and first certified dealer to document compliance with time to refrigeration requirements during the April through October time period. Prior to the taking of oysters the harvester shall make the following legible entries:*

1. *boat name/number;*
2. *harvester name/license number;*
3. *harvester signature and date;*
4. *harvesting area/lease number (note: if there is a change relating to harvesting area/lease number, the changes must be documented on log sheet);*

5. time harvesting begins;

6. harvester shall declare whether oysters will be bedded, shucked, relayed or other (explain).

Upon completion of the taking of oysters and prior to the leaving of the harvesting site, the harvester shall record the time harvesting ended and the total number of sacks harvested.

If the harvester declares sacks of oysters for both shucking and half-shell, those oysters shall be distinguished by placing the appropriate tag on the sack prior to leaving the harvesting area.

The certified dealer information shall be completed as follows.

1. *The certified dealer/agent shall legibly document in the appropriate place on the harvester dealer time/temperature log sheet the temperature of the cooler*

where oysters are being stored at the time unloading of the harvesting vessel begins.

2. *The certified dealer/agent shall legibly document in the appropriate place the time when the last sack or container of oysters taken from the harvest vessel is placed in the cooler. This entry must be made immediately upon removal of the last sack or container of shellfish from the vessel.*

3. *The certified dealer/agent shall legibly document in the appropriate place the temperature of the cooler immediately upon removal of the last sack or container of oysters from the harvesting vessel and placement of same under refrigeration.*

4. *The certified dealer/agent shall immediately sign and date the log sheet in the appropriate place.*

Alternate designs for the Harvester-Dealer Time/Temperature Log Sheet depicted in Table 1 may be submitted for consideration and approval to the Office Of Public Health.

* * *

David W. Hood
Secretary

9902#050

RULE

Department of Labor Office of Workers' Compensation

Workers' Compensation (LAC 40:I.5501-6661)

The Louisiana Department of Labor, Office of Workers' Compensation, pursuant to authority vested in the Director of the Office of Workers' Compensation by R.S. 23:1310.1 and in accordance with applicable provisions of the Administrative Procedure Act, has repealed in their entirety LAC 40:I.2101 through 2173 and enacted rules governing the procedure before the workers' compensation court, LAC 40:I, Subpart 2, Chapters 55 through 66, to provide for the procedural rules for the workers' compensation court.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 2. Hearing Rules

Chapter 55. General Provisions

Subchapter A. Definitions

§5501. Definitions

A. As used in these rules, unless otherwise indicated the following words shall have the following meanings:

Claimant—may, as the context requires, refer to the injured employee, the employer, the insurance carrier, the group self-insurance fund, the health care provider, or a dependant.

Court—shall mean the Office of Workers' Compensation court within the Office of Workers' Compensation Administration of the Louisiana Department of Labor.

Director—shall mean the director of the Office of Workers' Compensation Administration of the Louisiana Department of Labor.

Judge—shall mean a workers' compensation judge.

Mediator—shall mean a workers' compensation mediator.

Office—shall mean the Office of Workers' Compensation Administration of the Louisiana Department of Labor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:263 (February 1999).

Subchapter B. Jurisdiction

§5503. Jurisdiction Authority

Jurisdiction over workers' compensation matters is conferred upon the Office of Workers' Compensation Administration pursuant to Louisiana Constitution Article V, §16(A)(1) and R.S. 23:1310.3, et seq..

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:264 (February 1999).

§5505. Jurisdiction over Subject Matter and Persons

Jurisdiction of the workers' compensation judges shall be governed by R.S. 23:1310.3

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999).

Subchapter C. Commencement

§5507. Commencement of a Claim

A. Form LDOL-WC-1008 shall be the form to initiate a claim or dispute arising out of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950.

B. Any claim may be initiated with the director, office of worker's compensation administration, or the district office of proper venue by delivery or by mail addressed to the office of worker's compensation administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999).

§5509. Delay for Answering

A. A defendant shall file his answer within fifteen days after receipt of the citation from the mediator. The defendant shall certify that a copy of the answer was sent to all parties to the claim.

B. The filing of the answer shall be deemed timely when the answer is filed as provided in R.S. 23:1310.3(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999).

§5511. Service

Service of process in a workers' compensation claim shall be by certified mail or any other manner provided by §5513.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999).

§5513. Persons Authorized

Service may be by the mediator, the sheriff of the parish where service is to be made or where the claim is pending. When service is unable to be made by the mediator or the sheriff, on motion of a party to the court, an order may be issued appointing any person not a party who is over the age of majority, and residing within the state, to make service of process in the same manner as is required of a sheriff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999).

Subchapter D. Venue

§5515. Proper Venue

Proper venue in a workers' compensation claim shall be governed by R.S. 23:1310.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999).

§5521. Waiver of Objections to Venue

An objection to venue may not be waived prior to the filing of the claim. Any objection to the venue is waived by the failure of the defendant to plead the declinatory exception timely as provided in §5823.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999).

§5523. Action Brought in Improper Venue; Transfer

When a claim has been filed in a district of improper venue, the judge shall, in the interest of justice, transfer the claim to a district of proper venue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999).

Subchapter E. Recusation of Judges and Mediators

§5525. Reserved.

§5527. Grounds

A. A judge or mediator shall be recused when he may be a witness in the claim.

B. A judge or mediator may be recused when he:

1. has been employed or consulted as an attorney in the claim, or has been associated with an attorney during the latter's employment in the claim;

2. at the time of the hearing or mediation conference of any contested issue in the claim, has continued to employ, to represent him personally, the attorney actually handling the claim (not just a member of that attorney's firm), and in this case the employment shall be disclosed to each party in the claim;

3. has performed a judicial act in the claim in another court;

4. is the spouse of a party, or of an attorney employed in the claim; or is related to a party, or to the spouse of a party, within the fourth degree; or is related to an attorney employed in the claim; or to the spouse of the attorney, within the second

degree; or

5. is biased, prejudiced, or interested in the claim or its outcome or biased or prejudiced toward or against the parties or the parties' attorneys to such an extent that he would be unable to conduct fair and impartial proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999).

§5529. Recusation on Court's Own Motion

A judge or mediator may recuse himself after consultation with the chief judge, whether a motion for recusation has been filed by a party or not, in any claim in which a ground for recusation exists prior to a judgment being rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999).

§5531. Authority of Judge or Mediator until Recused

Until a judge or mediator has recused himself or a motion for his recusation has been filed or granted, he has full power and authority to act in the claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999).

Subchapter F. Power and Authority

§5533. General

A. Workers' compensation judges shall have the power to enforce any lawful order and the discretionary authority to use necessary sanctions, including dismissal, in order to control the orderly process of the hearing, enforce orders, and these rules.

B. A workers' compensation judge shall have the authority to issue subpoenas and subpoena duces tecum as provided in R.S. 23:1310.7(C).

C. A workers' compensation judge or mediator shall not refer any claimant to an attorney for representation in a workers' compensation matter unless ordered to appoint an unrepresented party by a court of competent jurisdiction. A workers' compensation judge shall not have ex parte communications with a claimant, defendant, or attorney representing a claimant or defendant in a workers' compensation claim which is designed to influence his judicial action in any claim.

D. All workers' compensation judges shall be subject to the Code of Judicial Conduct, Civil Service Rules, the Louisiana Code of Governmental Ethics and the LSBA Code of Professional Conduct. All workers' compensation mediators shall be subject to the Civil Service Rules, the Louisiana Code of Governmental Ethics, and the LSBA Code of Professional Conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999).

§5535. Contempt

Contempt proceedings in a workers' compensation proceeding shall be governed by R.S. 23:1310.7(B). This procedure is favored and shall be construed to accomplish the just, speedy, and orderly process of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999).

§5537. Procedure

A person accused of committing a contempt of court may be found guilty and punished only after application to the district court as provided in §5535. The allegation may issue on the court's own motion or on motion of a party to the claim and shall state the facts alleged to constitute the contempt. A person accused of committing a contempt of court shall be served with a certified copy of the motion, in the same manner as a subpoena, at least forty-eight hours before the time assigned for trial of the rule in the district court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999).

Subchapter G. Clerks

§5539. District Clerk; Pleadings Filed; Docket Books

A. Each workers' compensation district and the Records Management division shall have a clerk(s), who shall be an ex officio notary public. The supervisor of the Records Management division shall be the custodian of all records and documents for that district or the Office.

B. All pleadings and documents to be filed in a claim instituted or pending and all exhibits introduced in evidence shall be delivered to the clerk of the district for that purpose. The clerk shall endorse the date of filing, and shall retain possession of the pleading or document for inclusion in the record or in the files of the Office.

C.1. Each district shall keep an electronic record of all docket and minute books. The clerk shall enter the number and title of each claim filed in the court, the date of filing of the Form 1008, exceptions, answers, and other pleadings, and the court costs paid by and the names of counsel of record for each of the parties.

2. All orders and judgments rendered, all motions made, all proceedings conducted, and all judicial acts of the court during each day it is in session shall be maintained in the electronic record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999).

Subchapter H. Bailiffs

§5541. Security

A. The term *bailiff* shall refer to any peace officer or duly commissioned reserve officer assigned by the Director to maintain order at each workers' compensation court.

B. The bailiff may in his discretion inspect any object carried by any person entering the premises. No one shall

enter or remain in the premises without submitting to such an inspection if requested to do so.

C. Unless authorized by the Director, no camera, recording equipment or other type of electrical or electronic device shall be brought into the premises.

D. No person shall be admitted to or allowed to remain in the premises with any object that might be employed as a weapon unless he or she has been authorized in writing by the Director to do so, or unless he or she is a peace officer or duly commissioned reserve officer.

E. The bailiff shall enforce the whole of this rule, and pursuant to his authority as a peace officer or duly commissioned reserve officer, shall be authorized in his discretion to take any legal action necessary to preserve the order and security of the premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999).

Subchapter I. Attorneys and Other Persons Before the Court

§5543. Workers' Compensation Courtroom Decorum

A. The following shall be observed in the opening of workers' compensation court and general courtroom decorum.

1. The bailiff shall open each session of workers' compensation court with an appropriate recitation and order.
2. No tobacco in any form will be permitted at any time.
3. No food or beverage shall be brought into the courtroom.

B. As officers of the workers' compensation court, attorneys are reminded of their obligations to assist in maintaining the dignity of the court. All attorneys and other officers of the court shall dress appropriately. For gentlemen, this means a coat and tie. For ladies, this means appropriate professional attire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999).

§5545. Attorneys

A. An attorney at law is an officer of the court. He shall conduct himself at all times with decorum, and in a manner consistent with the dignity and authority of the court and the role which he should play in the administration of justice.

B. He shall treat the court, its officers, witnesses, opposing party, and opposing counsel with due respect; shall not interrupt opposing counsel, or otherwise interfere with or impede the orderly dispatch of judicial business by the court; shall not knowingly encourage or produce false evidence; and shall not knowingly make any misrepresentation, or otherwise impose upon or deceive the court.

C. For a violation of any of the provisions of this Section, the attorney subjects himself to proceedings for contempt of court as provided in §5535.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999).

§5547. Withdrawal of Counsel

A. When an attorney seeks to obtain an ex parte order to withdraw as counsel for a party, he shall include in his application the last known address of the claimant along with a statement that his withdrawal will not retard the progress of the case and that he has given written notice to the party he was previously representing that he is no longer of counsel to him and of the status of the case on the court's docket. A copy of such written notice shall be attached to the application for the ex parte order for withdrawal. An attorney who has been permitted by ex parte order to withdraw shall give notice of same to all parties.

B. Counsel of record who withdraws or is discharged prior to submission of the case, and desires to assert a claim for fees, must attach a statement to that effect and set forth the period of time during which his client was under his or her representation. Counsel shall also file a lien form, to be developed by the Director, identifying any lien he may have on the pending claim for payment of attorney fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999).

Chapter 57. Actions

Subchapter A. General Provisions

§5701. Prescription; Filing Procedure

A. Prescription periods shall be as set forth in R.S. 23:1031.1(E),(F),(I), 1209, and 1234. Time limits shall be calculated from the date of mailing as shown by the post mark, other proof of mailing, or the date a facsimile transmission is received.

B. Filing shall be deemed complete at the time that a facsimile transmission is received. A facsimile, when filed, has the same force and effect as the original. If the party fails to comply with the requirements of §5701.C.3., a facsimile filing shall have no force or effect.

C. Within five days, exclusive of legal holidays, after the district office or the records management division have received a facsimile transmission, the party filing the document shall forward the following to the district office or records manager:

1. the original signed document;
2. the applicable filing fee, if any; and
3. a transmission fee of \$5.00 (five dollars).

D. Upon receipt in the office, the pleading or forms and any other correspondence shall be stamped with the date of receipt by the appropriate court personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999).

§5703. Prematurity

Prematurity in a workers' compensation claim shall be governed by R.S. 23:1314.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999).

§5705. Abandonment

A. A claim may be dismissed by an ex parte order of the judge for lack of prosecution for the following reasons:

1. where no service of process and/or mediation has occurred within sixty (60) days after the Form LDOL-WC-1008 has been filed;
2. where no responsive pleadings have been filed and no default has been entered within sixty (60) days after service of process;
3. where a claim has been pending six (6) months without proceedings being taken within such period. This provision shall not apply if the claim is awaiting action by the workers' compensation court; or
4. where a party fails to appear for a properly noticed conference or trial.

B. Any formal discovery as authorized by these rules and served on all parties whether or not filed of record, including the taking of a deposition with or without formal notice, shall be deemed to be a step in the prosecution or defense of an action.

C. Dismissal under this Rule shall be without prejudice. Any order of dismissal shall allow for reinstatement of the action within thirty (30) days for good cause shown.

D. The failure of an attorney or pro se litigant to keep the workers' compensation court apprised of an address change may be considered cause for dismissal for failure to prosecute when a notice is returned to a party or the workers' compensation court for the reason of an incorrect address and no correction is made to the address for a period of thirty (30) days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999).

§5707. Class Actions

No class action will be permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999).

Subchapter B. Settlement

§5709. Joint Petition Settlements

A.1. A lump sum or compromise settlement shall be presented to the presiding judge in a pending disputed claim or to any judge in an undisputed claim for approval on Form LDOL-WC-1011 and upon joint petition of the parties. The employer/insurance carrier must also submit Form LDOL-WC-1007 if it has not been filed previously with the office.

2. A hearing in open court with all parties present shall be required when one or more parties is not represented by counsel. Appearance by the parties and/or their representative may be waived if all parties are represented by counsel.

B. A lump sum payment or compromise settlement shall be allowed only as provided in R.S. 23:1271 and 1272.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999).

§5711. Conversion of Payments to Lump Sum Settlements

The amounts payable as compensation may be commuted to a lump sum settlement by agreement if approved by the judge as provided in §5709 and under the conditions set forth in R.S. 23:1274.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999).

Chapter 58. Pleadings

Subchapter A. General

§5801. Pleadings Allowed

The pleadings allowed in workers' compensation claims, whether in a principal or incidental action, shall be in writing and shall consist of petitions, exceptions, written motions, answers, and Office of Workers' Compensation Administration forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999).

§5803. Signing of Pleadings

A. Every pleading of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign his pleading and state his address.

B. The signature of an attorney or party shall constitute a certification by him that he has read the pleading; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact; that it is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of the claim.

C. If a pleading is not signed, it shall be stricken unless promptly signed after the omission is called to the attention of the pleader.

D. If, upon motion of any party or upon the court's motion, the judge determines, after a rule to show cause, that a certification has been made in violation of this Section, the judge shall impose upon the person who made the certification or the represented party, or both, a sanction in the form of an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, including a reasonable attorney's fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999).

Subchapter B. Supplemental/Amended Pleadings

§5805. Amendment of Claim and Answer

A. The claimant may amend his claim without leave of court at any time before the answer is served. A defendant may amend his answer once without leave of court at any time within ten days after it has been served. Thereafter, the claim

and answer may be amended only by leave of court or by written consent of the adverse party.

B. A defendant shall plead in response to an amended claim within the time remaining for pleading to the original claim or within ten days after service of the amended claim, whichever period is longer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999).

§5807. Supplemental Pleadings

A. The judge, on motion of a party and after a rule to show cause, may permit the moving party to file a supplemental claim or answer setting forth causes of action or defenses which have become known since the date of filing the original claim or answer, and which are related to or connected with the claim or defenses asserted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999).

Subchapter C. Form

§5809. Forms

The Office of Workers' Compensation Administration shall prepare and adopt such forms for use in matters before the Office of Workers' Compensation Administration as it may deem necessary or advisable. Whenever Office of Workers' Compensation Administration forms are prescribed and are applicable, they shall be used. A photo ready copy of any form may be procured upon request to any District Office or the office of the Director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999).

§5811. Format of Documents

A. Any pleading or other document submitted to the Director or to any judge shall be typed or printed legibly on 8 ½ x 11" paper and shall bear the name and signature of the person who prepared it, the firm name, if applicable, the complete address including the zip code, the telephone and facsimile number, including the area code and the docket number, if one has been assigned to the claim. All attorneys shall note their bar roll number on all documents and correspondence.

B. Copies of all correspondence and any other instruments sent to the Office of Workers' Compensation Administration shall be mailed by the party originating the correspondence to all other parties of record in the case and a certificate to that effect shall be attached to the original and filed with the office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999).

Subchapter D. Mediation

§5813. Reserved

§5815. Mediation Ordered by Judge

In the discretion of the judge, an informal mediation conference may be set following the pretrial conference. The judge shall set the matter for an informal mediation conference with the mediator who originally heard the claim or a duly qualified mediator in the absence of the original mediator. The notice may be given by telephone, but shall be confirmed in written form. The judge shall provide notice of the date, time, and place of the conference to all parties at the same time and in the same manner. The rules of mediation found in §§5811-5819 shall apply. Failure to attend shall subject the delinquent party to the sanctions set forth in §5819. Only two mediation conferences may be held pursuant to this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999).

§5817. Conclusion of Informal Mediation Conference

A. When it becomes apparent during the course of a mediation conference that agreement on all issues cannot be reached, the mediator shall issue a report stating the result of the conference and, at the initial conference, immediately issue citations to all defendants. The report shall be issued to the parties immediately following the conference or mailed within (5) days thereof.

B. If in the mediator's judgment a follow-up mediation conference would be beneficial and would likely resolve the dispute, a date shall be set for the conference. The scheduling of an additional conference(s) shall not delay issuance of citation to the defendant(s).

C. Following a mediation conference, at which agreement is reached on all issues in dispute, a report embodying the agreement shall be issued to the parties and the judge within five (5) days thereof. The report may require dismissal of the claim or the filing of an LDOL Form 1011 within a specified period of time. Failure to timely comply with the agreement will result in issuance of citations to all defendants. When all issues in dispute are resolved at the first mediation conference, the Office of Workers' Compensation Administration may waive payment of the \$30.00 filing fee.

D. If any proper party defendant is present or represented at the informal mediation conference, formal citation and service of process shall be made upon that defendant or its representative at that time. If the defendant(s) is participating by telephone, service shall be made and accepted by facsimile transmission. The original document(s) shall be mailed to the defendant(s) no later than five days following the completion of the mediation. Citation and service of process shall be proper upon any representative of the defendant appearing at the mediation conference. The affidavit of the mediator or waiver of service signed by the defendant or its authorized representative in any subsequent proceeding shall be prima facie evidence that service has been made in accordance with this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999).

§5819. Reserved.

Subchapter E. Petition

§5821. Required elements

The required elements of a workers' compensation claim shall be as provided in R.S. 23:1311.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999).

Subchapter F. Exceptions

§5823. Kinds of Exceptions; Time for Pleading

A. Declinatory, dilatory, and peremptory exceptions as defined in Louisiana Code of Civil Procedure Articles 925 through 927 are the only exceptions allowed.

B. The declinatory and dilatory exceptions shall be pled in the answer. The peremptory exception may be pled at any stage of the proceeding prior to a submission of the case for a decision and may be filed with the declinatory or dilatory exception or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999).

§5825. Trial of Exceptions

A. Exceptions shall be tried and decided in advance of the trial of the case.

B. If the peremptory exception has been filed after the answer, but at or prior to the trial of the case, it shall be tried and disposed of either in advance of or at the trial of the case. If the peremptory exception has been pled after the trial of the case, the judge may rule at any time. If the party against whom it has been pled desires and is entitled to introduce evidence, the exception shall be tried specially.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999).

§5827. Evidence on Exceptions

A. On the trial of the declinatory exception, evidence may be introduced to support or controvert any of the objections pled, when the grounds do not appear from the claim, the citation or return.

B. On the trial of the dilatory exception, evidence may be introduced to support or controvert any of the objections pled, when the grounds do not appear from the claim.

C. On the trial of the peremptory exception pled at or prior to the trial of the case, evidence may be introduced to support or controvert any of the objections pled, when the grounds do not appear from the claim. When the peremptory exception is pled after the trial of the case, but prior to a submission for a decision, the claimant may introduce evidence in opposition, but the defendant may introduce no evidence except to rebut that offered by the claimant. No evidence may be introduced on an allegation that the claim fails to state a cause of action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999).

§5829. Effects of Sustaining Exceptions

A. When the grounds for the objections pled in an exception may be removed by amendment of the claim or other action by the claimant, the judgment sustaining the exception shall order the claimant to remove them within the delay allowed by the judge. If the grounds for the objection cannot be so removed, or if the claimant fails to comply with the order to amend, the claim shall be dismissed.

B. If the dilatory exception pleading want of amicable demand is sustained, the final judgment shall impose all court costs upon the claimant. If the dilatory exception pleading prematurity is sustained, the claim shall be dismissed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999).

Subchapter G. Motions

§5831. Motion or Rule Day

A. Each district office shall designate a specific day of the week for the hearing of rules, motions, exceptions and arguments. A list of the rule days for each district shall be available in any district office.

B. The judge may require the parties to submit briefs in connection with any exception, rule, or motion. Briefs shall be submitted no later than seven days prior to the hearing on the exception, rule, or motion.

C. In advance of the date set for the hearing of an exception, motion or rule, any counsel may notify the court that he waives his appearance and is willing to submit the matter on briefs. At the time set for the hearing, any person may waive oral argument.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999).

§5833. Written Motion Required; Exception

An application to the court for an order, if not presented in some other pleading, shall be by motion which, unless made during trial or hearing or in open court, shall be in writing. The written motion shall state the grounds therefor and the relief or order sought.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999).

§5835. Ex Parte and Contradictory Motions; Rule to Show Cause Favored

A. If the order applied for by written motion is one to which the mover is clearly entitled without supporting proof, the judge may grant the motion ex parte and without hearing the adverse party.

B. If the order applied for by written motion is one to which the mover is not clearly entitled or which requires

supporting proof, the motion shall be served on and tried contradictorily with the adverse party. The rule to show cause is a contradictory motion.

C. The rule to show cause is designed to assure that both parties are afforded an opportunity to be heard and to present necessary evidence to the judge. The procedure is favored and shall be construed to accomplish these ends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999).

§5837. Motion to Strike

The judge on motion of a party or on its own motion may at any time and after a hearing, order stricken from any pleading any insufficient demand or defense or any redundant, immaterial, impertinent, or scandalous matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:271 (February 1999).

§5839. Motion for Summary Judgment

A.1. The claimant or defendant, with or without supporting affidavits, may move for a summary judgment in his favor for all or part of the relief for which he has prayed. The claimant's motion may be made at any time after the answer has been filed. The defendant's motion may be made at any time.

2. The summary judgment procedure is designed to secure the just, speedy, and inexpensive determination of every action. The procedure is favored and shall be construed to accomplish these ends.

B. The motion for summary judgment and supporting affidavits shall be served at least ten days before the time specified for the hearing. The adverse party may serve opposing affidavits prior to the date of the hearing. The judgement sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to material fact, and that mover is entitled to judgment as a matter of law.

C.1. After adequate discovery or after a claim is set for hearing, a motion which shows that there is no genuine issue as to material fact and that the mover is entitled to judgment as a matter of law shall be granted.

2. The burden of proof remains with the movant. However, if the movant will not bear the burden of proof at hearing on the claim that is before the court on the motion for summary judgment, the movant's burden on the motion does not require him to negate all essential elements of the adverse party's claim, action, or defense, but rather to point out to the court that there is an absence of factual support for one or more elements essential to the adverse party's claim, action, or defense. Thereafter, if the adverse party fails to produce factual support sufficient to establish that he will be able to satisfy his evidentiary burden of proof at trial, there is no genuine issue of material fact.

D. The court shall hear and render judgment on the motion for summary judgment within a reasonable time, but in any

event judgement on the motion shall be rendered at least ten days prior to hearing.

E. A summary judgment may be rendered against of a particular issue, theory of recovery, cause of action, or defense, in favor of one or more parties, even though the granting of the summary judgment does not dispose of the entire case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:271 (February 1999).

§5841. Same; Affidavits

A. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated in the affidavit. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached to or served with the affidavit. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or by further affidavits.

B. When a motion for summary judgment is made and supported as provided in Subsection A, an adverse party may not rest on the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in Subsection A, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be rendered against him.

C. If it appears from the affidavits of a party opposing the motion that for reasons stated he cannot present by affidavit facts essential to justify his opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

D. If it appears to the satisfaction of the court at any time that any of the affidavits presented pursuant to this Section are presented in bad faith or solely for the purposes of delay, the court immediately shall order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused him to incur, including reasonable attorney's fees. Any offending party or attorney may be subject to proceedings for contempt of court as provided in §5535.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:271 (February 1999).

Chapter 59. Production of Evidence

Subchapter A. General

§5901. Discovery and Attendance of Witnesses

The hearing process shall be available to aid any party in pursuit of discovery and to compel attendance of witnesses or production of evidence. The judge on his own motion at any conference may order the production of discoverable material and make any other order facilitating discovery. Copies of discovery documents are to be mailed to all parties and shall

not be filed in the record of the proceedings unless attached as an exhibit to a motion or ordered by the judge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:271 (February 1999).

§5903. Objections to Evidence

Except as otherwise provided in Title 23 or by these rules, objection to any evidence shall be governed by the Louisiana Code of Evidence and Code of Civil Procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999).

§5905. Protective Orders

Upon motion by a party or by a person from whom discovery is sought, and for good cause shown after contradictory hearing, the judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999).

Subchapter B. Subpoena

§5909. Issuance; Service

A. Subpoenas Issued in Connection with any workers' compensation matter shall be served by the party requesting issuance of the subpoena, and may be served by certified mail return receipt requested or any other manner provided in §5513. Proof of service shall be the responsibility of the party requesting the subpoena. Once issued and served, a subpoena may be canceled by the requesting party only after written notice to the opposing side. It shall be the responsibility of the requesting party to provide written notification of cancellation to all opposing parties as well as the person under subpoena.

B. In order to be enforceable, subpoenas for hearing shall be served seven (7) days prior to the scheduled hearing date; subpoenas to compel attendance of medical experts shall be served ten (10) days prior to hearing. Subpoenas for hearing may be issued after expiration of these time limits only by leave of court for good cause shown or upon written consent of all parties.

C. When it is necessary for any party to request medical information concerning a worker from the Social Security Administration, that request shall be made on Form LDOL-WC-1006, and shall bear the signature of the worker evidencing the worker's consent to the release of this information, or shall have attached a certified copy of the worker's signature as shown on the disputed claim form LDOL-WC-1008, authorizing release of medical information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999).

§5911. Exceptions

A. No official of the Social Security Administration shall be subject to subpoena under these rules unless for good cause shown.

B. An independent medical examiner who has filed a report in accordance with the provisions of R.S. 23:1317.1 shall be subject to subpoena only as provided in §5947.

C. The subpoena of the director or any other employee of the Office of Workers' Compensation Administration shall be governed by R.S. 23:1318.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999).

§5913. Subpoena of Confidential Records

The subpoena of confidential records shall be governed by R.S. 23:1293(A)(1) and 1310.15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999).

Subchapter C. Discovery

§5915. Scope of Discovery

A. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending claim, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

B. A party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of an award which may be entered in the action or to indemnify or reimburse for payments made to satisfy the award.

C.1. The court shall not order the production or inspection of any writing obtained or prepared by the adverse party, his attorney, surety, indemnitor, expert, or agent in anticipation of litigation or in preparation for trial unless satisfied that denial of production or inspection will unfairly prejudice the party seeking the production or inspection in preparing his claim or defense or will cause him undue hardship or injustice. The court shall not order the production or inspection of any part of the writing that reflects the mental impressions, conclusions, opinions, or theories of an attorney or an expert.

2. A party may obtain without the required showing a statement concerning the claim or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement

concerning the claim or its subject matter previously made by that person. If the request is refused, the person may move for a court order. The provisions of §5955 apply to the award of expenses incurred in relation to the motion. For purposes of this Subsection, a statement previously made is a written statement signed or otherwise adopted or approved by the person making it, or a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

D. Discovery of facts known by experts, otherwise discoverable under the provisions of §5915 and acquired or developed in anticipation of litigation or for hearing, may be obtained only as follows:

1.a. A party may through interrogatories or by deposition require any other party to identify each person whom the other party expects to call as an expert witness at trial, to state the subject matter on which the expert is expected to testify, and to state the substance of the facts to which the expert is expected to testify.

b. Upon motion, the court may order further discovery by other means, subject to restrictions as to scope, fees, and expenses as the court may deem appropriate.

2. A party may discover facts known by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for hearing and who is not expected to be called as a witness at trial, only as provided in §5947 or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts on the same subject by other means.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999).

§5917. Supplementation of Responses

A. A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement his response to include information thereafter acquired, except as follows.

1. A party is under a duty to supplement his response with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters, and the identity of each person expected to be called as an expert witness at trial, the subject matter on which he is expected to testify, and the substance of this testimony.

2. A party is under a duty to amend a prior response if he obtains information indicating that the response was incorrect when made, or he knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

B. A duty to supplement responses may be imposed by order of the court, agreement of the parties, or at any time prior to trial through new requests for supplementation of prior responses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:273 (February 1999).

Subchapter D. Methods

§5919. Discovery Methods

Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property for inspection and other purposes; physical and mental examination; request for release of medical records; and requests for admission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:273 (February 1999).

Subchapter E. Depositions

§5921. General; When Taken

After commencement of the claim, any party may take the testimony of any person, including a party, by deposition upon oral examination no earlier than fifteen days after service upon any defendant. Leave of court, granted with notice, must be obtained only if the claimant seeks to take a deposition prior to the expiration of the fifteen days. Leave is not required if a defendant has served a notice of taking a deposition; otherwise sought discovery; or if special notice is given as provided in Louisiana Code of Civil Procedure Article 1439. The attendance of witnesses may be compelled by the use of subpoena as for witnesses in trials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:273 (February 1999).

§5923. Notice; Time and Place; Subpoena Duces Tecum

A. A party desiring to take the deposition of any person shall give reasonable notice in writing to all parties to the claim. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known. If the name is not known, a general description sufficient to identify the person shall be given.

B. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced shall be attached to or included in the notice.

C. The judge may after hearing and for good cause shown lengthen or shorten the time for taking the deposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:273 (February 1999).

§5925. Depositions in Advance of Hearing; Perpetuation of Testimony

Depositions in advance of hearing shall be governed by R.S. 23:1319.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:273 (February 1999).

§5927. Depositions of Medical Personnel

Discovery of medical evidence is designed to assure that both parties are afforded an opportunity to receive necessary medical information as well as avoid inconveniencing the parties and witnesses to the claim. The procedure of producing medical evidence by report or deposition is favored and shall be construed to accomplish these ends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999).

§5929. Objections

An objection to testimony offered by deposition shall be interposed either at the time the deposition is offered into evidence or at the deposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999).

Subchapter F. Interrogatories

§5931. General

A. Any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may accompany the claim or be served after commencement of the claim and without leave of court.

B. Interrogatories propounded or deposition by written questions, shall not exceed twenty-five (25) in number, including subparts. The interrogatories shall be relevant to the current dispute as defined by the pleadings or at the status conference. The judge, in his discretion, may by written order enlarge the number of interrogatories to be propounded. Any such request shall be by written motion directed to the judge who has been assigned the case, and shall have attached all discovery documents which are to be propounded.

C. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers and/or objections shall be served upon the requesting party within fifteen days after receipt of the interrogatories. A defendant may serve answers and/or objections within thirty days after service of the claim. The state and its political subdivisions may serve a copy of the answers and/or objections within thirty days after service of the interrogatories. The judge may by written order allow a shorter or longer time period upon motion of the party answering the interrogatories.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999).

Subchapter G. Production of Documents

§5933. Production of Documents; General

Any party may serve on any other party a request to produce and permit the inspection or copying of any designated documents from which information can be obtained or to

inspect and copy, test, or sample any tangible thing which is discoverable pursuant to these rules and which are in the possession, custody, or control of the party upon whom the request is served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999).

§5935. Production of Documents; Persons Not Parties

Section 5933 shall not preclude an independent action against a person not a party for production of documents and things. In addition, a party may have a subpoena duces tecum served on a person not a party directing that person to produce documents and things for inspection and copying, provided that reasonably accurate description of the things to be produced, inspected, or copied is given. A reasonable notice to all parties indicating the date, time and place of the inspection shall be given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999).

§5937. Requests for Medical Records

A. Any party may serve upon the claimant a request that the claimant or other authorized person sign a medical records release authorizing the health care provider to release to the requesting party the medical records of the claimant. The release shall be directed to a specific health care provider, shall authorize the release of medical records only, and shall state that the release does not authorize verbal communications by the health care provider to the requesting party.

B. The signed release shall be provided to the requesting party within fifteen days after service of the request unless objected to, in which event reasons for the objection shall be stated.

C. The requesting party shall provide to the claimant or his attorney, a copy of the request directed to the health care provider contemporaneously with the request directed to the health care provider.

D. The party requesting the medical records shall provide to the party whose medical records are being sought or to his attorney, within seven days of receipt, a copy of all documents obtained by the requesting party pursuant to the release.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999).

§5939. Objections; Medical Evidence

Within ten (10) days of receiving a copy of another party's certified medical report, the recipient shall advise the judge in writing if there is an objection to the admission of the report in evidence. A copy of the objection shall be mailed to all parties of record in the suit. Unless the judge and all parties are timely notified of the objection, the recipient of the report shall be deemed to have waived the right to object and the report shall be admitted into evidence for all purposes at the trial. When a timely objection is received, the judge may set a hearing on

the motion, or rule on the matter at the trial on the merits. The judge further has the discretion to order, after a contradictory hearing, a deposition of the doctor if necessary to clarify a report or to obtain additional information, during the discovery period or at the trial on the merits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999).

Subchapter H. Admissions

§5941. Requests for Admission

A. A party may serve upon any other party a written request for the admission of the truth of any matters within the scope of discovery after the commencement of the claim. Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within fifteen days after service of the request, a written answer or objection is received by the requesting party.

B. If objection is made, the reasons shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission and when good faith requires that a party qualify his answer or deny only a part of the matter, he shall specify so much of it as is true and qualify or deny the remainder.

C. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny.

D. The requesting party may move to determine the sufficiency of the answers or objections. Unless the judge, after hearing, determines that an objection is justified, he shall order that an answer be served. If the judge determines that an answer does not comply with the requirements of this Section, he may order any one of the following:

1. that the matter be admitted;
2. that an amended answer be served;
3. determine that a final disposition be made at a designated time prior to trial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999).

Subchapter I. Medical Examinations

§5943. Independent Medical Examinations

The procedure for requesting an independent medical examination shall be as provided in R.S. 23:1317.1. The Medical Services Division of the Office of Workers' Compensation Administration shall be contacted for requests made pursuant to R.S. 23:1123.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999).

§5945. Required Report

The report of the independent medical examination shall be as provided in R.S. 23:1317.1

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999).

§5947. Deposition of Examiner

The deposition of the examiner shall be governed by R.S. 23:1317.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999).

§5949. Objections

Objections to the independent medical examination shall be made on form LDOL-WC-1008 and shall be set for hearing before a judge within thirty days of receipt. No mediation shall be scheduled on disputes arising under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999).

§5951. Cancellation of Independent Medical Examinations

If the judge cancels an independent medical examination pursuant to R.S. 23:1123, notice shall be given to the Medical Services Division of the Office of Workers' Compensation Administration no later than seventy-two hours prior to the scheduled independent medical examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999).

§5953. Reserved.

Subchapter J. Motion to Compel

§5955. Motion for Order Compelling Discovery

A. A party upon notice to all other parties and all persons affected may apply for an order compelling discovery as follows.

1. An application for an order to a party or a deponent who is not a party may be made to the court in which the claim is pending.

2. If a deponent fails to answer a question, or a party fails to answer an interrogatory, or in response to a request for inspection, fails to respond that inspection will be permitted or fails to permit inspection, the discovering party may move for an order compelling an answer or inspection in accordance with the request.

3. An evasive or incomplete answer shall be treated as a failure to answer.

B. If the motion is granted, the judge shall, after hearing, require the party or deponent whose conduct necessitated that motion or the party or attorney advising such conduct or both to pay the moving party the reasonable expenses incurred in obtaining the order, including attorneys' fees, unless the court finds that the opposition to the motion was substantially

justified or that other circumstances make an award of expenses unjust.

C. If the motion is denied, the judge shall, after hearing, require the party or deponent whose conduct necessitated that motion or the party or attorney advising the motion or both to pay to the party or the deponent who opposed the motion the reasonable expenses incurred in opposing the order, including attorneys' fees, unless the judge finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

D. If the motion is granted in part and denied in part, the judge may apportion the reasonable expenses incurred in relation to the motion among the parties and persons in a just manner.

§5957. Order Compelling Discovery of Medical Records

An order seeking to compel the production of medical records shall be issued only as provided in R.S. 13:3715.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999).

Subchapter K. Sanctions

§5959. Withheld Medical Report

Testimony or records of the health care provider may be excluded by a judge and a civil penalty in the amount of \$250.00, plus a reasonable attorney's fee for the collection of the penalty may be assessed if the medical records or reports of any physician have been withheld from a party who has made written request for them pursuant to §5953.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999).

§5961. Refusal to Obey Subpoena

When a person who, without reasonable excuse, fails to obey a subpoena, the judge shall apply to the judge of the appropriate district court as set forth in §5535 for contempt proceedings against such person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999).

§5963. Failure to Comply with Order Compelling Discovery

A. If a party or an officer, director, or managing agent of a party or a person designated to testify on behalf of a party fails to obey an order to provide or permit discovery, the judge may make such order in regard to the failure as are just, and among others the following:

1. An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order.

2. An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence.

3. An order striking out pleadings or parts thereof, or

staying further proceedings until the order is obeyed, or dismissing the claim or part thereof, or rendering a judgment by default against the disobedient party.

B. In lieu of any of the foregoing orders or in addition thereto, the judge may make an application for contempt proceedings as set forth in §5535 except in cases of an order to submit to a physical or mental examination.

C. In lieu of any of the foregoing orders or in addition thereto, the judge shall require the party failing to obey the order or the attorney advising him or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the judge finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999).

§5965. Health Care Providers; Penalties

Penalties against health care providers shall be as provided for in R.S. 23:1142(B)(2)(b).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999).

Chapter 60. Pretrial Procedure

§6001. Reserved.

§6003. Pretrial Statement

A. Each party to the dispute shall file a pretrial statement with the appropriate district office ten (10) days prior to the scheduled pretrial conference and shall certify that a copy has been mailed to all other parties.

B. Each pretrial statement shall be signed by the party, its representative, or counsel preparing it and shall set forth:

1. proposed stipulations;
2. issues to be litigated at the hearing;
3. contentions (including affirmative defenses);
4. a list and brief description of all exhibits to be offered

into evidence identified by the exhibit number to be used at trial. Exhibits to be used for impeachment or rebuttal need not be included on the list. Impeachment evidence shall include, but not be limited to, witnesses, documents, photographs, or films. Proposed stipulations as to exhibit authenticity and/or admissibility shall be noted on the exhibit list. Medical reports should be prefaced by a table of contents identifying reports and records by author and date should be arranged in chronological order;

5. a list of witnesses each party may call and a short statement as to the nature but not to the content of their testimony, and whether their testimony will be offered live or by deposition. Except for the witnesses listed, no other witnesses may be called to testify except for good cause shown. This requirement shall not apply to impeachment and rebuttal witnesses;

6. documentary evidence sought but not yet obtained;
7. depositions to be taken;
8. prospects for settlement, if any explored;
9. estimated length of hearing;

10. certificate of service of the pretrial statement on all opposing parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999).

§6005. Pretrial Conference

A. Unless otherwise provided herein or by law, no suit requiring a trial on the merits may be assigned except at a pretrial conference. A pretrial conference shall be scheduled at the status conference or upon the request of a party who can certify to the court that all parties and/or their attorneys of record have conferred and agree that discovery has been completed and that the case is ready for trial on the merits.

B. The party or counsel who prepared and submitted a pretrial statement to the workers' compensation court shall attend the pretrial conference. Any substitute counsel permitted by the court to attend the conference shall be knowledgeable of all aspects of the case and shall possess the necessary authority to commit his client or associate regarding changes, stipulations, compromise/settlements, and trial dates.

C. The trial date selected for the case should not be more than 60 days from the date of the pretrial conference.

D. In the event there is any impediment to the holding of a pretrial conference or a dispute arises between or among counsel relative to whether or not a case qualifies for a pretrial conference under this Section, a status conference may be requested for the purpose of resolving the matter and/or for rendition of an appropriate order to expedite the processing of the case. If appropriate, the workers' compensation court will schedule the status conference with due notice to all parties within seventy-two hours of the impediment or dispute.

E. The pretrial conference may be held by telephone if all parties agree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999).

§6007. Pre-Trial Order

A. At the conclusion of the pretrial conference, the judge shall set the case for trial and shall issue a pre-trial order which shall be filed in the suit record and mailed to all parties at the same time and in the same manner.

B. The pre-trial order shall include:

1. stipulations agreed to by all parties;
2. issues to be litigated;
3. a list and brief description of all exhibits to be offered at trial;
4. a list of all witnesses to be called at trial;
5. deadlines for the exchange of exhibits and any pre-trial motions;
6. the pre-trial mediation date;
7. the trial date.

C. Amendments to the pre-trial order shall only be by written motion and permitted only for good cause shown after contradictory hearing. A hearing shall not be required if the amendments to the pre-trial order are agreed to by all parties to the claim.

D. If a party or his attorney fails to obey the pre-trial order, or to appear at the pre-trial conference, or is substantially unprepared to participate in the conference or fails to participate in good faith, the judge on his own motion or on the motion of a party, after contradictory hearing, may make an application for contempt proceedings as set forth in §5535.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999).

§6009. Pre-Trial Mediation

A pre-trial mediation, pursuant to §5815, may be scheduled no later than thirty days prior to the scheduled trial date. The mediation may be held by telephone if agreed to by all parties to the claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999).

Chapter 61. Hearings

Subchapter A. Expedited Hearings

§6101. Reserved

Subchapter B. Continuance

§6103. General

A.1. Every contested motion for a continuance shall be tried summarily and contradictorily with the opposite party in open court.

2. Every uncontested motion for a continuance shall be signed by all parties to the claim and/or their representative and shall certify that all witnesses have been timely notified of the continuance.

B. A continuance shall not be granted for the absence of a subpoenaed witness if the subpoena was not issued in accordance with §5909 of these rules.

C. A continuance will not be entertained based upon a conflict in the schedule of any party or attorney if the conflict arose after the date of the pre-trial conference, except for good cause shown or in cases of criminal assignments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999).

§6105. Form Required

Any request for a continuance shall be in written form. A request for a contested continuance pursuant to § 6103 shall be filed no later than three business days prior to the date of the hearing or trial. A request for an uncontested continuance may be filed at any time prior to the scheduled trial date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999).

§6107. Peremptory Grounds

A. A continuance shall be granted if at the time a case is to be tried, the party applying for the continuance shows that he has been unable, with the exercise of due diligence, to obtain

evidence material to his case; or that a material witness has absented himself without the contrivance of the party applying for the continuance.

B. A party applying for a continuance on these grounds may be required to disclose to the adverse party under oath the facts he intends to prove by such witness. If the adverse party is willing to stipulate to the facts as stated by the moving party, the trial of the case shall proceed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999).

Chapter 62. Trial

Subchapter A. Trial Procedure

§6201. General

Only those issues listed in the pretrial order issued by the judge shall be litigated at trial. No new issues shall be raised except by written order of the judge for good cause shown after contradictory hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999).

§6203. Reserved.

§6205. Cumulative Medical Testimony

The introduction of medical testimony in a hearing or trial shall be governed by R.S. 23:1124.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999).

§6207. Evidence Held Inadmissible

A. When the judge rules against the admissibility of any evidence, he shall either permit the party offering such evidence to make a complete record thereof, or permit the party to make a statement on the record setting forth the nature of the evidence.

B. At the request of any party, the judge may allow any excluded evidence to be offered, subject to cross-examination: on the record during a recess or such other time as the judge shall designate; or by deposition taken before a certified court reporter within five (5) days subsequent to the exclusion of such evidence or the completion of the trial, whichever is later. When the record is completed during a recess or other designated time, or by deposition, there will be no necessity for the requesting party to make a statement setting forth the nature of the evidence.

C. In all cases, the judge shall state the reason for its ruling as to the inadmissibility of the evidence on the record. This ruling shall be reviewable on appeal without the necessity of further formality.

D. If the judge permits a party to make a complete record of the evidence held inadmissible, it shall allow any other party the opportunity to make a record in the same manner of any evidence bearing upon the evidence held to be inadmissible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999).

§6209. Testimony of Medical Personnel

A. Expert medical or rehabilitation testimony may be admitted by:

1. reports of any health care provider certified as a true copy in accordance with the Louisiana Revised Statutes 13:3715.1;

2. deposition;

3. oral examination in open court proceedings; however, no more than two physicians may present testimony for either party except by order of the judge;

4. any other manner provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999).

Subchapter B. Dismissal

§6211. Voluntary Dismissal

A judgment dismissing an action without prejudice shall be rendered upon application of the claimant and upon his payment of all costs, if the application is made prior to any appearance of record by the defendant. If the application is made after such appearance the court may refuse to grant the judgment of dismissal except with prejudice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999).

§6213. Involuntary Dismissal

A.1. A judgment dismissing an action, with prejudice, shall be rendered upon application of any party, when the claimant fails to appear on the day set for trial unless for good cause shown.

2. The judge, on his own motion, may dismiss an action without prejudice when all parties fail to appear on the day set for trial; however, when a case has been dismissed pursuant to this Section and it is claimed that there is a pending settlement, either party may reinstate the suit within sixty days of receipt of the notice of dismissal, and any cause of action which had not prescribed when the case was originally filed shall be fully reinstated as though the case had never been dismissed.

B. In any action, after the claimant has completed the presentation of his evidence, any party, without waiving his right to offer evidence in the event the motion is not granted, may move for a dismissal of the action as to him on the ground that the claimant has shown no right to relief.

C. A judgment dismissing an action without prejudice shall be rendered as to a person named as a defendant for whom service has not been requested within the time prescribed by §5705, upon contradictory motion of that person or any party or upon the judge's own motion, unless good cause is shown why service could not be requested, in which case the judge may order that service be completed within a specified time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999).

Subchapter C. Assessment of Costs

§6215. No Reasonable Grounds for Action

The determination of whether reasonable grounds for any proceedings under the Workers' Compensation Act shall be governed by R.S. 23:1310.9.

Chapter 63. Judgments

Subchapter A. General

§6301. Submission of Evidence

A. A case or other matter shall be considered as having been fully submitted for decision immediately upon the conclusion of trial or hearing or final submission of all evidence. The parties shall file in to the record all evidence at the time of trial or hearing unless an extension is granted by the court, for good cause shown. In instances where the workers' compensation court allows briefs or permits the inclusion of issues and/or evidence not contained in the pretrial order, the parties shall be allowed a maximum of five (5) working days from the conclusion of the trial or hearing to file post trial memoranda.

B. If a transcript of the testimony is ordered by the judge, it shall be filed within fifteen days by the court reporter, and the case or matter shall not be considered as fully submitted until the court reporter files the transcript.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999).

§6303. Completion of Trial; Pronouncement of Judgment

A. The procedures for completion of trial and pronouncement of judgement shall be governed by R.S. 23:1310.5(A)(1) and 1201.3(A). All such orders, decisions, or awards shall be stated on the record in open court and no later than thirty calendar days after conclusion of trial.

B. A written decision shall only be rendered if requested in written form by any party to the claim at least ten days after the signing of the judgment. The written decision shall be issued by the judge not later than ten days following the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999).

Subchapter B. Default

§6305. General

The general rule regarding default in a workers' compensation claim shall be governed by R.S. 23:1316.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999).

§6307. Confirmation of Judgment by Default

The confirmation of judgment by default shall be governed by R.S. 23:1316.1.

§6309. Scope of Judgment

A judgment by default shall not be different in kind from that demanded in the claim. The amount of the award shall be the amount proven to be properly due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999).

Subchapter C. Modification

§6311. General

The modification of an award shall be governed by R.S. 23:1310.8(A)(1) and (B).

§6313. Amendment of Judgment

A. A final judgment may be amended by the judge at any time in open court and in the presence of all parties to the claim on its own motion or on motion of any party:

1. to alter the phraseology of the judgment, but not the substance; or
2. to correct errors of calculation.

§6315. Request for Modification

Any party to the claim may apply for modification pursuant to §6311 by filing a motion, with a Form LDOL-WC-1008. If the original decision or award was made by a District Court Judge, the party seeking the modification shall furnish the judge with the appropriate evidence and documents from the district proceedings. The parties should rely upon the testimony of the health care providers who have examined the employee and testified at the time of the previous award. The health care provider's reports or testimony at the subsequent hearing must show that the health care provider was the health care provider at the time of the previous award or has personal knowledge of employee's condition at that time, or it must show that the health care provider has examined reports, X-rays and/or any other medical data referring to employee's condition at the time of the previous award.

§6317. Exception

A motion for new trial shall not be permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999).

Chapter 64. Appellate Procedure

Subchapter A. General

6401. General

All appeals shall be taken in accordance with the procedures set forth in R.S. 23:1310.5 and, where not in conflict, the Louisiana Code of Civil Procedure and the relevant rules of the appropriate circuit court of appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999).

§6405. Payment of Costs

A. The clerk of the district office of the workers' compensation court, immediately after the order of appeal has been granted, shall estimate the cost of the preparation of the

record on appeal, including the fee of the court reporter for preparing the transcript and the filing fee required by the appellate court. The clerk shall send notices of the estimated costs by certified mail to the appellant and by first class mail to the appellee.

B. Within twenty days of the mailing of notice, the appellant shall pay the amount of the estimated costs to the clerk. The judge may grant one extension of the period for paying the amount of the estimated costs for not more than an additional twenty days upon written motion showing good cause for the extension.

C. The appellant may question the excessiveness of the estimated costs by filing a written application for reduction in the workers' compensation court within the first twenty-day time limit, and the judge may order reduction of the estimate upon proper showing. If an application for reduction has been timely filed, the appellant shall have twenty days to pay the costs beginning from the date of the action by the court on application for reduction.

D. After the preparation of the record on appeal has been completed, the clerk shall, as the situation may require, either refund to the appellant the difference between the estimated costs and the actual costs if the estimated costs exceed the actual costs, or send a notice by certified mail to the appellant of the amount of additional costs due, if the actual costs exceed the estimated costs. If the payment of additional costs is required, the appellant shall pay the amount of additional costs within twenty days of the mailing of the notice.

E. If the appellant fails to pay the estimated costs, or the difference between the estimated costs and the actual costs, within the time specified, the judge, on his own motion or upon motion by the clerk or by any party, and after a hearing, shall:

1. enter a formal order of dismissal on the grounds of abandonment; or
2. grant a ten day period within which costs must be paid in full, in default of which the appeal is dismissed as abandoned.

F. If the appellant pays the costs required by this Section, the appeal may not be dismissed because of the passage of the return day without an extension being obtained or because of an untimely lodging of the record on appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999).

Subchapter B. Preparation of Record

§6407. Record on Appeal; Preparation

The clerk of the district of the workers' compensation court rendering judgment shall have the duty of preparing the record on appeal. He shall cause it to be lodged with the appellate court on or before the return day or any extension thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:280 (February 1999).

§6409. Same; Preparation and Delivery of Transcript

A. Except as provided in Subsection B of this Section, each court reporter assigned to prepare any transcript designated to be transcribed and necessary to complete the record shall deliver the transcript to the clerk of the workers' compensation court with the duty of preparing the record for appeal no later than seven days before the return day.

B. Whenever the court reporter cannot deliver the transcript by the date required in Subsection A, the reporter shall draft and file a request for an extension of the return day with the workers' compensation court or court of appeal as provided by law. Whenever a court reporter has not delivered a transcript by the seventh day prior to the return day, the clerk of the workers' compensation court shall file a certificate with the court of appeal advising that the record is ready for lodging except for the lack of delivery of the transcript. In such certificate the clerk shall include the names and addresses of each court reporter who has failed to deliver a transcript, the date estimated costs were paid, and whether any of the named court reporters have requested an extension of the return day.

C. Upon the request of the court of appeal when the transcript has not been delivered to the clerk of court but the record is otherwise ready for lodging, the record shall be lodged. The clerk shall include with the record a certificate stating the names and addresses of each court reporter who is required to prepare and deliver a transcript of the case and a statement of the date on which estimated costs and, if relevant, additional costs were paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:280 (February 1999).

§6411. Same; Contempt

The failure of the court reporter to file the transcript with the clerk no later than five days before the return date or any extension thereof shall subject such reporter to prosecution for contempt of court as provided in §5535. The judge shall notify the Director of the failure within seven (7) calendar days of the return date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:280 (February 1999).

Chapter 65. Special Disputes

Subchapter A. Attorney Fees

§6501. Disputed Attorney Fees

When a dispute arises among several attorneys as to the identity of claimant's counsel of record, or when several successive attorneys lay claim to a fee in the same case, the judge shall decide the issues raised and allocate the fee allowed in proportion to the services rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:280 (February 1999).

§6503. Attorney Fees; Application, Review and Approval

A. Claims of attorneys for legal services arising under the Workers' Compensation Act shall be governed by R.S. 23:1310.1.

B. Claims of attorneys for legal services arising under the Workers' Compensation Act shall be made on a form approved by the Director and shall have attached thereto a statement of the terms of the contract for services between the attorney and his client, which shall be controlling if it is within the limits imposed by R.S. 23:1141.

C. When application for attorney fees is made under R.S. 23:1141, reasonable efforts should be made by the judge to ascertain that the party represented by their attorney is not opposed to approval of the fees requested. Each application by the attorney for fees shall contain a certificate of service and notice to the represented party that the attorney is seeking approval of fees. The represented party shall have ten days to notify the court of reasonable cause for any opposition to the request. A contradictory hearing shall be set to hear the opposition and to determine the attorney's fees. A statement of notice and approval of fees signed by the represented party may be included in the attorney's fee application, which shall be construed as prima facie evidence that the represented party agrees with the fee application.

D.1. Attorney fee claims in compromise or lump sum settlements shall be made by motion of the attorney stating the terms of his contract for legal services with the represented party, along with a statement of services provided and the amount of fees claimed within the provisions of R.S. 23:1141 and 1143.

2. Attorney fee claims under R.S. 23:1141 for allowable portions of periodic payments of indemnity benefits recovered by claimants shall only be authorized after approval by the presiding judge upon filing of a motion for such fees filed by the claimant's attorney. Such motions shall contain the terms of the attorney/claimant contract, a statement of the services rendered, the amounts of benefits recovered and the allowable portion of fees requested. In no case shall fees be authorized if not filed within thirty days after the payment of the final weekly benefit, settlement of the claim, or payment of the judgment, whichever occurs later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999).

§6505. Reserved.

Subchapter B. Social Security Offset

§6507. Social Security Offset

A. A request for reverse offset pursuant to R.S. 23:1225 made in connection with a disputed claim shall be made by filing Form LDOL-WC-1008 or by responsive pleading. An order shall be issued recognizing the entitlement to the offset for social security benefits from the date of judicial demand, and setting the amount of the offset after a determination of permanent and total disability and calculation of the offset. Notice shall be provided to the claimant or his representative prior to issuance of the order.

B. A request for reverse offset pursuant to R.S. 23:1225 made in connection with a claim not in dispute may be made by

motion on form LDOL-WC-1005(A) or by letter, filed in the appropriate district office. When properly filed, the motion or letter requesting reverse offset shall be granted ex parte from date of filing. No fee shall be charged in connection with a request made under this Subsection.

C. A unilateral offset shall not be recognized by this office after March 20, 1993.

D. Information concerning receipt of social security benefits and the amounts thereof shall be obtained on Form LDOL-WC-1004, which shall be properly executed by an official designated by the Social Security Administration.

E. An official of the Social Security Administration shall not be subject to subpoena under this rule unless for good cause shown.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999).

Subchapter C. Financial and Compliance Hearings

§6509. Financial and Compliance Hearings

A. An informal mediation conference shall be held within fifteen days of the filing of an appeal for financial and compliance matters.

B. If a resolution is not reached, a hearing on the appeal held pursuant to R.S. 23:1171 shall be held within 15 days of the conclusion of the informal mediation conference, and shall be conducted in accordance with the provisions of the Administrative Procedure Act.

C. Suspensive appeals of a determination of the financial and compliance officer will not be entertained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999).

Chapter 66. Miscellaneous

Subchapter A. General

§6601. Other Applicable Rules

Unless otherwise provided for in these rules, any practice or procedure not in conflict with either the Workers' Compensation Act or these rules will be guided by practice and procedure provided for in the Louisiana Code of Civil Procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999).

§6603. Local Rules Prohibited

Local rules by any district office of the Office of Workers' Compensation Administration are prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999).

§6605. Fees

A. The clerks for the Office of Workers' Compensation Administration shall be entitled to demand and receive the following fees in a workers' compensation dispute:

1. Filing of 1008 or 1011	\$30.00
2. Service of Process on Secretary of State	\$25.00
3. Copies of any paper in any suit record	\$0.25 per page
4. For each certification	\$1.00
5. Facsimile transmission	\$5.00
6. Cost of preparation of record for appeal	Available upon request from the district offices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999).

§6607. Posting of Docket

The clerk of the district office shall keep a docket upon which shall be entered all matters set for mediation, hearing, or trial. The docket shall be posted in a conspicuous location of the district office at least seven (7) calendar days before the mediation, hearing, or trial is scheduled to be held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999).

Subchapter B. Costs

§6609. General

A. The awarding of costs shall be governed by R.S. 23:1317(B).

B. Unless the judgment provides otherwise, costs shall be paid by the party cast, and may be taxed by a rule to show cause. Costs shall include a \$30.00 filing fee, and may include expert witness fees, court reporter fees, and costs of depositions and such other costs allowed by law, at the judge's discretion.

C. The costs of preparing an appeal shall be initially sustained by the appellant. In the case of pauper, the costs incurred by the Office of Workers' Compensation Administration in preparing the transcript shall be sustained by the Office of Workers' Compensation Administration only where the pauper is the losing party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999).

§6611. Medical Costs

The determination of all medical reimbursement shall be based upon the most current reimbursement schedule adopted by the Director of the Office of Workers' Compensation Administration. Every attempt to resolve disputes over medical reimbursement shall be made by applying said schedule(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999).

Subchapter C. Waiver of Costs for Indigent Party

§6613. General

An individual who is unable to pay the costs of court because of his poverty and lack of means may prosecute or defend a workers' compensation claim without paying the costs in advance or as they accrue or furnishing security therefor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999).

§6615. Restrictions

The privilege granted by §6613 shall be restricted to a party who is clearly entitled to it, with due regard to the nature of the claim, the court costs which otherwise would have to be paid, and the ability of the party to pay them or furnish security therefor, so that abuse of this privilege may be discouraged, without depriving a party of its benefits if he is entitled thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999).

§6617. Affidavits of Poverty; Documentation; Order

A. A party who wishes to exercise the privilege granted in §6613 shall apply to the court for permission to do so in his first pleading, or in an ex parte written motion if requested later, to which he shall attach:

1. His affidavit that he is unable to pay the costs of court in advance, or as they accrue, or to furnish security therefor, because of his poverty and lack of means, accompanied by any supporting documentation; and

2. The affidavit of a third person other than his attorney that he knows the applicant, knows his financial condition, and believes that he is unable to pay the costs of court in advance, or as they accrue, or to furnish security therefor.

B. When the application and supporting affidavits are presented to the court, it shall inquire into the facts, and if satisfied that the party is entitled to the privilege granted by §6613 it shall render an order permitting the party to proceed, or to continue the claim without paying the costs in advance, or as they accrue, or furnishing security therefor. The submission by the party of supporting documentation that the party is receiving public assistance benefits or that the party's income is less than or equal to one hundred twenty-five percent of the federal poverty level shall create a rebuttable presumption that the party is entitled to the privilege granted by §6613. The court may reconsider such an order on its own motion at any time in a contradictory hearing with all parties present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999).

§6619. Traverse of Affidavits of Poverty

A. An adverse party may traverse the facts alleged in the affidavits of poverty, and the right of the party to exercise the privilege granted in §6613, by a rule against him to show cause

why the order of court permitting him to continue his claim, without paying the costs in advance, or as they accrue, or furnishing security therefor, should not be rescinded. However, only one rule to traverse the affidavit of poverty shall be allowed.

B. The court shall rescind its order if, on the trial of the rule to traverse, it finds that the party is not entitled to exercise the privilege.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999).

§6621. Account and Payment of Costs

An account shall be kept of all costs incurred by a party who has been permitted to proceed without the payment of costs, by the clerk of the district office of the workers' compensation court. If judgment is rendered in favor of the indigent party, the party against whom the judgment is rendered shall be condemned to pay all costs due such clerk, who have a privilege on the judgment superior to the rights of the indigent party or his attorney. If judgment is rendered against an indigent claimant and he is condemned to pay court costs, an affidavit of the account by the clerk to whom costs are due, recorded in the mortgage records, shall have the effect of a judgment for the payment due.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:283 (February 1999).

§6623. Compromise; Dismissal of Proceedings Prior to Judgment

A. No compromise shall be effected unless all costs due have been paid. Should any compromise agreement be entered into in violation of this Section, each party thereto is liable to the clerk for all costs due them at the time.

B. No claim in which a party has been permitted to proceed without the payment of costs shall be dismissed prior to judgment, unless all costs due have been paid, or there is attached to the written motion to dismiss the certificates of all counsel of record that no compromise has been effected or is contemplated.

C. No release of a claim or satisfaction of a judgment shall be effective between the parties to a claim in which one of the parties has been permitted to proceed without the payment of costs unless all costs due the clerk have been paid. The clerk shall have a lien for the payment of such costs superior to that of any other party on any monies or other assets transferred in settlement of such claim or satisfaction of such judgment and shall be entitled to collect reasonable attorney's fees in any action to enforce this lien for the payment of such costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:283 (February 1999).

§6625. Unsuccessful Party Condemned to Pay Costs

If judgment is rendered against a party who has been permitted to proceed without the payment of costs, he shall be condemned to pay the costs incurred by him, in accordance with the provisions of §6621, and those recoverable by the adverse party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:283 (February 1999).

Subchapter D. Severability of Sections

§6627. General

If any provision or item of a section, or the application thereof, is held to be invalid, such invalidity shall not affect other provisions, items, or applications of the section which can be given effect without the invalid provision, item or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:283 (February 1999).

Subchapter E. Forms

§6629. Annual Report of Workers' Compensation Costs; Form LDOL-WC-1000

ANNUAL REPORT OF WORKERS' COMPENSATION COSTS
FOR CALENDAR YEAR _____

1. EMPLOYER INFORMATION		2. INSURANCE COMPANY INFORMATION	
Fed EIN: _____		Phone Number: _____ ()	
3. Coverage Provided: ' Self-insured / Excess Insurance ' Conventional Workers' Compensation Policy ' Combination of Insurance Policies [R.S. 23:1168(A)(2)]			
4. COSTS INCURRED DURING THE CALENDAR YEAR (See Instructions)			
		Paid by Employer	Paid by Insurance
A. Indemnity Benefits:			
	1. Temporary Total		
	2. Supplemental Earnings		
	3. Permanent Partial		
	4. Permanent Total		
	5. Death Benefits		
	6. Other Compensation		
	TOTAL INDEMNITY BENEFITS		
B. TOTAL COMPROMISE/LUMP SUM SETTLEMENTS:			
C. Medical Expenses:			
	1. Hospital		
	2. Physicians		
	3. Diagnostic Tests/Procedures		
	4. Prescription Drugs		
	5. Transportation		
	6. Independent Medical Exams		
	7. Physical/Occupational Therapy		
	8. Other		
	TOTAL MEDICAL EXPENSES		
D. Rehabilitation Expenses			
	1. Vocational Rehabilitation		
	2. Labor Market Surveys		
	3. Evaluations		
	4. Other		
	TOTAL REHABILITATION EXPENSES		
		Paid by Employer	Paid by Insurance
E. TOTAL FUNERAL EXPENSES			
F. Legal Expenses			
	1. Attorney Fees		
	2. Court Costs		
	3. Deposition Costs		
	4. Investigation Costs		
	5. Penalties and Interest		
	6. Administrative/Other Costs		

	TOTAL LEGAL EXPENSES		
G. Cost Summary			
	1. Total Indemnity Benefits (ITEM A)		
	2. Total Compromise/Lump Sum Settlements (ITEM B)		
	3. Total Medical Expenses (ITEM C)		
	4. Total Rehabilitation Costs (ITEM D)		
	5. Total Funeral Expenses (ITEM E)		
	6. 3rd Party Recoveries for Costs (Not Included Above)		
	7. Total Assessable Costs (1+2+3+4+5+6)		
	8. Total Legal Expenses (ITEM F)		
	9. TOTAL WORKERS' COMPENSATION COSTS		
H. Number of Claims Summary			
	1. Carried over from prior year		
	2. Opened during current year		
	3. Closed during current year		
	4. Open at year end (1 + 2 - 3)		
	5. Total Medical only claims		
I. OPEN RESERVE CLAIMS (at year end)			
	Number		
	Amount		
NOTE: The amount of compensation benefits paid will be used by the Director to make assessments for the administration of the Workers' Compensation Office under the provisions of Act 29, 1983, R.S. 23:1291.1 All other information submitted will be used for statistical records only with the names of employers and carriers being confidential and privileged. (LA R.S. 23:1293)			
FOR OFFICIAL USE ONLY		I certify that the information contained herein is true and correct to the best of my knowledge and belief.	
		signature	date

Return to: Office of Workers' Compensation
P.O. Box 94040
Baton Rouge, LA 70804-9040

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:284 (February 1999).

§6631. Notice of Payment; Form LDOL-WC-1002

MAIL TO
OFFICE OF WORKERS' COMPENSATION
POST OFFICE BOX 94040
BATON ROUGE, LA 70804-9040
(225) 342-7565
TOLL FREE (800) 201-3457

- 1. Social Security No. ____-____-____
- 2. Date of Injury/Illness ____-____-____

NOTICE OF PAYMENT

This form is to be completed by the Employer/Insurer and sent to the injured employee with the first check or within 10 days of suspension/modification and/or change to SEB. A copy must be sent to the Office of Workers' Compensation Administration within 10 days of the effective date.

3. Purpose of Form (check one):
' Payment ' Modification ' Suspension ' Change to SEB

4. Employee Name _____ 5. _____ - _____ - _____
Effective Date

6. Part(s) of Body Injured _____

7. Nature of Injury _____

8. Compensation is paid as follows:

- ' A. Weekly payments of \$ _____ based on an average weekly wage of \$ _____ have begun.
- ' B. Payments re-started at \$ _____ per week.
- ' C. Payments reduced by \$ _____ due to:
 - ' Social Security Benefits ' Other Workers' Compensation Benefits
 - ' Employer Disability Benefits ' Unemployment Insurance Benefits
 - ' Third Party Recovery ' Refused Rehabilitation
 - ' Other: _____
- ' D. Permanent Partial Benefits of \$ _____ will be paid for _____ weeks.
- ' E. Supplemental Earnings Benefits of \$ _____ will begin _____.
The exact amount received weekly may vary.
- ' F. Death Benefits have begun in the amount of \$ _____ per week, representing _____% of wages.
- ' G. Payment suspended due to employee failing to cooperate.
- ' H. Other reasons or explanations _____

9. Submitted by:

Preparer Name: _____

Employer/Insurer: _____

Address: _____

Phone: _____

Employer/Insurer NCCI # _____

INSTRUCTIONS FOR THE COMPLETION OF THE
NOTICE OF PAYMENT FORM LDOL-WC-1002

Any time payment begins or payment is modified or suspended, the LDOL-WC-1002 (Notice of Payment) must be completed by the employer, insurer or self insurer and a copy sent to the injured employee. A copy should be sent to the Office of Workers' Compensation Administration (OWCA) within 10 days of the effective date of the form. Items with asterisks must be completed or the form will be returned.

* Item 1 - Social Security Number of the Employee - This must be a 9 digit number. This number must be the same as the number on all other forms submitted. If it disagrees with that number or if it changes for any other reason, explain this situation clearly under 19.h. other.

* Item 2 - Date of Injury/Illness - Enter the date of injury in Item 3 in month, day, year format. For example, July 23, 1998 would be entered as 07 23 98. As an employee could have more than one injury, it is important that this date agree with all other forms submitted for this incident.

* Item 3 - Purpose of Form - Indicate whether this notice is for payment, modification, suspension or change to SEB status by putting an "X" in the appropriate block. Effective 01/01/91, this form is no longer required for ongoing SEB payments. Do not submit it to OWCA. Check only one block.

Check the payment block to Indicate the first payment made on a claim, the re-starting of benefits or payments due to death. Be sure to also fill in 8.a or 8.b, or 8.f.

Check the modification block to Indicate changes in the weekly rate. Also fill in Item 8.c, and 8.d. Other parts of Item 8 may also be applicable.

Check the suspension block if payments have been suspended temporarily for some reason. Also fill in 8.g or 8.h. An LDOL-WC-1002 or 1003 will be expected in 60 days.

Check the changed to SEB status block if employee has returned to work and will receive SEB. Complete Item 8.e. Report this for the first SEB payment only. If it will vary weekly, please indicate this in 8.h. You are not expected to complete a form each time the SEB payment varies.

* Item 4 - Employee Name - Enter the name of the injured employee, first name first, middle initial and last name.

* Item 5 - Effective Date - Enter the day this form is effective.

* Item 6 - Part(s) of Body Injured - List all part(s) of the body that were affected. Be as specific as possible. Example: toxic hepatitis, right index finger at 2nd joint, left lower leg.

* Item 7 - Nature of Injury - Describe the principal physical characteristic of the injury or illness. If there were multiple types, list all that will fit on the line. Example: fracture, sprain,

cut, amputation, lead poisoning.

* Item 8 - Compensation Is Payable as Follows - (Complete as many as are applicable.)

8.a - Enter the weekly compensation rate which will be paid to the employee. Enter the average weekly wage used to compute this rate. (See instructions included.)

NOTE: When paying Salary in Lieu of Compensation, Item 8.a must be completed as if compensation is being paid. A statement that salary is being paid in lieu of compensation may be listed in 8.h.

8.b - If payments are being re-started after a period of suspension, indicate the amount to be received.

8.c - If payments are reduced, show the amount of reduction of the benefits. This is the amount that you are subtracting from the benefit normally payable to the employee as a result of benefits being received from some other source or other reasons. Check the appropriate block to reflect why the payments are being reduced.

8.d - If payments are being offered for a permanent partial disability in accordance with Section 1221(4), indicate the number of weeks for which payment will be made and the amount. Section 8.h lists the part(s) of the body for which payment is being made and the percent of partial disability. Example: 20% permanent partial disability to right hand and wrist.

8.e - If a supplemental earnings benefits will be paid, list the amount of payment and the beginning date. If this represents a single payment state the reason in 8.h.

8.f - If death benefits have begun, indicate their weekly amount and the percent of wages being received.

8.h - Enter any information in this section which may help the OWCA understand and interpret any of the other information entered on the form.

ITEM 9 - SUBMITTED BY - Indicate who completed this form and the number where they can be reached. This may be pre-printed or stamped.

Enter your self-insurer number or your National Council on Compensation Insurance assigned number in the block entitled Employer/Insurer NCCI Number. If unknown, leave blank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:286 (February 1999).

§6633. Stop Payment Form; Form LDOL-WC-1003

MAIL TO:
OFFICE OF WORKER'S COMPENSATION
POST OFFICE BOX 94040
BATON ROUGE, LA 70807-9040
(225) 342-7565, TOLL FREE (800) 201-3457

_____-_____-_____
SOCIAL SECURITY NUMBER

_____-_____-_____
DATE OF INJURY/ILLNESS
STOP PAYMENT FORM

This form is sent by the Employer/Insurer to the injured worker and the OWC within 30 days of the closure of a case.
An **AMENDED COPY** is required if the case re-opens or additional costs are incurred.

1. _____ 2. _____ - _____ - _____
(Employee) (Date of Birth) Date of this Notice
3. _____ 4. _____ - _____ - _____
Part(s) of Body Injured Date Compensation Paid Through

5. Purpose of Form: (check one)
- | | |
|--|--|
| <input type="checkbox"/> Payment stopped-Employee working at equal or greater wage | <input type="checkbox"/> Payment stopped-Maximum period for paying SEB has expired |
| <input type="checkbox"/> Payment stopped-Employee able to work at same or greater wage | <input type="checkbox"/> Payment stopped-3rd Party recovery without notice |
| <input type="checkbox"/> Payment stopped-Lump sum/Compromise settlement approved | <input type="checkbox"/> Amend or correct prior 1003 |
| <input type="checkbox"/> Other _____ | |

6. Length of Disability _____ weeks _____ days.
7. Give **ICD - 9** Diagnostic code(s) _____.
8. Give **CPT** Procedure code(s) _____.

9. COSTS INCURRED FOR THIS CASE:

- | | |
|-----------------------------------|---|
| A. Indemnity Benefits | D. Rehabilitation Expenses |
| 1. Temporary total \$ _____ | 1. Medical rehabilitation\$ _____ |
| 2. Supplemental earnings | 2. Vocational rehabilitation |
| 3. Permanent partial | 3. Labor Market Survey |
| 4. Permanent total | 4. Evaluation..... |
| 5. Death benefits | 5. Other |
| 6. Other benefits | |
- TOTAL INDEMNITY BENEFITS..... TOTAL REHABILITATION EXPENSES.....
(Add A. items 1-6) (Add D. Items 1-5)

B. TOTAL SETTLEMENT AMOUNT \$ _____

- | | |
|---------------------------------------|---|
| C. Medical Expenses | E. TOTAL FUNERAL EXPENSES.....\$ _____ |
| 1. Hospital\$ _____ | F. Legal Expenses |
| 2. Physician | 1. Attorney Fees\$ _____ |
| 3. Diagnostic Tests/Procedures..... | 2. Court Costs |
| 4. Prescription Drugs..... | 3. Deposition Costs |
| 5. Transportation Costs..... | 4. Investigation Costs..... |
| 6. Independent Medical Exams..... | 5. Penalties and Interest |
| 7. Occupational/Physical Therapy..... | 6. Administrative/Other Costs..... |
| 8. Other..... | |
- TOTAL MEDICAL EXPENSES..... TOTAL LEGAL EXPENSES
- (Add C. Items 1-8) (Add E. Items 1-5)

- G. 3RD PARTY RECOVERIES FOR COSTS\$ _____
(NOT INCLUDED ABOVE)
- H. TOTAL WORKERS' COMPENSATION COSTS \$ _____
(Add A - G)
- I. BALANCE OF UNUSED RESERVES.....\$ _____

Submitted by:
Preparer's Name: _____
Employer/Insurer: _____
Address: _____

Phone: () _____
Employer/Insurer NCCI Number: _____
Phone: () _____

INSTRUCTIONS FOR COMPLETING THE STOP PAYMENT FORM (LDOL-WC-1003)

This form is due within 30 calendar days of the closure of the case. If payments are later re-started, complete an LDOLWC-1002. An amended 1003 will be required 30 days after those payments have ceased. A copy of this form should be sent to the employee and another copy to the Office of Workers' Compensation. This form is completed by the employer, insurer or self insurer. Items with asterisks are required or the form will be returned.

* Social Security Number of the Employee -This must be a nine (9) digit number and should be the same as number used on other forms submitted. If you made an error on a prior form, that form must be re-submitted as an amended copy.

* Date of Injury/Illness - Enter the date of injury in month, day and year format For instance, August 21, 1998 would be entered as 08 2198. This date should agree with the date used on other forms reporting this same incident.

* Item 1 - Injured Employee and Date of Birth - Enter the name of the injured employee, first name first, middle initial and last name. Enter the date of birth, in month, day and year format.

Item 2 - Date of this Notice - Enter the day that you complete this notice, in month, day and year format.

*Item 3 - Part(s) of Body Injured - List all part(s) of the body that were affected. Be as specific as possible. For example, toxic hepatitis, right index finger, left lower leg.

Item 4 - Date Compensation Paid Through - Enter the last date the employee was paid compensation; that is, the date before compensation payments terminated. If the employee returned to work on July, 5 the compensation was paid through July 4, or 07/04/98.

Item 5 - Purpose of Form - Put an "X" in the appropriate block to indicate the reason for stopping compensation. If your reason is not listed, explain fully under "other".

Item 6 - Length of Disability - Give the TOTAL number of weeks and days the employee was considered "disabled" and for which any type of indemnities were paid.

Item 7 - ICD-9 Diagnostic Code(s) - Give up to 3 primary diagnostic codes assigned by physicians during the course of the case. Use those which resulted in the highest costs during the course of the claim.

Item 8 - CPT Procedure Code(s) - Give up to three procedure codes assigned to the claim. List those which resulted in the highest costs to the carrier/insurer.

*Item 9 - Costs Incurred for this Case:

Section A - Indemnity Benefits

- 1) Enter total amount of temporary total benefits paid for this case.
- 2) Enter total amount of Supplemental Earnings benefits (SEB) paid for this case.
- 3) Enter total Permanent Partial benefits paid.
- 4) Enter total amount of Permanent total benefits paid.
- 5) Enter total amount of Death benefits paid.
- 6) Enter the total amount of any other benefits paid to employee in lieu of wages or as a supplement to Workers' Compensation benefits.

Total Section A items 1-6.

NOTE: When paying salary in lieu of compensation, ITEM 9A must be completed as if indemnities were being paid. A statement that salary is being paid in lieu of compensation should be made on the initial LDOI-WC-1002.

Section B - Settlements

Enter the total amount of any Lump Sum Settlements which were paid. Do not include any amount here which you have listed in Sections A, C, D, E, F or G.

Section C - Medical Expenses

- 1) Enter total amount charged by a Health Care facility for in or out-patient services or treatment.
- 2) Enter total amount of physicians and other provider charges. This includes specialists and chiropractic services.
- 3) Enter total amount paid for diagnostic tests and procedures not included above.
- 4) Enter amount paid for prescription drugs other than those included above.
- 5) Enter the amount paid for transportation to and from hospitals or other medical offices or facilities.

- 6) Enter amount paid for independent medical exams.
- 7) Enter amount paid for occupational and/or physical therapy if not included above.
- 8) Enter other medical expenses not previously listed.

Total Section C items 1-8.

Section D - Rehabilitation Expenses

- 1) Enter charges for medical rehabilitation not included in Section C.
- 2) Enter charges for vocational rehabilitation not included in Section C.
- 3) Enter amount charged for Labor Market Surveys.
- 4) Enter amount charged for rehabilitation evaluations.
- 5) Enter items relating to rehabilitation not listed above.

Total Section D items 1-5.

NOTE: DO NOT duplicate charges previously reported in Section C. When you have doubts concerning the placement of an item in Section C or D defer to the language of the billing or the type of facility used.

Section E - Funeral Expenses

Enter the total amount paid for funeral expenses by the carrier/insurer in cases leading to an occupational death.

Section F - Legal Expenses

- 1) Enter the amount charged by attorneys and paralegals.
- 2) Enter the amount charged by courts as filing fees, for records preparation of appeals, and other court costs.
- 3) Enter the amount paid for depositions~ transcripts or witness fees.
- 4) Enter the amount paid in investigation costs.
- 5) Enter the amount paid in penalties and interest on this case.
- 6) Enter other charges associated with the legal aspects or this case, such as postage, copying fees, etc.

Total Section F items 1-6.

Section G -3rd Party Recoveries

Enter the amount paid to carrier/insurer for various expenses relating to this case and recovered from a third party. These Items should NOT be listed in Sec. A through F.

Section H - Total Workers' Compensation Costs

Add Sections A through G and enter the total here.

Section I - Balance of Unused Reserves

Enter the difference between the amount "reserved" for this case and actual expenditures.

Indicate who submitted this form and the person we can contact if we have any question regarding its content.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:287 (February 1999).

§6635. Request for Social Security Benefits Information; Form LDOL-WC-1004

REQUEST FOR SOCIAL SECURITY BENEFITS INFORMATION
(L.R.S. 23:1225)

DATE _____

NAME _____ SSN _____

Please provide information concerning the referenced worker.

Workers' Compensation Judge

Type of Social Security Benefit: ___ Disability ___ Retirement ___ Other ___ None

Current Social Security Benefit Paid to Employee \$ _____

Number of Auxillaries/Dependants on Record # _____

Age of Youngest Auxillary/Dependant _____

PART I - CALCULATION OF INITIAL OFFSET

Date of Entitlement _____

1. Original 80% Average Current Earnings (ACE) on Record \$ _____

- 2. Total Family Benefit (TFB) \$ _____
- 3. Higher of Amounts Shown Above \$ _____
- 4. Monthly Workers' Compensation (WC) Rate
(Subject to reduction due to allowable expenses) \$ _____
- 5. Social Security Benefits Payable After Offset in Month of Entitlement
(#3 minus #4, if a negative amount show 0) \$ _____
- 6. Original Federal Offset Amount (#2 minus #5) \$ _____

**PART II - CHANGE IN FEDERAL OFFSET AMOUNT DUE TO TRIENNIAL REDETERMINATION
OF THE ACE (42 USC 424 (F) (1) and 20 CFR 404.408(1))**

- Effective January _____
- 1. Redetermined 80% ACE \$ _____
 - 2. Original 80% ACE \$ _____
 - 3. Difference Between Original and Redetermined ACE (#2 minus #1) \$ _____
 - 4. Cost of Living Allowance (COLA) Increases for Same Period of Time (Date of Entitlement Through
Date of Redetermination) \$ _____
 - 5. Decrease in Offset (#3 minus #4; if negative, show 0) \$ _____
 - 6. Federal Offset Amount (#6 in Part I minus #5) \$ _____

The next Triennial Redetermination of the ACE should be completed in _____/_____/_____

PREPARED BY: _____
Social Security Field Office

NOTICE
REQUEST FOR OFFSET/REDUCTION OF
WORKERS' COMPENSATION BENEFITS

Pursuant to L. R.S. 23:1225 (A) or (C) of the Louisiana Workers' Compensation Act, an employer and/or its insurer may have the right to reduce an employee's workers' compensation wage benefits because the employee is receiving additional benefits from another source, such as the Social Security Administration. The employer and/or its insurer has requested that our office provide information regarding the employee's receipt of Social Security benefits. **A copy of the information obtained is attached.**

L. R.S. 23:1225 provides in pertinent part:

A. The benefits provided for in [the Workers' Compensation Act] for injuries producing permanent total disability shall be reduced when the person [is] receiving [Social Security Disability benefits]... provided that this reduction shall be made only to the extent that the amount of the combined federal and workers' compensation benefits would otherwise cause or result in a reduction of the benefits payable under the [Social Security act].

C. (1) If an employee receives remuneration from:

(a) Benefits under the Louisiana Workers' Compensation Law.

* * *

(c) Benefits under disability benefits plans in proportion funded by an employer.

* * *

then compensation benefits under this chapter shall be reduced, unless there is an agreement to the contrary between the employee and the employer liable for payment of the workers' compensation benefit, **so that the aggregate remuneration from subparagraphs (a) through (d) of the Paragraph shall not exceed sixty-six and two-thirds percent of the average weekly wage.**

You may also refer to Garrett v. Seventh Ward General Hosp., 660 so.2d 841 (La. 1995), whereby the Louisiana Supreme Court explains both provisions and allowed reduction of Workers compensation benefits when the employee was receiving workers compensation benefits and social security disability benefits at the same time.

The parties will be contacted by the local Office of Workers' Compensation regarding future conferences, hearings, etc.

NOTE: ANY REDUCTION IN YOUR WORKERS' COMPENSATION BENEFITS WILL NOT AFFECT THE EMPLOYER'S/INSURER'S OBLIGATION UNDER THE STATUTE TO FURNISH AND PAY FOR MEDICAL CARE IN CONNECTION WITH YOUR EMPLOYMENT-RELATED INJURY.

If you have any questions concerning this matter, contact the local OWCA District Office nearest you.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:290 (February 1999).

§6637. Motion for Recognition of Right to Social Security Offset; Form LDOL-WC-1005A

STATE OF LOUISIANA
DEPARTMENT OF LABOR
OFFICE OF WORKERS' COMPENSATION

_____, * SS#: _____
VERSUS * DOCKET NO: _____
_____ * DISTRICT: _____

MOTION FOR RECOGNITION OF RIGHT TO SOCIAL SECURITY OFFSET

NOW INTO COURT as undersigned comes _____, employer/insurer in the referenced case, and requests the Workers' Compensation Judge to enter an order recognizing its right to take the reverse offset, since the claimant in this matter is receiving permanent total disability benefits under the Louisiana Workers' Compensation Act in addition to benefits under 42 U.S.C. Chapter 7, Subchapter II, entitled Federal Old Age, Survivors, and Disability Insurance Benefits.

SIGNED this the _____ day of _____, 19 ____.

(PRINT NAME)
Agent for _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:293 (February 1999).

§6639. Order Recognizing Right to Social Security Offset; Form LDOL-WC-1005B

STATE OF LOUISIANA
DEPARTMENT OF LABOR
OFFICE OF WORKERS' COMPENSATION

_____, * SS#: _____
VERSUS * DOCKET NO: _____
_____ * DISTRICT: _____

ORDER RECOGNIZING RIGHT TO SOCIAL SECURITY OFFSET

This matter is before the Workers' Compensation Judge on the motion of the employer/insurer for recognition of its right to claim the social security reverse offset in this case. The Workers' Compensation Judge finds that the claimant is receiving permanent total disability benefits under the provisions of the Louisiana Workers' Compensation Act in addition to benefits under 42 U.S.C. Chapter 7, Subchapter II, entitled Federal Old Age, Survivors, and Disability Insurance Benefits. The Workers' Compensation Judge further finds the under that provisions of L.R.S. 23:1225(A) the employer/insurer has claimed and is entitled to a reduction in the Workers' Compensation benefits paid to claimant in the amount of _____.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the employer/insurer is hereby allowed to offset the Workers' Compensation benefits paid to claimant in the amount of _____ beginning on _____, 19 _____, the date of employer/insurer's judicial demand.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Social Security Administration reverse its social security offset effective _____, 19 _____, the date of employer/insurer's judicial demand.

READ, RENDERED AND SIGNED this the _____ day of _____, 19 ____ at _____ Parish, Louisiana.

WORKERS' COMPENSATION JUDGE

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:293 (February 1999).

§6641. Subpoena for Deposition and Subpoena Duces Tecum; Form LDOL-WC-1006A

SUBPOENA FOR DEPOSITION
AND SUBPOENA DUCES TECUM

_____ * DOCKET NO. _____ DISTRICT _____
VERSUS * OFFICE OF WORKERS' COMPENSATION
* STATE OF LOUISIANA
TO _____

YOU ARE HEREBY COMMANDED to appear at the office of _____
address _____
Telephone # _____ at _____
o'clock _____m. on the _____ day of _____, 19____, to have your
oral testimony taken in the above entitled and numbered cause.

YOU ARE/ARE NOT (circle one) FURTHER COMMANDED to produce
at the above time and place the following:

This SUBPOENA was issued by the Office of Workers' Compensation on the
_____ day of _____, 19____.

J. KAREN BEVAN, RECORDS MANAGER
Office of Workers' Compensation

This SUBPOENA was ordered I hereby certify I have served
by Attorney: _____ a copy of this subpoena on all _____
attorneys of record.

Telephone: () _____

AUTHORITY NOTE: Promulgated in accordance with R.S.
23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor,
Office of Workers' Compensation Administration, LR 25:294
(February 1999).

§6643. Subpoena Duces Tecum for Inspection; Form LDOL-WC-1006B

SUBPOENA AND SUBPOENA DUCES TECUM

_____ * DOCKET NO. _____ DISTRICT _____
VERSUS * OFFICE OF WORKERS' COMPENSATION
* STATE OF LOUISIANA
TO _____

YOU ARE HEREBY COMMANDED to appear before the Workers'
Compensation Court at _____
Telephone # _____ at _____ o'clock
_____m. on the _____ day of _____, 19____, or on any other
day that this matter may be continued to give testimony in the above
entitled and numbered cause. You must remain in Court until
discharged by the Judge. You must testify to the truth, to the best of
your knowledge in this case.

YOU ARE/ARE NOT (circle one) FURTHER COMMANDED to
produce at the above time and place the following:

FAILURE TO APPEAR OR PRODUCE AS DIRECTED ABOVE
SHALL SUBJECT YOU TO ANY PENALTY AS PRESCRIBED BY LAW.

This SUBPOENA was issued by the Office of Workers' Compensation
on the _____ day of _____, 19____.

J. KAREN BEVAN, RECORDS MANAGER
Office of Workers' Compensation

This SUBPOENA was ordered I hereby certify I have served
by Attorney: _____ a copy of this subpoena on all _____
attorneys of record.

Telephone: () _____

AUTHORITY NOTE: Promulgated in accordance with R.S.
23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor,
Office of Workers' Compensation Administration, LR 25:294
(February 1999).

§6645. Subpoena and Subpoena Duces Tecum; Form LDOL-WC-1006C

SUBPOENA AND SUBPOENA DUCES TECUM

_____ * DOCKET NO. _____ DISTRICT _____
VERSUS * OFFICE OF WORKERS' COMPENSATION
* STATE OF LOUISIANA
TO _____

YOU ARE HEREBY COMMANDED to appear before the Workers'
Compensation Court at _____
Telephone # _____ at _____ o'clock _____m.
on the _____ day of _____, 19____, or on any other day that this
matter may be continued to give testimony in the above entitled and numbered
cause. You must remain in Court until discharged by the Judge. You must
testify to the truth, to the best of your knowledge in this case.

YOU ARE/ARE NOT (circle one) FURTHER COMMANDED to produce
at the above time and place the following:

FAILURE TO APPEAR OR PRODUCE AS DIRECTED ABOVE SHALL
SUBJECT YOU TO ANY PENALTY AS PRESCRIBED BY LAW. T h i s
SUBPOENA was issued by the Office of Workers' Compensation on the ____
day of _____, 19____.

J. KAREN BEVAN, RECORDS MANAGER
Office of Workers' Compensation

This SUBPOENA was ordered I hereby certify I have served
by Attorney: _____ a copy of this subpoena on all _____
attorneys of record.

Telephone: () _____

AUTHORITY NOTE: Promulgated in accordance with R.S.
23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor,
Office of Workers' Compensation Administration, LR 25:294
(February 1999).

**§6647. Employer's Report of Injury/Illness; Form
LDOL-WC-1007**

MAIL TO:
OFFICE OF WORKERS' COMPENSATION
POST OFFICE BOX 94040
BA TON ROUGE, LA. 70804-9040
(225) 342-7565
TOLL FREE (800) 201-3457

_____-_____-_____
Employee Social Security Number

Employer UI Account Number

Employer Federal ID Number

**EMPLOYER REPORT
OF
INJURY/ILLNESS**

This report is completed by the Employer for each injury/illness identified by them or their employee as occupational. A copy is to be provided to the employee and the insurer immediately. **Forms for cases resulting in more than 7 days of disability or death** are to be sent to the OWCA **by the 10th day after the incident** or as requested by the OWCA.

PURPOSE OF REPORT; (Check all that apply)

- ' More than 7 days of disability ' Possible dispute ' Medical only
- ' Injury resulted in death ' Lump Sum Compromise/Settlement (**no copy needed by OWCA**)
- ' Amputation or disfigurement ' Other

1. Date of Report MM/DD/YY	2. Date / time of Injury: MM/DD/YY Time ' AM ' PM	3. Normal Starting Time Day of Accident: ' AM ' PM	4. If Back to Work - Give date: MM/DD/YY	5. At same wage? ' Yes ' No	DO NOT WRITE IN THIS COLUMN
6. If Fatal Injury, Give Date of Death: MM/DD/YY	7. Date Employer Knew of Injury: MM/DD/YY	8. Date Disability began: MM/DD/YY	9. Last Full Day Paid MM/DD/YY	Date Received:	
10. Employee Name: First Middle Last	11. ' Male ' Female	12. Employee Phone # ()	S.I.C.		
13. Address and Zip Code			14. Parish of Injury	State-Parish	
15. Date of Hire	16. Age at Illness/injury	17. Occupation:	18. Dept/Division Employed:	Occupation	
19. Place of Injury-Employer's Premises ? ' Yes ' No	20. If No, Indicate Location-Street, City, Parish and State			Nature	
21. What work activity was the employee doing when the incident occurred? (Give weight, size and shape of materials or equipment involved. Tell what he was doing with them. Indicate if correct procedures were followed.)				Part of Body	
				Source	
				Event	
				NCCI	
22. What caused incident to happen? (Describe fully the events which resulted in injury or disease. Tell what happened and how it happened. Name any objects or substances involved and tell how they were involved. Give full details on all factors which led to or contributed to this injury or illness.)					
23. Part of Body Injured and Nature of Injury or Illness (ex. left leg; multiple fractures)				24. If Occ Disease-Give Date Diagnosed:	
25. Physician and Address			26. If Hospitalized, give name & address of facility		
27. Employer's Name			28. Person Completing This Report - Please print		
29. Employer's Address and Zip Code			30. Employer's Telephone Number ()		
31. Employer's Mailing Address-If Different From Above			32. Nature of Business-Type of Mfg., Trade, Construction, Service, etc.		
33. Wage Information (optional): Employee was paid ' Daily ' Weekly ' Monthly ' Other. The average weekly wage was \$_____ per week.					

**EMPLOYER
CERTIFICATE OF COMPLIANCE**

You must submit this certification to your workers' compensation insurer. Failure to submit this Certification as required may result in your being penalized by a fine of \$500, payable to your insurer.

You must secure workers' compensation for your employees through insurance or by becoming an authorized self-insurer. If you fail to provide security for workers' compensation, you must pay an additional 50% in weekly benefits to your injured workers.

If you willfully fail to provide security for workers' compensation, then you are subject to a fine of up to \$10,000, imprisonment with or without hard labor for not more than 1 year, or both. If you have been previously fined and again fail to provide security for workers' compensation, then you are subject to additional penalties, including a court order to cease and desist from continuing further business operations.

You must not collect, demand, request, or accept any amount from any employee to pay or reimburse for the workers' compensation insurance premium. If you violate this provision, you may be punished with a fine of not more than \$500, or imprisoned with or without hard labor for not more than one year, or both.

It is unlawful for you to willfully make, or to assist or counsel someone else to make, a false statement or representation in order to obtain or to defeat workers' compensation benefits. If you violate this provision, you may be fined up to \$10,000, imprisoned with or without hard labor for up to 10 years, or both depending on the amount of benefits unlawfully obtained or defeated. In addition to these criminal penalties, you may be assessed a civil penalty of up to \$5,000.

EMPLOYER CERTIFICATION

I certify that I can read the English language, that I have read this entire document and understand its contents, and that I understand I am held responsible for this information. I certify my compliance with the Louisiana Workers' Compensation Act.

Preparer Name	(PRINT)	Signature	Date
Company Name		Company Address	
()		Insurance Policy Number	
Phone Number		Employee Social Security Number	

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:295 (February 1999).

**§6649. Disputed Claim for Compensation; Form LDOL-
WC-1008**

Mail To:
LOCAL DISTRICT OFFICE
OR
OFFICE OF WORKERS' COMPENSATION
POST OFFICE BOX 94040
BATON ROUGE, LA 70804-9040
For information call (225) 342-7565
or Toll Free (800) 201-3457

1. Social Security No. _____ - _____ - _____
2. Date of Injury/Illness _____ - _____ - _____
3. Part(s) of Body Injured _____
4. Date of This Request _____ - _____ - _____
5. Date of Hire _____ - _____ - _____
6. Date of Birth _____ - _____ - _____

Docket Number

DISPUTED CLAIM FOR COMPENSATION

7. This claim is submitted by:
' Employee ' Employer ' Insurer ' Dependent ' Health Care Provider ' LDOL ' Other _____

GENERAL INFORMATION

Claimant files this dispute with the Office of Workers' Compensation. This Office must be notified immediately in writing of changes in address. An employee may be represented by an attorney, but it is not required.

EMPLOYEE

8. Name _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

EMPLOYEE'S ATTORNEY

9. Name _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

EMPLOYER

10. Name _____
Attn: _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

**INSURER/ADMINISTRATOR
(circle one)**

11. Name _____
Attn: _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

EMPLOYER/INSURER'S ATTORNEY
(circle one)

DEPENDENT/HCP/OTHER
(circle one)

12. Name _____
Attn: _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

13. Name _____
Relationship _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

14. EMPLOYMENT DATA

Occupation: _____
Average Weekly Wage \$ _____ Workers' Compensation Rate \$ _____

15. TO BE COMPLETED BY INJURED EMPLOYEE OR DEPENDENT:

(A) ACCIDENT DATA

Date, time and place of accident: _____ Parish
of Residence at time of Injury/Illness _____
Accident reported on ___/___/___, to _____ whose position with the employer is _____

Describe the accident and injury in detail (person/equipment involved, type of injury, etc.) _____

List the names, addresses, telephone numbers of any witnesses.

(B) MEDICAL DATA

State the names, addresses, and telephone numbers of hospitals, clinics and doctors who have provided medical attention.

(C) THE BONA-FIDE DISPUTE

Check the following that apply and fill in the blanks:

- ' 1. No wage benefits have been paid
- ' 2. No medical treatment has been authorized
- ' 3. Occupational Disease
- ' 4. Workers' Compensation Rate is Incorrect - Should be \$ _____
- ' 5. Wage benefits terminated or reduced on ___/___/___
- ' 6. Medical treatment (Procedure/Prescription) _____ recommended by _____ not authorized.
- ' 7. Choice of physician (specialty) _____
- ' 8. Disability status _____
- ' 9. Vocational Rehabilitation - specify _____
- ' 10. Offset/Credit _____
- ' 11. Refusal to authorize/submit to evaluation with choice of physician/Independent Medical Examination [L. R. S. 23:1121, 1124(B), or 1317.1(F)]
- ' 12. Other: _____

NOTE: You may attach a letter or petition with additional information with this disputed claim or when later amending this disputed claim (Form LDOL-WC-1008). You must provide a copy of this claim and any amendment to all opposing parties.

The information given above is true and correct to the best of my knowledge and belief.

SIGNATURE OF CLAIMANT/ATTORNEY (circle one) DATE

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:297 (February 1999).

§6651. Request for Compromise and Lump Sum Settlement; Form LDOL-WC-1011

RETURN TO:
OFFICE OF WORKERS' COMPENSATION
POST OFFICE BOX 94040
BATON ROUGE, LA 70804-9040
(225) 342-7565
TOLL FREE (800) 201-3457

- 1. Social Security No. _____ - _____ - _____
- 2. Date of Injury/Illness _____ - _____ - _____
- 3. Part(s) of Body Injured _____
- 4. OWC Docket Number _____
- 5. OWC District Number _____

REQUEST FOR COMPROMISE OR LUMP SUM SETTLEMENT

DATE OF APPROVAL

JUDGE

EMPLOYEE

6. Name _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

EMPLOYEE'S ATTORNEY

7. Name _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

EMPLOYER

8. Name _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

INSURER/ADMINISTRATOR (circle one)

9. Name _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

EMPLOYER/INSURER'S ATTORNEY (circle one)

10. Name _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

- 11. DATE OF SETTLEMENT CONFERENCE _____
- 12. TERMS AND AMOUNT OF SETTLEMENT: _____
- 13. BENEFITS PAID TO DATE:
 - a.) AVERAGE WEEKLY WAGE: _____
 - b.) WORKERS' COMPENSATION BENEFITS: _____
 - c.) MEDICAL BENEFITS: _____
 - d.) DEATH BENEFITS: _____
- 14. ATTORNEY FEES PAID TO DATE: _____
- 15. ADDITIONAL FEES REQUIRED: _____

ATTACHMENTS REQUIRED:

- ____ JOINT PETITION _____ MOST RECENT MEDICAL REPORT
- ____ FORM 1007 ATTACHED _____ OR ON FILE _____ WAIVER OF RIGHTS UNDER L.R.S. 23:1271
- ____ FORM 1003 ATTACHED _____ OR ON FILE _____ FILING FEE PAID
- ____ EMPLOYEE AFFIDAVIT _____ ORDER OF APPROVAL
- ____ EMPLOYER CONCURRENCE _____ MOTION AND ORDER FOR ATTORNEY FEES
- ____ ALLEGATION OF LEGAL REPRESENTATION _____ MOTION AND ORDER TO DISMISS 1008 (IF APPLICABLE)

SUBMITTED BY: _____
PHONE: () _____

REQUIREMENTS FOR WORKERS' COMPENSATION SETTLEMENTS

The following items are necessary to process all workers' compensation settlements:

1. Forms: The following forms must be filed with each settlement in order to provide necessary information for record keeping and statistical purposes within the Office of Workers' Compensation:
 - A. A "Stop Payment Form" form (LDOL-WC 1003)
 - B. An "Employer's Report of Injury/Illness" form (LDOL-WC 1007)
 - C. A "Request For Compromise And Lump Sum Settlement" form (LDOIWC-1011)
2. Thirty dollar fee (\$30.00): Made payable to the Louisiana Workers' Compensation Administrative Fund.
3. Joint Petition: The petition must include the following signatures: the employee, employer, and insurer. All compromise settlement agreements entered into by the parties shall be presented to the Office of Workers' Compensation for approval. The petition shall set forth that it is for approval of a compromise settlement in accordance with Section 1272 and shall also set forth:
 - (a) The name of the employee
 - (b) The employee's social security number
 - (c) The date of the accident
 - (d) The name of the employer
 - (e) The insurance carrier: if none, a statement verifying employer's compliance with L. R.S. 23:1168.
 - (f) Employee's average weekly wage, compensation rate, weekly benefits paid, medical benefits paid, date employee was no longer temporary totally disabled.
 - (g) The amount of settlement
 - (h) The petition should also include a statement of how the compromise settlement will provide substantial justice to all parties. This statement will include the reason for the compromise settlement and what benefit the injured employee will receive as a result of the compromise settlement.
 - (i) Discount: If the settlement is a Lump Sum Settlement under La. R.S. 23:1221 Section 4, the settlement has not been discounted, in an amount greater than 8% per annum pursuant to L. R.S. 23:1274 (B).
 - (j) Any other information which will help the Workers' Compensation Judge to reach a decision on the matter.
 - (k) Signatures: If an attorney is signing on behalf of the employer and insurer, there must be a specific allegation in his verification that he has talked with the employer, and that the employer concurs.
 - (l) Verification: Stating that this petition is true and correct and that the claimant completely understands the ramifications of the settlement, including the specific Workers' Compensation benefits that are being forfeited in consideration of the settlement or the extent to which these rights are otherwise affected thereby; e.g., maximum benefits, medicals, supplemental earnings benefits, and/or rehabilitation. If the claimant is not going to appear before the Workers' Compensation Judge, this statement must be detailed listing the benefits (or potential benefits) that the claimant is foregoing by entering into the settlement.
 - (m) If any of the parties are not represented by counsel, the petition should so state, and the verification signed by that party, particularly the claimant, should also include information to insure claimant's understanding of the consequences of the settlement: e.g., his educational background, ability to read and write, his understanding of his employer's defenses and the risks he would undertake if he pursued his claim to a final resolution before the hearing officer.
 - (n) Statement of Substance of Agreement.
4. Proposed Judgment: The settlement documents must include a Proposed Judgment of Approval, which must be signed by all parties approving the form and substance of the proposed judgment.
5. Medical Records showing: (a) date of last temporary total disability or date claimant reached maximum medical improvement. (b) whether there is a possibility of a recurrence of this injury, (c) employee's ability to return to work and any restrictions on same and (d) any permanent impairment rating.
6. Hearing: The Workers' Compensation Judge may require a conference or a hearing to view the terms of the settlement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:299 (February 1999).

**§6653. Request for Independent Medical Examination;
Form LDOL-WC-1015**

RETURN TO:
OFFICE OF WORKERS' COMPENSATION
POST OFFICE BOX 94040
BATON ROUGE, LA 70804-9040
(225) 342-7559
TOLL FREE (800) 201-2494

1. Social Security No. _____
2. Date of Injury/Illness _____
3. Part(s) of Body Injured _____
4. Date of Birth _____
5. OWC Docket Number _____
6. OWC District Number _____

REQUEST FOR INDEPENDENT MEDICAL EXAMINATION

NOTE: THIS REQUEST WILL NOT BE HONORED
UNLESS A DISPUTE HAS ARISEN AS TO
CONDITION OF THE EMPLOYEE AS PER L. R.S. 23:1123

7. This form is submitted by:
' Employee ' Employer ' Insurer ' TPA/Self Insurance Fund

- A. The choice of the medical practitioner shall be that of the Director of the Office of Workers' Compensation as per L. R. S. 23:1123.
- B. A cover letter outlining the conflicting medical issue(s) in dispute (reason for request) along with the conflicting medical reports must be attached to this form.
- C. A list of names, addresses, phone numbers and reports of all physicians/medical providers who have treated or examined the injured employee for this injury must be included. Indicate who chose each health care provider.
- D. A copy of this request must be mailed to all parties.

EMPLOYEE

8. Name _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

EMPLOYEE'S ATTORNEY

9. Name _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

EMPLOYER

10. Name _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

**INSURER / ADMINISTRATOR
(circle one)**

11. Name _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

**EMPLOYER / INSURER'S ATTORNEY
(circle one)**

12. Name _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

Signature of Applicant Date

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:301 (February 1999).

20. REPORT REVIEWED AND APPROVED BY:

please type or print name

signature of facility

21. REMARKS/COMMENTS. THIS SPACE MAY BE USED TO RECORD CASE CHANGES. (I.E., MEDICAL CASES IN JANUARY WHICH LATER CHANGES IN APRIL TO A RESTRICTED WORKCASE OR LOST TIME CASE, OR OTHER RELEVANT INFORMATION).

22. DATE OF THIS REPORT.

WORKERS' COMPENSATION INSURER:

Name of workers' compensation insurer & telephone number with area code

23. MONTHLY SUMMARY CHART FOR THE CURRENT QUARTER: (SEE GLOSSARY, ITEM 19C)

MONTH	MANHOURS WORKED	MEDICAL TREATMENT	LOST TIME CASES	RESTRICTED WORK CASES	FATALITIES (DEATHS)	TOTAL RECORD-ABLE CASES	LOST TIME WORK DAYS	RESTRICTED WORK DAYS	MEDICAL WORK DAYS	MEDICAL TREATMENT CASE RATE	RESTRICTED WORK CASE RATE	LOST TIME WORK DAY RATE	RESTRICTED WORK DAY RATE	TOTAL RECORDED CASES

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:302 (February 1999).

§6657. Employee's Monthly Report of Earnings; Form LDOL-WC-1020

EMPLOYEE'S MONTHLY REPORT OF EARNINGS		
<p>You must submit this report to your employer's workers' compensation insurer within 30 days of your job-related injury, and every 30 days thereafter as long as you receive workers' compensation indemnity disability benefits. You do not have to submit this report if you have only received medical benefits. Your worker's compensation benefits may be suspended if you do not timely submit this report.</p>		
<p>DO NOT leave any blanks on this Report. Print or type all responses, and use N/A (not applicable) or -0- (zero) where appropriate.</p>		
<p>1. The information in this Report is true for the period beginning _____, 19 ____ and ending _____, 19 ____.</p> <p>2. The name and address of the employer that I am receiving benefits from is: _____.</p> <p>3. Did you work for this employer in the past 30 days? _____. If yes, how much were your gross wages? \$ _____.</p> <p>4. Did you work for any other employer in the past 30 days? _____. If yes, the name and address of the employer is _____. _____. If yes, how much were your gross wages? \$ _____.</p> <p>5. Did you have any earnings through self employment in the past 30 days? _____. If yes, how much? \$ _____.</p> <p>6. Did you receive any unemployment compensation benefits in the past 30 days? _____. If yes, how much? \$ _____.</p> <p>7. I received \$ _____ in old age insurance benefits under Title II of the Social Security Act.</p> <p>8. I received \$ _____ in Social Security Disability Benefits or other disability benefits.</p>		
EMPLOYEE CERTIFICATION		
<p>I certify that I can read the English language, that I have read this entire document and understand its contents, and that I understand I am held responsible for this information. I certify my answers are complete and true, and certify y compliance with the Louisiana Worker's Compensation Act.</p>		
<p>_____ Print Name</p>	<p>_____ Signature</p>	<p>_____ Social Security Number</p>
<p>_____ Address</p>	<p>_____ City</p>	<p>_____ State/Zip</p>
<p>_____ Employer Name</p>		<p>() _____ Phone Number</p>
<p>_____ Date</p>		

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:304 (February 1999).

§6659. Employee and Employer Certificate of Compliance; Form LDOL-WC-1025.EE

**EMPLOYEE
CERTIFICATE OF COMPLIANCE**

You must submit this form to your employer's workers' compensation insurer or to your employer within 14 days of its receipt. Your workers' compensation benefits may be suspended if you do not timely submit this Certification. You would be entitled to all suspended benefits after this Certification is provided to your insurer, if you are otherwise eligible for benefits.

It is unlawful for you to work and receive workers' compensation indemnity disability, except for supplemental earnings benefits. Supplemental earnings benefits are paid when an employee is able to work, but is unable to earn 90% or more of his pre-injury wages as a result of a job related accident. As an injured worker, you must notify your employer or insurer of the earning of any wages, changes in employment or medical status, receipt of unemployment benefits, receipt of social security benefits and receipt of retirement benefits. If you receive benefits for more than 30 days, you will be required to certify your earnings to your insurer quarterly.

It is unlawful for you to receive workers' compensation indemnity disability benefits and unemployment benefits at the same time, except for permanent partial disability benefits. Permanent partial disability benefits are paid solely for amputation or for anatomical loss of use of a body part or function. If you violate this provision, you may be fined up to \$10,000, imprisoned up to 90 days, or both.

It is unlawful for you to willfully make, or to assist or counsel someone else to make, a false statement or representation in order to obtain or to defeat workers' compensation benefits. If you violate this provision, you may be fined, imprisoned, or both, as follows:

<u>Unlawful Benefits</u>	<u>Fine</u>	<u>Imprisonment</u>
\$10,000 or more	up to \$10,000	up to 10 years, with or without hard labor
\$2,500 or more but less than \$10,000	up to \$ 5,000	up to 5 years, with or without hard labor
less than \$2,500	up to \$500	up to 6 months

In addition to these criminal penalties, you may be assessed a civil penalty of up to \$5,000 and may forfeit your right to receive workers' compensation benefits.

EMPLOYEE CERTIFICATION

I certify that I can read the English language, that I have read this entire document and understand its contents, and that I understand I am held responsible for this information. I certify my compliance with the Louisiana Workers' Compensation Act.

_____	_____	_____	_____
Print Name	Signature	Social Security Number	Date
_____		()	_____
Address	City	State / Zip	Phone Number

Note: Only one copy is required per case from the employee.

**EMPLOYER
CERTIFICATE OF COMPLIANCE**

You must submit this certification to your workers' compensation insurer. Failure to submit this Certification as required may result in your being penalized by a fine of \$500, payable to your insurer.

You must secure workers' compensation for your employees through insurance or by becoming an authorized self-insurer. If you fail to provide security for workers' compensation, you must pay an additional 50% in weekly benefits to your injured workers.

If you willfully fail to provide security for workers' compensation, then you are subject to a fine of up to \$10,000, imprisonment with or without hard labor for not more than 1 year, or both. If you have been previously fined and again fail to provide security for workers' compensation, then you are subject to additional penalties, including a court order to cease and desist from continuing further business operations.

You must not collect, demand, request, or accept any amount from any employee to pay or reimburse for the workers' compensation insurance premium. If you violate this provision, you may be punished with a fine of not more than \$500, or imprisoned with or without hard labor for not more than one year, or both.

It is unlawful for you to willfully make, or to assist or counsel someone else to make, a false statement or representation in order to obtain or to defeat workers' compensation benefits. If you violate this provision, you may be fined up to \$10,000, imprisoned with or without hard labor for up to 10 years, or both depending on the amount of benefits unlawfully obtained or defeated. In addition to these criminal penalties, you may be assessed a civil penalty of up to \$5,000.

EMPLOYER CERTIFICATION

I certify that I can read the English language, that I have read this entire document and understand its contents, and that I understand I am held responsible for this information. I certify my compliance with the Louisiana Workers' Compensation Act.

Preparer Name	(PRINT)	Signature	Date
Company Name	Company Address		
()	Insurance Policy Number		
Phone Number	Employee Social Security Number		
Employee Name	Employee Social Security Number		

LDOL-WC-1025.ER

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:305 (February 1999).

§6661. Employee's Quarterly Report of Earnings; Form LDOL-WC-1026

EMPLOYEE'S QUARTERLY REPORT OF EARNINGS

You must submit this Report to your workers' compensation insurer within 14 days. Your workers' compensation benefits may be suspended if you do not timely submit this Report. You would be entitled to all suspended benefits after this report is provided to your Insurer, if you are otherwise eligible for benefits.

You do not have to file this report if you have timely filed all necessary LDOL-WC-1020 forms, or if you have only received medical benefits.

DO NOT leave any blanks on this Report. Print or type all responses, and use N/A (not applicable) or -0- (zero) where appropriate.

1. The information in this Report is true for the period beginning _____, 19 ____ and ending _____, 19 ____
2. The name and address of the employer that I am receiving benefits from is: _____
3. Did you work for this employer in the past quarter? _____
If yes, how much were your gross wages? \$ _____
4. Did you work for any other employer in the past quarter? _____ If yes, the name and address of the employer is _____
_____ If yes, how much were your gross wages? \$ _____
5. Did you have any earnings through self employment in the past quarter? _____ If yes, how much? \$ _____
6. Did you receive any unemployment compensation benefits in the past quarter? _____ If yes, how much? \$ _____
7. I received \$ _____ in old age benefits under Title II of the Social Security Act.
8. I received \$ _____ in Social Security Disability Benefits or other disability benefits.

EMPLOYEE CERTIFICATION

I certify that I can read the English language, that I have this entire document and understand its contents, and that I understand I am held responsible for this information. I certify my answers are complete and true, and certify my compliance with the Louisiana Workers' Compensation Act.

PRINT NAME	SIGNATURE	SOCIAL SECURITY NUMBER
ADDRESS	CITY STATE / ZIP	() PHONE NUMBER
EMPLOYER NAME		DATE

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:307 (February 1999).

Inquiries concerning the proposed repeal and enactment may be directed to: Dan Boudreaux, Assistant Secretary, Office of Workers' Compensation Administration, Louisiana Department of Labor, P.O. Box 94094, Baton Rouge, Louisiana 70804-9094.

Interested persons may submit data, views, arguments, information or comments on the proposed repeal and enactment in writing, to the Louisiana Department of Labor, P.O. Box 94094, Baton Rouge, Louisiana 70804-9094, Attention: Dan Boudreaux, Assistant Secretary, Office of Workers' Compensation Administration. Written comments must be submitted and received by the Department within 10 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the Department within 20 days of the date of this notice.

Garey Forster
Secretary of Labor

9902#018

RULE

Department of Natural Resources Office of the Secretary

Oyster Lease Damage Evaluation Board
Proceedings (LAC 43:I.Chapters 37 and 39)

The Department of Natural Resources, Office of the Secretary hereby adopts the following rule governing the administration of the Oyster Lease Damage Evaluation Board, in accordance with R.S. 56:700.10 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 43

NATURAL RESOURCES

Part I. Office of the Secretary

Subpart 3. Oyster Lease Damage Evaluation Board Proceedings

Chapter 37. General

§3701. Purpose

These rules are adopted pursuant to R.S. 56:700.10 et seq. to provide for the filing and processing, and the fair and expeditious settlement, of claims pursuant to Part XV of Chapter 1 of Title 56 of the Louisiana Revised Statutes of 1950. These rules are designed to insure that the claims procedure is as simple as possible, and these rules shall be interpreted in that spirit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:700.10 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 25:308(February 1999).

§3703. Definitions

As used in LAC 43:I.Subpart 3, unless the context requires otherwise, the terms set forth below shall have the following meanings:

Biological Survey—a survey made to determine the biological test data, which is reported on a form prescribed by the board.

Biological Test Data—surveys of oyster beds and grounds by a certified biologist to determine the quality, condition and value of oyster beds and grounds.

Board—the Oyster Lease Damage Evaluation Board.

Certified Biologist—a biologist certified by the board as qualified to make biological surveys.

Department—the Department of Natural Resources.

Final Biological Survey—the biological survey made and filed by the owner or leaseholder, as applicable, pursuant to §3903.C.

Initial Biological Survey—the biological survey made and filed by the owner or leaseholder, as applicable, pursuant to §3903.A.

Intervenor—a party having an interest in the proceedings who is granted permission by the board to take part in the proceedings to the extent reasonable and necessary to assert or protect such party's interests.

Leaseholder—an owner of an oyster lease granted by the Department of Wildlife and Fisheries.

Mineral Activity—exploration (including all seismic operations) production, transportation (of equipment or

product) and any other activity associated with the production of oil and gas. Also referred to as *Oil and Gas Activity*.

Owner—an owner or operator of a mineral activity.

Part XV—Part XV of Chapter 1 of Title 56 of the Louisiana Revised Statutes of 1950.

Party—leaseholder, owner or intervenor.

Secretary—the secretary of the Department of Natural Resources, or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:700.10 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of the Secretary, LR 25:308(February 1999).

Chapter 39. Damage Evaluation Process

§3901. Request for Arbitration

A. Either an owner or a leaseholder who has been requested by an owner to enter into a settlement for damage to the leasehold which may occur due to the owner's proposed oil and gas activity that is expected to intrude upon the leasehold may file with the board a preliminary request for arbitration of the leaseholder's claim for damage in accordance with Part XV and LAC 43:I.Subpart 3.

B. The preliminary request shall contain the information required by a form prescribed by the board. A copy of the preliminary request and any annexed documents shall be served on the other party by the filing party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:700.10 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of the Secretary, LR 25:308 (February 1999).

§3903. Biological Surveys

A. The initial biological survey shall be based on onsite inspection and evaluation and shall be made to determine the quality and value of the beds and grounds expected to be affected by the proposed oil and gas activity.

B. If a preliminary request for arbitration is filed but the owner does not file the initial biological survey report within 60 days of service of the preliminary request for arbitration, the leaseholder may apply to the board for an order to have the initial biological survey made and filed by the owner.

C. Upon completion of the oil and gas activity proposed by the owner, the owner shall have a final biological survey made at the owner's expense and filed with the board together with a request for arbitration within 60 days of completion of the oil and gas activity, to furnish a basis for determination of the actual damage to the leasehold sustained as a result of the oil and gas activity.

D. If the leaseholder believes that the oil and gas activity proposed by the owner has been completed, and that the final biological survey has not been timely made and filed by the owner, the leaseholder may call for a hearing to determine whether the owner has complied with §3903.C hereof. If upon hearing the board finds that the owner has not so complied, the board shall permit the leaseholder to have a final biological survey made and filed together with a request for arbitration, and the reasonable cost of this survey shall be assessed against the owner as part of the actual damage sustained by the leasehold.

E. The board shall engage experts to assist the board in establishing a uniform evaluation method to be followed by certified biologists in determining the quality, condition and

value of the oyster beds and grounds before the oil and gas activity takes place and in determining the estimated damage or loss to the leasehold after the activity is completed.

F. The uniform evaluation method adopted by the board shall be made available to all parties and all certified biologists for use in proceedings before the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:700.10 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of the Secretary, LR 25:308 (February 1999).

§3905. Certification and Selection of Biologists

A. Biologists having a minimum educational attainment of a degree in a biological science, or having been accepted by a federal or state court in Louisiana as an expert witness in the field of oyster biology or oyster ecology may apply to the board for certification. The application for certification shall be accompanied by a résumé of educational attainments and work experience, certified copies of transcripts, and any other information considered useful to the board in assessing the qualifications of the applicant as to competency in making biological surveys required by Part XV and LAC 43:I.Subpart 3. The board shall consider the application for certification and information submitted in support thereof and may in the exercise of the board's discretion certify the applicant as a biologist qualified to make biological surveys required by LAC 43:I.Subpart 3.

B. The board shall annually review and maintain a list of certified biologists from which a selection must be made of a biologist to make any biological survey provided for by Part XV or LAC 43:I.Subpart 3.

C. The board may decertify the certified biologist, after a hearing, upon a finding of unsatisfactory performance.

D. When an owner is required to have a biological survey made under Part XV, he must choose one of a group of three certified biologists submitted by the board to the owner.

E. The selection of the group of three certified biologists to be submitted to the owner as provided above shall be made by the board from the list of all certified biologists, in the following manner.

1. The initial order of listing of the certified biologists shall be determined by drawing lots under the supervision of the board.

2. The initial group of three certified biologists shall be comprised of the top three individuals on the list.

3. The next group of three certified biologists shall be formed by striking the individual of the initial group chosen by the owner and adding the next individual listed below the initial group.

4. Succeeding groups shall be formed by proceeding down the list in like manner until there are less than three individuals left on the list, at which point a new list of all of the certified biologists shall be made and the order of listing redetermined by again drawing lots.

5. Selection of subsequent groups shall be made in the same manner as provided above for the initial list.

F. In the case of a biological survey made pursuant to §3903.D, the leaseholder may select a certified biologist in the same manner as an owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:700.10 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of the Secretary, LR 25:309 (February 1999).

§3907. Estimated Damage Deposit

A. Upon filing of the initial biological survey, the board shall determine the amount of the damage estimated to be sustained by the leasehold as a result of the proposed oil and gas activity, and shall notify the parties of the board's determination.

B. Upon a showing of urgent circumstances, the board will expedite to the extent practicable its determination of estimated damage.

C. Upon payment of a deposit with the board of the amount of the damage estimate made by the board, the owner may proceed with the proposed oil and gas activity. The deposit shall be invested with the state treasury as security for payment of any damage award and for payment of interest earned on the amount of the award.

D. If the deposit is not made within 30 days after notice of the board's estimated damage determination, the board may, in its discretion, dismiss the proceeding and order the owner to reimburse the leaseholder the amount of any filing fee paid by him.

E. The owner may, at any time prior to payment of the deposit, withdraw the owner's original request to the leaseholder to enter into a settlement, and proceedings hereunder shall thereupon terminate. Withdrawal shall be effective upon notice to the board and the leaseholder, and upon reimbursement by the owner to the leaseholder of any filing fee paid by him.

F. If, after the deposit is made, the owner does not commence the proposed activity within a reasonable time, the board may, upon hearing, award the leaseholder any filing fee paid by him and the reasonable cost of any survey that may have been separately undertaken by him, pay such award out of the deposit, and return the balance of the deposit to the owner, with interest earned on such balance, and dismiss the proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:700.10 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of the Secretary, LR 25:309 (February 1999).

§3909. Hearings and Determination of Actual Damage

A. Upon filing of the final biological survey together with a request for arbitration, the board shall call for a hearing to determine the actual damage sustained by the leasehold as a result of the oil and gas activity. The amount of actual damage determined by the board after hearing and review by the secretary shall be due by the owner to the board for the benefit of the leaseholder. If the damage award does not exceed the amount of the deposit made by the owner in accordance with §3907.B and D hereof, the board shall pay the amount of the award out of the deposit, together with interest earned thereon, to the leaseholder, and the balance, if any, shall be paid to the owner, together with interest earned on such balance. If the award exceeds the amount of the deposit the board shall pay the entire amount of the deposit, together with the interest earned thereon, to the leaseholder and shall order the owner to pay the leaseholder the amount of the difference between the award and the deposit together with legal interest thereon from the date of the initial deposit.

B. The determination of damage by the board and review by the secretary shall be based on the values shown in the biological surveys and shall reflect true and actual damage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:700.10 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of the Secretary, LR 25:310 (February 1999).

§3911. Conduct of Hearings

A. The board shall give reasonable notice of all hearings to all parties.

B. The notice shall include:

1. a statement of the time, place, and nature of the hearing;

2. a statement of the legal authority and jurisdiction under which the hearing is to be held;

3. a reference to the particular sections of the statutes and rules involved;

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

C. At the hearing, all parties shall have the opportunity to respond and to present evidence on all issues of facts involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

D. The hearing record shall include:

1. all pleadings, motions, and intermediate rulings;

2. evidence received or considered or a résumé thereof if not transcribed;

3. a statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;

4. offers of proof, objections, and rulings thereon;

5. proposed findings and exceptions; and

6. any decision, opinion, or report by the board or the secretary.

E. The board shall, at the request of any party or person, have prepared and furnish him with a copy of the transcript or any part thereof upon payment of the cost thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:700.10 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of the Secretary, LR 25:310 (February 1999).

§3913. Discovery

A. Parties may obtain discovery by written interrogatories, production of documents and things, requests for admission, and permission to enter upon land or other property for inspection and other purposes, limited in scope to the following matters:

1. the oil and gas activity conducted or to be conducted by the owner;

2. the quality and value of the oyster beds and grounds expected to be affected by the proposed oil and gas activity; and

3. the actual damage sustained as a result of the oil and gas activities.

B. The board in its discretion may allow discovery as to other matters, and in exceptional circumstances may allow

discovery by deposition.

C. A party may serve upon any other party written interrogatories to be answered separately and fully under oath, unless objection upon stated grounds is made to an interrogatory. Interrogatories may be served with the preliminary request for arbitration or at any time after filing of the preliminary request, and shall be answered within 30 days after service.

D. Any party may serve on any other party a request to produce and permit the party making the request to inspect and copy any designated documents including writings, drawings, graphs, charts, photographs, and other data compilations from which information can be obtained or inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of permissible discovery and which are in the possession, custody, or control of the party upon whom the request is served; or permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of permissible discovery. The request may be served with the preliminary request for arbitration or at any time after filing the preliminary request. The request to inspect and copy shall describe each item or category of items to be inspected with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. The party upon whom the request is served shall serve a written response within 15 days after service of the request stating that inspection and related activities will be permitted as requested unless the request is objected to in whole or in part, on stated grounds.

E. A party may serve upon any other party a written request for the admission, for purposes of the pending arbitration proceeding only, of the truth of any matters within the scope of permissible discovery set forth in the request, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. The request may be served with the preliminary request for arbitration or at any time after filing the preliminary request. Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 30 days after service of the request, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection upon stated grounds addressed to the matter. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admissions; and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. Any matter

admitted is conclusively established unless withdrawn or amended prior to a hearing on the merits, or thereafter if not substantially prejudicial to the requesting party.

F. Discovery Proceedings. Discovery proceedings shall be conducted under the supervision of the board and any party may apply to the board for an order or other relief as justice may require. The board may, after hearing, impose upon any party who fails unreasonably to comply with discovery rules or with an order of the board the reasonable expenses, including attorney fees, incurred by the other party or parties as a result of such failure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:700.10 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of the Secretary, LR 25:311 (February 1999).

§3915. Duration of Oil and Gas Activity by the Owner

A proposed oil and gas activity shall be deemed completed when the last damaging event occurs during the course of the activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:700.10 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of the Secretary, LR 25:311 (February 1999).

§3917. Limitations for Filing of Claims

A. The leaseholder must file his preliminary request for arbitration within two months of the date of receipt from the owner of the owner's request to the leaseholder to enter into a settlement for the damage which may be sustained due to the owner's proposed oil and gas activity expected to intrude upon the leasehold.

B. The owner may file a preliminary request for arbitration at any time after the owner determines in good faith that a settlement between the owner and the leaseholder cannot be reached. However, if the owner, by implementing the proposed oil and gas activity, intrudes on the leasehold prior to payment of the required deposit in accordance with Part XV, initiation of proceedings under Part XV shall thereupon become barred, and if proceedings are pending, shall thereupon be dismissed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:700.10 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of the Secretary, LR 25:311 (February 1999).

§3919. Notices, Filings, and Service of Copies

All notices, filings and service of copies provided for herein shall be in writing and shall be effective upon physical delivery to the proper recipient or upon placing same in the U.S. mail, certified, with receipt requested, addressed to the proper recipient. Notices, filings and service of copies may also be transmitted by facsimile equipment and shall be effective upon transmittal, if followed by delivery or mailing of the original document within a reasonable time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:700.10 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of the Secretary, LR 25:311 (February 1999).

§3921. Fees

The filing fee of \$500 shall be paid to the board upon filing the preliminary request for arbitration.

AUTHORITY NOTE: Promulgated in accordance with R.S.

56:700.10 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of the Secretary, LR 25:311 (February 1999).

§3923. Judicial Review

A. Any party who is aggrieved by the final decision or order in these proceedings is entitled to judicial review thereof.

B. Proceedings for judicial review of the final decision or order shall be instituted by filing a suit for judicial review in the district court of the parish in which the oyster lease is situated within 30 days of service of the notice of the final decision or order. Copies of the petition for judicial review shall be served upon the board and all parties to these proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:700.10 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of the Secretary, LR 25:311 (February 1999).

Jack C. Caldwell
Secretary

9902#065

RULE

Department of Revenue Office of Alcohol and Tobacco Control

High Alcoholic Content Beverages—Stocking, Pricing, and Rotating (LAC 55:VII.319)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the authority of R.S. 26:287 and R.S. 26:150(A), the Department of Revenue, Office of Alcohol and Tobacco Control has amended LAC 55:VII.319, which governs stocking, pricing, and rotating of alcoholic beverages. The Title of §319 has also been changed to limit the Section's application to alcoholic beverages of more than 6 percent alcohol by volume and to remove the reference to Regulation X.

The purpose of the amendment is to clarify how and under what circumstances a supplier or wholesaler may move, reset, or stock high alcoholic content beverages. This rule governs the type of activities that may be conducted between licensed manufacturers, wholesale dealers, and retail dealers, or any other legal entity engaged in the handling of alcoholic beverages in order to maintain the industry's integrity to conform with federal, state, and local laws and to provide for the freedom of choice for the consumer to purchase alcoholic beverages in a free, open competitive market.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Subpart I. Beer and Liquor Regulations

Chapter 3. Liquor Credit Regulations

§319. High Alcoholic Content Beverages—Stocking, Pricing, and Rotating

A. Persons holding valid Louisiana wholesale alcoholic beverage permits, their agents, servants or employees, manufacturers' agents, importers and brokers may price, stock

and rotate merchandise at retail premises only to the following extent.

1. Dealers in beverages of more than six percent alcohol by volume and in wine coolers containing more than six percent alcohol by volume and pre-mixed beverages of any alcoholic content may build and stock displays of their product on the premises of retail dealers. Displays can in no way be part of the dealer's regular shelving. They may restock displays for a maximum period of one month after the initial display has been installed. They may not price the displays. They are prohibited from pricing and stocking shelves on the premises of retail dealers and from affixing security tags. Industry members are granted authority to maintain the quality of their product on retail shelves, provided, that products purchased from other industry members are not altered or disturbed. The act of picking up alcoholic beverages in excess of six percent alcohol by volume for credit or exchange from a retail dealer by a wholesale dealer is considered a consignment sale and is therefore specifically prohibited.

2. No wholesale dealer of beverages that are more than six percent alcohol by volume shall handle or move any alcoholic beverages delivered to the premises of a retail dealer by a competing wholesale dealer, nor shall a wholesale dealer reset all or any part of the alcoholic beverages situated on the premises of a retail dealer, nor shall a wholesale dealer engage in the initial setting of products into a new store, unless the retail dealer sends notice, by certified mail to the Commissioner of Alcohol and Tobacco Control, stating the date, time, and location permit number of the contemplated movement, reset, or initial setting of alcoholic beverages. The addition of new products into the alcoholic beverage section shall not constitute a reset under the provisions of §319. Not less than one week prior to the approved date of such activity, the retail dealer shall mail copies both of the notice and Commissioner's written approval, to all wholesale dealers whose products are situated on their premises. The retail dealer shall maintain a list of the names and addresses of the wholesale dealers receiving such notice, and a copy of that list shall be filed with the Commissioner of Alcohol and Tobacco Control.

3. A wholesale dealer whose products are situated on the premises of a retail dealer must be given the opportunity to participate in any movement or reset of those products, and no retail dealer shall, under any circumstances, exclude a wholesale dealer from such participation. The reset of all or any part of the beverage alcohol situated on the premises of a retail dealer may not occur more than twice during any calendar year. The stocking of cold boxes by a wholesale dealer in a retail dealer's premises is permitted.

4. The spotting of shelves by a wholesale dealer in a retail dealer's premises is prohibited. The act of manually entering delivery or invoice information into the retail dealer's computer system at the time of delivery is prohibited.

5. Except as authorized under §319, employees of a wholesale dealer shall not, in connection with the sale or delivery of alcoholic beverages to a retail dealer, provide any services whatsoever to a retail dealer.

B. The Commissioner of the Office of Alcohol and

Tobacco Control may seek a suspension or revocation of the permit or permits of a violator and may impose such other penalties or administrative remedies as are prescribed by law for violators of the Alcoholic Beverage Control Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:287 and R.S. 26:150(A).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 6:734 (December 1980), amended LR 17:609 (June 1991), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 25:311 (February 1999).

Murphy J. Painter
Commissioner

9902#062

RULE

**Department of Revenue
Tax Commission**

Ad Valorem Tax

(LAC 61:V.303, 703, 907, 1103, 1305, 1307, 1503, 2301, 2303, 2503, 2703-2707, 3101-3105, 3501, and 3503)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission adopted, amended and/or repealed sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 1999 (2000 Orleans Parish) tax year.

Title 61

REVENUE AND TAXATION

Part V. Ad Valorem Taxation

Chapter 3. Real and Personal Property

§303. Real Property

* * *

C. The Louisiana Tax Commission has ordered all property to be reappraised in all parishes for the 2000 tax year. Property is to be valued as of January 1, 1999, in Orleans Parish the same as applies to property in all other parishes.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 7:44 (February 1981), amended by the Department of Revenue and Taxation, Tax Commission, LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:611 (June 1991), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 25:312 (February 1999).

Chapter 7. Watercraft

§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

Floating Equipment—Motor Vessels	
Cost Index (Average)	Average Economic Life 12 Years

Year	Index	Effective Age	Percent Good	Composite Multiplier
1998	1.000	1	94	.94
1997	1.009	2	87	.88
1996	1.025	3	80	.82
1995	1.041	4	73	.76
1994	1.078	5	66	.71
1993	1.108	6	58	.64
1992	1.130	7	50	.57
1991	1.144	8	43	.49
1990	1.167	9	36	.42
1989	1.198	10	29	.35
1988	1.262	11	24	.30
1987	1.316	12	22	.29
1986	1.335	13	20	.27

B. Floating Equipment—Barges (Nonmotorized)

Floating Equipment—Barges (Nonmotorized)				
Cost Index (Average)		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1998	1.000	1	97	.97
1997	1.009	2	93	.94
1996	1.025	3	90	.92
1995	1.041	4	86	.90
1994	1.078	5	82	.88
1993	1.108	6	78	.86
1992	1.130	7	74	.84
1991	1.144	8	70	.80
1990	1.167	9	65	.76
1989	1.198	10	60	.72
1988	1.262	11	55	.69
1987	1.316	12	50	.66
1986	1.335	13	45	.60
1985	1.348	14	40	.54
1984	1.368	15	35	.48
1983	1.405	16	31	.44
1982	1.430	17	27	.39
1981	1.497	18	24	.36
1980	1.652	19	22	.36
1979	1.817	20	21	.38
1978	1.986	21	20	.40

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 and 10:925 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999).

Chapter 9. Oil and Gas Properties

§907. Tables—Oil and Gas

A. The cost-new schedules below cover only that portion of the well subject to ad valorem taxation. Economic and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, economic or functional obsolescence may be given.

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Table 907.A-1 Oil, Gas and Associated Wells Region 1—North Louisiana				
Producing Depths	Cost—New by depth, per foot		15 percent of Cost—New by depth, per foot	
	\$Oil	\$Gas	\$Oil	\$Gas
0 - 1,249 ft.	8.05	9.33	1.21	1.40
1,250 - 2,499 ft.	8.52	8.36	1.28	1.25
2,500 - 3,749 ft.	10.50	9.78	1.58	1.47
3,750 - 4,999 ft.	12.50	13.62	1.88	2.04
5,000 - 7,499 ft.	18.30	20.16	2.75	3.02
7,500 - 9,999 ft.	20.58	31.09	3.09	4.66
10,000 -12,499 ft.	28.53	38.51	4.28	5.78
12,500 -Deeper ft.	N/A	89.26	N/A	13.39

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Table 907.A-2 Oil, Gas and Associated Wells Region 2—South Louisiana				
Producing Depths	Cost—New by depth, per foot		15 percent of Cost—New by depth, per foot	
	\$Oil	\$Gas	\$Oil	\$Gas
0 - 1,249 ft.	35.01	53.46	5.25	8.02
1,250 - 2,499 ft.	24.47	52.50	3.67	7.88
2,500 - 3,749 ft.	24.98	43.97	3.75	6.60
3,750 - 4,999 ft.	34.58	39.64	5.19	5.95
5,000 - 7,499 ft.	26.82	41.09	4.02	6.16

7,500 - 9,999 ft.	34.09	38.90	5.11	5.84
10,000 - 12,499 ft.	40.36	46.76	6.05	7.01
12,500 - 14,999 ft.	59.15	66.20	8.87	9.93
15,000 - 17,499 ft.	81.39	83.76	12.21	12.56
17,500 - 19,999 ft.	98.40	128.14	14.76	19.22
20,000 - Deeper ft.	80.94	161.47	12.14	24.22

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

1985	197563	202932	44
1984	189942	197562	40
1983	184490	189941	36
1982	179370	184489	32
1981	Lower	179369	29*
VAR.	900000	Higher	50

*Reflects residual or floor rate.

Note: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

Table 907.A-3 Oil, Gas and Associated Wells Region 3—Offshore State Waters*				
Producing Depths	Cost—New by depth, per foot		15 percent of Cost—New by depth, per foot	
	\$Oil	\$Gas	\$Oil	\$Gas
0 - 1,249 ft.	N/A	137.38	N/A	20.61
1,250 - 2,499 ft.	196.33	283.36	29.45	42.50
2,500 - 3,749 ft.	77.19	238.19	11.58	35.73
3,750 - 4,999 ft.	158.19	126.88	23.73	19.03
5,000 - 7,499 ft.	113.26	121.29	16.99	18.19
7,500 - 9,999 ft.	96.21	112.60	14.43	16.89
10,000 - 12,499 ft.	99.01	115.66	14.85	17.35
12,500 - 14,999 ft.	120.69	129.02	18.10	19.35
15,000 - 17,499 ft.	180.07	130.22	27.01	19.53
17,500 - Deeper ft.	393.40	157.21	59.01	23.58

*As classified by Louisiana Office of Conservation.

A.4. - B.1. ...

2. Serial Number to Percent Good Conversion Chart

Table 907.B-2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	25 Year Life Percent Good
1998	221596	Higher	96
1997	220034	221595	92
1996	218653	220033	88
1995	217588	218652	84
1994	216475	217587	80
1993	215326	216474	76
1992	214190	215325	72
1991	212881	214189	68
1990	211174	212880	64
1989	209484	211173	60
1988	207633	209483	56
1987	205211	207632	52
1986	202933	205210	48

3. Adjustments for Allowance of Economic Obsolescence

a. All wells producing 10 bbls oil or 250 mcf gas, or less, per day, as well as all active service wells (i.e. injection, salt water disposal, water source, etc.) shall be allowed a 40 percent reduction. Taxpayer shall provide the assessor with the proper Louisiana Office of Conservation forms to document claim for such reduction.

b. All inactive (shut-in) wells shall be allowed a 70 percent reduction.

c. Deduct any additional obsolescence that has been appropriately documented by the taxpayer, as warranted, to reflect fair market value.

d. All oil and gas property assessments may be based on an individual cost basis.

e. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

C.1. - 3. ...

4. The cost-new values listed below are to be adjusted to allow depreciation by use of the appropriate percent good listed in Table 907.B-2. The average age of the well/lease/field will determine the appropriate year to be used for this purpose.

5. Economic and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, economic or functional obsolescence may be given.

6. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

**Table 907.C-1
Surface Equipment**

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue,

Chapter 11. Drilling Rigs and Related Equipment
§1103. Drilling Rigs and Related Equipment Tables

A.1. Land Rigs

Table 1103.A Land Rigs		
Depth 0 to 7,000 ft.		
Depth (ft.)	Fair Market Value	Assessment
3,000	\$ 141,400	\$ 21,200
4,000	186,200	27,900
5,000	226,500	34,000
6,000	266,800	40,000
7,000	298,500	44,800
Depth 8,000 to 10,000 ft.		
Depth (ft.)	Fair Market Value	Assessment
8,000	\$ 327,200	\$ 49,100
9,000	360,000	54,000
10,000	405,600	60,800
Depth 11,000 to 15,000 ft.		
Depth (ft.)	Fair Market Value	Assessment
11,000	\$ 451,100	\$ 67,700
12,000	503,000	75,400
13,000	556,800	83,500
14,000	719,400	107,900
15,000	708,100	106,200
Depth 16,000 to 20,000 ft.		
Depth (ft.)	Fair Market Value	Assessment
16,000	\$ 796,900	\$ 119,500
17,000	851,600	127,800
18,000	895,100	134,200
19,000	948,300	142,200
20,000	1,030,500	154,600
Depth 21,000 + ft.		
Depth (ft.)	Fair Market Value	Assessment
21,000	\$ 1,112,700	\$ 166,900
25,000 +	1,441,400	216,200

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment
IC	0 - 199 ft.	\$ 10,330,000	\$ 1,549,950

	200 - 299 ft.	17,500,000	2,625,000
	300 - up ft.	35,300,000	5,295,000
IS	0 - 199 ft.	4,500,000	675,000
	200 - 299 ft.	8,000,000	1,200,000
	300 - up ft.	13,510,000	2,026,500
MC	0 - 100 ft.	1,975,000	296,250
	101 - 199 ft.	1,625,000	243,750
	200 - 250 ft.	20,670,000	3,100,500
MS	0 - 250 ft.	700,000	105,000
	250 - up ft.	20,670,000	3,100,500

IC - Independent Leg Cantilever
 IS - Independent Leg Slot
 MC - Mat Cantilever
 MS - Mat Slot

C. Semisubmersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	Fair Market Value	Assessment
0 - 800 ft.	\$ 45,700,000	\$ 6,855,000
801 - 1,800 ft.	81,875,000	12,280,000
1,801 - 2,500 ft.	120,000,000	18,000,000
2,501 - up Ft.	150,000,000	22,500,000

D. Well Service Rigs—Land Only (Good Condition)

Table 1103.C Well Service Rigs—Land Only (Good Condition)		
Engine Rated H.p.	Fair Market Value	Assessment
220	\$ 88,000	\$ 13,200
300	99,000	14,800
400	126,500	18,900
500 +	165,000	24,700

E. Consideration of Obsolescence

1. Functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, functional obsolescence may be given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999).

Chapter 13. Pipelines

§1305. Reporting Procedures

E. REFER to current cost tables (1307.A and 1307.B) and depreciation guidelines (Table 1307.C) adopted by the Louisiana Tax Commission. Yearly depreciation will be allowed, according to actual age, on an economic life of 25 years, however, as long as pipeline is in place and subject to operation, the remaining percent good shall not be lower than the percentage for an actual age of 18 years.

F. Assessment will be based on fair market value (refer to column on LAT Form 14) unless taxpayer provides evidence that conditions exist that warrant change. Economic and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, economic or functional obsolescence may be given.

G. Economic obsolescence may be recognized with a service factor calculated using the following formula and table:

$$Service\ Factor = \left(\frac{Actual\ Throughput}{Rated\ Capacity} \right)^{0.6}$$

This service factor represents remaining utility for the pipeline and may be applied in addition to normal depreciation.

Table 1305 Service Factor (Remaining Utility) Conversion Chart		
Throughput/Capacity Percentage	Obsolescence Percentage	Service Factor Percentage
95	3	97
90	6	94
85	9	91
80	13	87
75	16	84
70	19	81
65	23	77
60	26	74
55	30	70
50	34	66
45	38	62
40	42	58
35	47	53
30	51	49

25	56	44
20	62	38
15 or less	65*	35*

*Reflects residual or floor rate.

1. First, divide Actual Throughput by Rated Capacity to determine the percentage.

2. Then, find that percentage in Column 1 (round to nearest five percent) and multiply the depreciated cost-new assessed value of the pipeline by the percentage indicated in Column 3 to allow the amount of economic obsolescence indicated in Column 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:940 (November 1984), LR 17:1213 (December 1991), amended by the Department of Revenue, Tax Commission, LR 24:488 (March 1998), LR 25:316 (February 1999).

§1307. Pipeline Transportation Tables

C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

Table 1307.C Pipeline Transportation Allowance for Physical Deterioration (Depreciation)	
Actual Age	Percent Good
18 and older	29*

18 and older	29*
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*Reflects residual or floor rate.

Note: See §1305.G for method of recognizing economic obsolescence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999).

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

Aircraft

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (10 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1998	1.000	1	92	.92
1997	1.009	2	84	.85
1996	1.025	3	76	.78
1995	1.041	4	67	.70

1994	1.078	5	58	.63
1993	1.108	6	49	.54
1992	1.130	7	39	.44
1991	1.144	8	30	.34
1990	1.167	9	24	.28
1989	1.198	10	21	.25
1988	1.262	11	20	.25

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999).

Chapter 23. Insurance Companies

§2301. Guidelines for Ascertaining the Fair Market Value of Insurance Companies

A. The Tax Commission will assess insurance companies with a taxable situs within the state of Louisiana at 15 percent of the average monthly amount of direct premiums written during the previous year.

B. Credit assessments of insurance companies shall be allocated to the parish where the company's official domicile is registered and/or recorded or, lacking same, to the parish of domicile of its designated principal agent pursuant to R.S. 47:1952(C).

C. ...

AUTHORITY NOTE: Promulgated in accordance with La. Constitution of 1974, Article VII, Section 21, R.S. 47:1709, R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 25:317 (February 1999).

§2303. Exemption of Life Insurance Companies and Other Insurance Premiums

Life insurance companies and accident and health premiums are exempted from ad valorem taxation by Louisiana statute. In addition, national flood plan and multiple peril crop premiums are exempt by virtue of their being programs underwritten by the United States government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1954.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended by the Department of Revenue, Tax Commission, LR 25:317 (February 1999).

Chapter 25. General Business Assets

§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

* * *

B. Cost Indices

Table 2503.B Cost Indices		
Year	National Average 1926 = 100	January 1, 1998 = 100*
1998	1061.8	1.000
1997	1052.7	1.009
1996	1036.0	1.025
1995	1020.4	1.041
1994	985.0	1.078
1993	958.0	1.108
1992	939.8	1.130
1991	928.5	1.144
1990	910.2	1.167
1989	886.5	1.198
1988	841.4	1.262
1987	806.9	1.316
1986	795.4	1.335
1985	787.9	1.348
1984	776.4	1.368
1983	755.8	1.405
1982	742.4	1.430
1981	709.2	1.497
1980	642.8	1.652
1979	584.4	1.817
1978	534.7	1.986
1977	497.1	2.136
1976	472.1	2.249
1975	444.3	2.390
1974	398.4	2.665
1973	344.1	3.086

*Reappraisal Date: January 1, 1998 - 1061.8 (Base Year)

* * *

D. Composite Multipliers

Table 2503.D Composite Multipliers 1999 (2000 Orleans Parish)								
Age	3 Yr	5 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.70	.85	.90	.92	.94	.95	.97	.98
2	.49	.70	.80	.85	.88	.91	.94	.96
3	.35	.53	.69	.78	.82	.87	.92	.95
4	.21	.35	.56	.70	.76	.82	.90	.94
5		.25	.46	.63	.71	.79	.88	.94
6		.22	.37	.54	.64	.75	.86	.93

7			.29	.44	.57	.70	.84	.92
8			.25	.34	.49	.63	.80	.89
9			.23	.28	.42	.57	.76	.88
10				.25	.35	.52	.72	.85
11				.25	.30	.47	.69	.86
12					.29	.41	.66	.84
13					.27	.35	.60	.80
14						.31	.54	.75
15						.29	.48	.71
16						.28	.44	.67
17							.39	.63
18							.36	.58
19							.36	.56
20							.38	.55
21							.40	.52
22								.49
23								.47
24								.48
25								.53
26								.62

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999).

Chapter 27. Guidelines For Application, Classification and Assessment of Land Eligible To Be Assessed At Use Value

§2703. Eligibility Requirements and Application for Use Value Assessment

* * *

**Form 2703
Application For
Use Value Assessment**

Name: _____
Address: _____
Description: _____

Application is hereby made for a Use Value Assessment on the above land, which is at least three acres in size or has produced an average annual gross income of at least \$2,000 in one or more of the designated classifications for four years preceding this application.

I hereby certify that this land is (mark type(s) of use):

_____ devoted to production for sale of agricultural or horticultural products in reasonable commercial quantities, or under contract with a government agency restricting its use for such production.

_____ acreage

_____ devoted to production of timber or timber products in reasonable commercial quantities, or has had forest tree cover within the last three years and is not developed or devoted to a non-forest use, or is under contract with a government agency restricting its use for timber production.

_____ acreage

_____ marshland is wetland not devoted to agricultural, horticultural or timber purposes.

salt water marsh _____ acreage

brackish water marsh _____ acreage

fresh water marsh _____ acreage

This application shall apply for the following four year period:

In the event this land ceases to meet the requirements for a Use Value assessment, I will so notify the assessor of this parish within 60 days.

To Be Completed by Assessor:	Downowner
Class _____	Approved By: _____
Acres _____	Assessor _____
_____	Parish of _____
_____	Date _____

AUTHORITY NOTE: Promulgated in accordance with LSA - Constitution of 1974, Article VII, §18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 25:318 (February 1999).

§2705. Classification

* * *

Acadia	Grant	Sabine
Allen	Iberia	St. Bernard
Ascension	Iberville	St. Charles
Assumption	Jefferson	St. Helena
Avoyelles	Lafayette	St. James
Bossier	Lafourche	St. John
Caddo	LaSalle	St. Landry
Calcasieu	Lincoln	St. Martin
Caldwell	Livingston	St. Mary
Cameron	Madison	St. Tammany
Catahoula	Morehouse	Tangipahoa
Claiborne	Natchitoches	Tensas
Concordia	Orleans	Terrebonne
DeSoto	Ouachita	Union
East Baton Rouge	Pointe Coupee	Vermillion
East Carroll	Rapides	Washington
Evangeline	Red River	West Baton Rouge
Franklin	Richland	West Carroll

* * *

AUTHORITY NOTE: Promulgated in accordance with LSA - Constitution of 1974, Article VII, §18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:318 (February 1999).

§2707. Map Index Table

Table 2707 Map Index Listing of General Soil Maps and Modern Soil Surveys For The State of Louisiana Published By U.S. Dept. of Agriculture, Natural Resources Conservation Service In Cooperation With Louisiana Agricultural Experiment Station			
Parish	Date (General)	Map Number (General)	Date Published or Status (Modern)
* * *			
Sabine	Apr. 1970	4-R-29238	July 1997
* * *			
Union	Nov. 1971	4-R-17133-A	Nov. 1997
* * *			
Washington	Nov. 1971	4-R-17437-A	Sept. 1997

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 and R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:290 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:946 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999).

Chapter 31. Public Exposure of Assessments; Appeals
§3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings

* * *

D. Each assessor will make any determined changes to the assessment list during the public exposure period, and shall certify the assessment lists to the parish Board of Review within three business days of the final exposure date. The Orleans Parish Assessors shall certify their assessment lists to the Board of Review on or before the tenth business day after August 15.

* * *

J. The determination of the Board of Review shall be final unless appealed, in writing, to the Tax Commission within 10 business days after notice of the determination is postmarked or is delivered by hand to the taxpayer and/or to the assessor. Either or both parties may appeal the Board of Review decision to the Tax Commission.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:188 (March 1987), LR 13:764 (December 1987), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999).

§3103. Appeals to the Louisiana Tax Commission

A. The Tax Commission or its designated representative, as provided by law, shall consider the appeal of any taxpayer or assessor dissatisfied with the determination of the local Board of Review hearing. The appeal shall be filed with the commission within 10 business days after the Board of Review's written decision is postmarked or delivered by hand. The assessor shall confirm to the Tax Commission that the Board of Review has issued a written determination to each taxpayer and to the assessor's office, as required in §3101.I.

B. ...

1. Filing of written appeals (Form 3103.A) to the Tax Commission may be submitted by facsimile transmission within the 10 day filing period. Such filing shall be deemed complete at the time that the facsimile transmission is received, provided that the Tax Commission's staff acknowledges receipt of same, by way of facsimile return to the sender on the same day that the said appeal transmission has been received. The facsimile filing shall not include any exhibits associated with the filing. The original appeal form with all required copies and required exhibits shall be submitted to the Tax Commission within five business days, exclusive of legal holidays, after the Tax Commission has received the facsimile appeal form; otherwise the facsimile filing shall have no force or effect.

C. All pleadings shall be limited to the assessment/fair market values appealed to the Board of Review and shall contain four sets of the following documents and shall be submitted to the commission, with a copy to the assessor or taxpayer 10 days prior to the scheduled appeal hearing:

1. name under which the property is assessed;
2. description of the property;
3. determination of the Board of Review;
4. a prayer stating the type of relief, action or order desired by the pleader;
5. documents of evidence presented to the Board of Review supporting the claim; and
6. a list of witnesses who may be called and the anticipated time of presentation of the case.

* * *

M. Documents and papers offered into evidence for a hearing before the commission shall be marked as exhibits. Exhibits offered by a taxpayer shall be marked "Exhibit Taxpayer ____" and shall be consecutively numbered. The taxpayer shall, at the time an exhibit is offered, state whether the exhibit contains information not furnished to the assessor before the end of the period for public exposure of the assessment lists. Exhibits offered by the assessor shall be

marked "Exhibit Assessor _____" and shall be consecutively numbered. Four copies of all exhibits shall be provided to the commission, with a copy to the opposing party, 10 days prior to the scheduled appeal. Exhibits offered by the commission or its staff representative shall be marked "Exhibit Tax Commission _____" and shall be consecutively numbered.

N. At the close of evidence, each side will be allowed a reasonable amount of time to argue its case. This time will be allotted by the chairman or hearing officer.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999).

§3105. Practice and Procedure For Public Service Properties Hearings

* * *

C. Ten days prior to said hearings, the protesting taxpayer shall file a signed, written statement (Form 3105.A), specifying each respect in which the initial determination is contested, setting forth the specific basis upon which the protest is filed, together with a statement of the relief sought and four copies of all hearing exhibits to be presented; which shall be marked "Exhibit Taxpayer _____" and shall be consecutively numbered.

* * *

O. A protesting taxpayer, with leave of the commission or hearing officer, may present prepared deposition testimony of a witness upon direct examination, either narrative or questions and answers form; which shall be incorporated into the record as if read by the witness being sworn and identifying the same. Such witness shall be subject to cross-examination. Four copies of the prepared deposition shall be filed with the commission, as required in §3105.C.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:493 (March 1998), LR 25:320 (February 1999).

Chapter 35. Miscellaneous

§3501. Service Fees—Tax Commission

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period beginning on July 1, 1996, and ending on June 30, 1999, in connection with services performed by the Tax Commission as follows:

A.1. - D. ...

1. A \$75 fee to be levied for the receipt of a printed copy of the Louisiana Tax Commission Real/Personal Property Rules and Regulations manual to be paid by the requesting party.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999).

§3503. Homestead Exemptions

A. - C.5.a. ...

b. A residential lessee shall be entitled to a credit against any ad valorem tax imposed relative to the residence property, in an amount equal to the amount of tax applicable on property with an assessed valuation of \$7,500 or the actual amount of tax, whichever is less, provided the residential lessee is not otherwise entitled to the homestead exemption (R.S. 47:1710).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 16:1064 (December 1990), amended LR 17:611 (June 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:320 (February 1999).

Malcolm B. Price, Jr.
Chairman

9902#075

RULE

Department of Social Services Office of Family Support

Support Enforcement—Child Support Distribution (LAC 67:III.2514)

The Department of Social Services, Office of Family Support, has amended LAC 67:III.2514 for Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Public Law 104-193 (the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), Public Law 105-33 (the Balanced Budget Act of 1997) and the Office of Child Support Enforcement Action Transmittal 98-24, SES has changed the order in which certain collections of past-due support are distributed. P.L. 105-33 provided states with an option to implement the distribution requirements of P.L. 104-193 beginning October 1, 1998 rather than in the two stages required by P.L. 104-193. Louisiana chose that option and an emergency rule was signed into effect on October 2, 1998.

Former recipients of Aid to Families with Dependent Children and/or Family Independence Temporary Assistance Program (AFDC/FITAP) benefits will now receive arrearages owed to the family before reimbursements to the state are made. These reimbursements are for the cash assistance received by the recipients.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter D. Collection and Distribution of Support Payments

§2514. Distribution of Child Support Collections

A. Effective October 2, 1998 the agency will distribute child support collections in the following manner.

1. ...

2. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received through any means other than IRS intercepts will be distributed as follows:

a. the AR shall receive an amount equal to the court-ordered monthly obligation and any arrears owed to the AR that accrued in a non-assistance period;

b. amounts owed to the state;

c. any arrears that accrued during assistance that exceed the unreimbursed grant will be paid to the AR.

3. - 4. ...

5. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received through IRS intercepts will be distributed as follows:

a. amounts owed to the state; and

b. amounts owed to the AR.

B. Any collections received through income assignments are subject to refund to the noncustodial parent based on federal and state laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 105-33, and OCSE-AT-98-24.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:304 (March 1997), amended LR 24:703 (April 1998), LR 25:320 (February 1999).

Madlyn B. Bagneris

Secretary

9902#062

RULE

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

**Seismic Exploration
(LAC 76.I.301 and 303)**

The Wildlife and Fisheries Commission does hereby amend LAC 76:I.301 regulating seismic exploration and repeal LAC 76:I.303 on permits. Authority for adoption of this Rule is included in R.S. 30:214 and R.S. 36:609. This rule is pursuant to the Administrative Procedure Act, R.S. 49:950 et seq.

Title 76

WILDLIFE AND FISHERIES

Part I. Wildlife and Fisheries Commission and Agencies Thereunder

Chapter 3. Special Powers and Duties

Subchapter A. Seismic Exploration

§301. Regulations

A. Definitions

Cultivation—any human activity the purpose of which is to enhance the production of oysters.

Oyster Area—those areas of coastal Louisiana which are capable of supporting natural or cultivated oyster populations.

Oyster Bed—an oyster reef or a waterbottom on which oysters are actively being cultivated.

Oyster Reef—a discrete, clearly distinguishable structure which:

1. has been formed primarily by living oysters and other organisms;

2. is not necessarily currently supporting live oysters;

3. at least a portion of which must be above the mud line, (i.e. not covered by mud or silt); and

4. may support live oysters as a result of normal hydrological fluctuations.

B. In order to protect, conserve, and replenish the wildlife of the state of Louisiana, including all aquatic life, and pursuant to the authority conferred by Article IX, Section 7 of the Louisiana Constitution of 1974, R.S. 30:214 et seq. and R.S. 36:609; the following rules shall from and after promulgation date, govern any exploration work involving the discharge of explosives and other energy sources in the state of Louisiana for geophysical exploration.

1. The Wildlife and Fisheries Commission, pursuant to its constitutional and statutory authority, hereby designates how geophysical exploration work shall be conducted insofar as it relates to the fish, seafood, aquatic life, oysters, wildlife and waterbottoms of the state. No geophysical exploration work shall commence without the approval of the Secretary of the Department or his designee. The Department of Wildlife and Fisheries, Marine Fisheries Division, Seismic Section is hereby authorized and directed to enforce and administer these regulations with full power and authority to take all appropriate actions to ensure proper administration and compliance.

2. Application(s) for permission to operate shall be made by letter giving the names of the parishes where the geophysical exploration is to be conducted. Written permission to operate shall be valid for a period of one year from date of approval, unless otherwise specified. In order to obtain and maintain permission to operate, an applicant shall furnish the Department a surety bond in the amount of \$75,000 from a bonding company licensed to do business in the state of Louisiana and to whom A.M. Best and Company has given an "B+/7" or better rating. Bond forms may be

obtained from the Seismic Section. The bond shall be filed by the applicant prior to issuance of any permission to operate. Said bond shall guarantee payment of all shot hole fees and mileage fees, inspector fees, all compensation for damage to public lands, and waterbottoms (including, without limitation, damages for failure to remove equipment and trash), oysters, fish and other aquatic life, and/or other natural resources, man-made canals, bulkheads, rights-of-way and structures for which said applicant may be legally liable, and which may be suffered by the state of Louisiana. The bond shall also guarantee any and all fees in whole and in part for services rendered by the Department and its offices in accordance with regulations of the Department of Wildlife and Fisheries or the Wildlife and Fisheries Commission and all applicable penalties, and any other liabilities to the state of Louisiana incurred by the applicant during the geophysical operations. Applicants must also supply the Seismic Section with proof of general liability insurance in the amount of \$1,000,000. The policy must be issued by an insurer approved by the Department, and specifically cover all damage to land, waterbottoms, oysters, fish and other aquatic life, or other natural resources, man-made canals, bulkheads, rights-of-way, and other structures for which Permittee may be legally liable. In addition, Permittees applying for a renewal of the letter of permission to operate must have demonstrated a record of sound business practices by making timely payments of seismic fees to the Department, and by being in complete compliance with the Department's regulations including those regulations requiring notifications and timely submission of seismic exploration data daily reports.

3.a. The Department may, after ten working days written notice to Permittee, suspend or cancel the seismic letter of permission to operate granted pursuant hereto for failure by the Permittee, to make timely payment to the Department for obligations owed to the state of Louisiana for the following:

- i. any adjusted shot hole fees and mileage fees;
- ii. any compensation for damage to public lands, waterbottoms, oysters, fish and other aquatic life, or other natural resources, man-made canals, bulkheads, rights-of-way and structures for which said Permittee may be legally liable;
- iii. any fees for services rendered by LDWF personnel in overseeing geophysical exploration; and
- iv. any applicable penalties.

b. The Permittee shall be entitled to a hearing upon written request, made within the 10 working day notice period, to the Secretary or his designee, to review the circumstances prompting the Department to suspend or cancel his letter of permission to operate. This hearing shall be held as soon as practicable.

4. Permittees shall submit a 1:24,000 scale map showing, at a minimum, the outline of the project for comparison with Department databases of threatened, endangered, or sensitive wildlife and fisheries resources and a similar map on an 8.5" x 11" page. Permittees shall notify the Seismic Section before beginning any geophysical exploration on a "Notification of Beginning of Seismic Operations" furnished by the Seismic Section. The Permittee shall provide the Department with the names and telephone numbers of appropriate designated contact persons. The "Notification of

Beginning of Seismic Operations" shall be accompanied by a map on an 8.5" x 11" page showing the outline of the project or line. The Permittee also shall furnish the Seismic Section with a certified copy of the information filed with the appropriate parish clerk of court in accordance with R.S. 30:217. The Permittee shall submit notification to the Seismic Section of interruption or cessation of work. If a change in the prospect or line is necessary, the Permittee will provide a new plat indicating the change. If a change on the prospect or line affects different properties, or leasehold interests, the Permittee will provide a new plat indicating the new prospect or line, and no work will begin until this change has been furnished to the Seismic Section and the Seismic Section has reviewed it with regard to threatened, endangered, or sensitive wildlife and fisheries resources. The granting of permission to operate does not give the Permittee the right to trespass on, or conduct activities on private properties, nor does it relieve the Permittee of the responsibility for damages to private property.

5. A Permittee shall organize a pre-project meeting with the appropriate government agencies, property owners, lessees, residents, and other interested parties in the area of the proposed project. Notice of the meeting shall be advertised in the newspapers or journals designated for legal notices in the geographic areas in which geophysical survey operations are to be conducted. Additional notices should be posted in or on appropriate public places in the area of operations. All such notices shall be issued at a reasonable time before the scheduled meeting and before commencement of geophysical operations. Maps, as provided to the Seismic Section in connection with the Notification of Beginning of Seismic Operations and information designating the Permittee's contact persons during the geophysical operations, shall be made available to the public for review at this meeting.

C. Each geophysical exploration crew working in the state of Louisiana shall always be under the supervision of the Seismic Section. A Seismic Inspector may be present during the shooting operations of the Permittee to which he or she is assigned.

1. The Seismic Section representative shall have access to all records, including without limitation, shot point location maps, and shooters' logs and tracings, but only to the extent necessary to determine compliance with these regulations. Any and all proprietary or confidential information viewed or obtained by any Seismic Section representative or Seismic Inspector shall be maintained in strict confidence as mandated for disclosures of seismic data under R.S. 30:215. No Permittee shall be required to submit to the Department any document or thing containing such confidential, proprietary information, if such document would, thereby, become a public record.

2. The party chief or party manager shall instruct the members of his party as to the requirements of these rules and regulations, and to the duty and authority of the Seismic Section and the Seismic Inspector.

3. The party chief or party manager shall furnish the Seismic Section's representative with whatever reasonable and appropriate transportation is needed to allow him to visit the working areas and shall transport the Seismic Section's

representative to whatever locations he or she requests. The Department acknowledges that, when the Permittee is providing transportation for the Seismic Inspector or other representative of the Department under these regulations or other applicable law, that the Permittee is fulfilling a state mandated function and shall not be responsible, in any way, for any decisions, instructions, actions, or omissions of such Seismic Inspector or other Department representative.

4. The Seismic Inspector has the right to suspend any particular operation (e.g., surveying, drilling, shooting, or picking up equipment) or any portion of an operation, if it violates the Seismic Section's rules and regulations.

a. Written notice of violations shall be provided to the Permittee's designated contact person as soon as practicable. Corrective action taken by the Permittee and approved by the Seismic Section should dissolve the order for suspension issued by the Seismic Inspector.

b. The Permittee may request a hearing from the Secretary or his designee to review the circumstances of any suspension of geophysical survey activities. This hearing shall be convened as soon as practicable, but in any event within ten working days after the written request for a hearing. The Department shall provide the Permittee with due notice and the opportunity to participate.

5. The Department recognizes that conflicts may arise from time to time between parties regarding access to and use of public waters, waterbottoms, public lands and natural resources. In the event that such conflicts cannot be otherwise resolved, the Department may, at the discretion of the Secretary or his designee, restrict, regulate, or suspend such potentially or actually conflicting activities as may be necessary to provide reasonable and safe access to said public resources. The Department shall provide the Permittee's designated contact person at least five working days written notice prior to any suspension, restriction, or regulation of geophysical survey operations due to user conflicts. The Permittee may request a hearing from the Secretary or his designee to review the circumstances of the Department's restriction, regulation or suspension of geophysical activities. This hearing shall be convened as soon as practicable, but at any event within ten working days after written request for a hearing. The Department shall provide all interested parties with due notice and opportunity to participate.

6. No Seismic Inspector shall have the right to release any Permittee from the obligations imposed by these rules and regulations. Variances from these regulations may be granted by the Department only after written application by the Permittee setting forth reasons therefore. The release, signed by the Secretary or his designee, will designate the particular area and rule affected, and the procedures to be followed in lieu of any established rule. The Secretary or his designee may provide this information to appropriate interested parties upon request.

D. The Permittee must make a separate report for each day, whether or not shooting is in progress. Daily reports must furnish complete information as indicated by the report form, and must be signed by the party chief or party manager.

E. No geophysical exploration work shall be conducted on any wildlife refuge, waterfowl refuge, scenic river or stream,

game preserve, fish preserve or hatchery, or oyster seed ground reservation without written permission from the Department through the division in charge of such refuge, preserve, river, stream, hatchery or reservation. While operating on any wildlife refuge, waterfowl refuge, scenic river, stream, game preserve, fish preserve or hatchery or oyster seed ground or reservation, the Permittee must abide by all rules and regulations of said area, in addition to these seismic regulations to the extent they apply.

F. Boats, marsh buggies, airboats, or other types of marsh vehicles, when used, must be used so as to cause the minimum disturbance or damage to the lands, waterbottoms, and wildlife and fisheries resources thereon. When working on wildlife management areas, wildlife refuges, scenic rivers, streams, fish preserves or hatcheries, or public oyster seed grounds or reservations, the Permittee will coordinate with the supervisor in charge of the area as to rules of the area. Rules, regulations and fees may vary from one such area to another.

G. No marsh buggies shall have contact with any oyster reef or bed, including state-owned natural reefs, nor shall any explosives or other energy sources be discharged within 250 feet of any oyster reef or bed, including any state-owned natural reefs, without permission from the lessee of the reef or bed, and the Department. The Seismic Section will review all projects in designated public oyster seed grounds and reservations.

H. Geophysical Permittees are required to furnish an oyster lease plat to each affected oyster lessee showing the proposed number of shot points on line and their proposed location. Geophysical Permittees are required to furnish notice to oyster lease applicants of the proposed crossing of waterbottoms for which said applicant has applied for an oyster lease, provided said application(s) has been plotted on the Department's map(s).

I. All pipe used in geophysical operations must be removed to at least six feet below the surface of the ground, or six feet below the bottom in water areas, before finally leaving the shotpoint. No pipes shall be left unattended on land or in water.

J. All parties using pipe in water areas must have clearly welded or stamped at each end of each joint the name or abbreviation of the name of the Permittee using the pipe. All equipment including cables, boxes, geophones, staff poles, anchors, buoys, etc., must be permanently tagged with the name of the Permittee. All 2 x 2's used for survey lines must be clearly stamped with the name of the Permittee using the stakes at approximately three-foot intervals. These stakes must be removed immediately upon completion of the project. All cane poles must be removed immediately upon completion of the project. Anchors shall be marked, stamped, or tagged to identify the Permittee who deployed them, and shall be secured to an appropriately marked buoy, vessel, or float.

K. Permittees shall comply with the U.S. Coast Guard and/or the U.S. Army Corps of Engineers' rules and regulations for marking and lighting material and/or equipment in navigable waters. In addition, all survey buoys used in geophysical operations should be colored fluorescent green to mark receivers, and fluorescent red to mark the source line or shot line as well as show the name of the Permittee. All such

floats in areas of seismic operations shall use floating line.

L. No explosives shall be discharged knowingly within 1,000 feet of a boat without notice being given to such boat so that it may move from the area.

M. Persistent gas and water discharges caused by drilling or shooting operations of seismic crews will be stopped immediately by the Permittee.

N. Explosive charges or multiple charges in the same shot hole in excess of 50 pounds shall not be used except pursuant to express written authorization from the Secretary or his designee. Requests for the use of such charges and other variances from the charge sizes, hole depths, and/or setback requirements must be made in writing, giving the reasons why such charges are needed, the particulars of charge sizes, hole depths, patterns of deployment, and setback from potentially sensitive environments. Such requests should be addressed to the Seismic Section. Variances shall not be unreasonably withheld or delayed. All documents submitted to the Seismic Section in connection with requests for variances shall be public records; therefore, any confidential proprietary information required for review of a variance request may be submitted orally or by demonstrative presentation referenced in the written application, but the underlying confidential information shall not be disclosed in the written request filed with the Department. The Permittee may request a hearing to review all determinations, decisions, and regulations imposed with regard to requested variances, as set forth in §301.C.4.b. above. The Secretary or his designee may provide this information to appropriate interested parties upon request.

O.1. Minimum required depth of charges shall be as follows for shots detonated in holes:

Weight of Charge	Minimum Required Depth
1 pound or less	10 feet
Charges of 1 pound or less may only be used in upland areas. In addition, the hole must be tamped before shooting and the charge must be shot on the same day it is placed.	
Between 1 pound and 2 pounds	25 feet
2 pounds up to 5 pounds	40 feet
5 pounds up to 20 pounds	60 feet
20 pounds up to 30 pounds	70 feet
30 pounds up to 40 pounds	100 feet
40 pounds up to 50 pounds	120 feet

No part of the charge shall be above minimum required depth.

2. The use of suspended charges as energy sources is prohibited unless a variance is granted by the Secretary or his designee. If permitted, the Secretary or his designee shall then set forth requirements to minimize the effect on wildlife and fisheries resources.

P. Detonation of seismic explosive charges will be allowed only during daylight hours. Variances to this rule may be requested as set forth in §301.N. Permittees shall notify the Seismic Section of 24 hour airgun operations prior to

beginning such operations. The Department may, after review of the details of such night operations and areas affected thereby, impose additional restrictions, regulations or requirements upon such operations as may be reasonable and necessary for the protection of public waters, waterbottoms, lands, and wildlife. No shooting will be allowed in heavy fog. The Permittee may request a hearing to review all determinations, decisions, and regulations imposed with regard to night operations and weather conditions, as provided for in §301.C.4.b. above.

Q. In accordance with good industry practice, Permittee shall, after drilling and loading shot holes, backfill holes with cuttings or another material authorized by the Department, and place the shot hole plug near the surface to avoid wash-in.

R. All equipment including boxes, cables, staff poles, poles, anchors, etc., must be cleared from project areas before the Permittee leaves the area. The Permittee shall confirm in writing to the Seismic Section that all its equipment, materials, and refuse have been cleared from the project area. Said letter of confirmation shall be a public record. Variances from this rule may be granted by the Department if accompanied by a written request from an affected landowner or agency. The Secretary or his designee may provide this information to appropriate interested parties upon request.

S. A fee of \$135 per day will be charged to geophysical Permittees. This fee will be reviewed each January. All payments will be made by the Permittees directly to the Department on or before the fifteenth of each month. No payments are to be made to the Seismic Inspectors. Seismic Inspectors shall make and the Seismic Section shall maintain written records of the Inspectors' work in connection with each geophysical project, identifying the date, time, location, nature of the inspector's work, and the Permittee involved.

T. Permittees making application to work on any designated oyster seed ground or reservation designated by the state of Louisiana as specified in R.S. 56:434 and 435; and LAC Title 76 will be required to pay the following fees in addition to the supervisory fees: \$100 per shot hole, or \$1,000 per linear mile, whichever is greater, for reflective or refractive cable.

Airguns Only

Water Depths	Fees (per linear mile)
Less than or equal to five feet	\$1,000
Greater than five feet and less than or equal to 10 feet deep	\$400
Greater than 10 feet	\$200

3D Airgun Surveys

Water Depths	Fees (per square mile)
Less than or equal to five feet	\$12,500
Greater than five feet and less than or equal to 10 feet deep	\$5,000
Greater than 10 feet	\$2,500

All of these fees are to be paid in advance. All fees will be reviewed each January. It is the intention of the Wildlife and Fisheries Commission and the Department to use any fees

collected pursuant to this rule to plant shells for oyster cultch, to rehabilitate areas damaged by operations and as mitigation for any other damages to the coastal area.

U. All geophysical Permittees conducting operations shall exercise reasonable precaution and act in accordance with approved and accepted methods to prevent destruction of, or injury to the fish, oysters, shrimp and other aquatic life, wildlife or other living natural resources of the state of Louisiana, or their habitats.

V. Any violation of these or other rules promulgated by the Commission or the Department for the regulation of geophysical operations, or the refusal of any Permittee or its employees to comply fully with all orders and requirements which may be made by authorized personnel of the Department at the time the exploration is conducted, or any attempt to unduly influence any Seismic Inspector to abstain from the enforcement of these regulations shall constitute cause for suspension or cancellation of the "permission to operate", cessation of all exploration work, and disqualification of the party chief, party manager, field manager, and/or the Permittee involved from future operations in this state. The Permittee may request a hearing from the Secretary or his designee to review the particular

circumstances prompting the Department to suspend or cancel his letter of permission to operate per the provisions of §301.C.4.b.

W. These rules and regulations supersede all other rules and regulations issued prior to this date, and are subject to change by the Department and the Wildlife and Fisheries Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:214 and R.S. 36:609.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 4:300 (August 1978), amended LR 10:410 (May 1984), LR 13:115 (February 1987), LR 18:508 (May 1992), LR 25:321 (February 1999).

§303. Permits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:214 and R.S. 36:609.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 4:300 (August 1987), amended LR 10:410 (May 1984), repealed LR 25:325 (February 1999).

Bill A. Busbice, Jr.
Chairman

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