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Executive Orders

EXECUTIVE ORDER MJF 99-2

Louisiana Highway 1 Project Task Force

WHEREAS, Executive Order Number MJF 98-46, signed on October 8, 1998, established the Louisiana Highway 1 Project Task Force (hereafter "Task Force");

WHEREAS, Executive Order Number MJF 98-64, signed on December 2, 1998, altered the composition of the membership of the Task Force¹; and

WHEREAS, it is necessary to amend Executive Order Number MJF 98-46 to add an additional at-large member to the Task Force;

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

SECTION 1: Section 4 of Executive Order Number MJF 98-46, as amended by Section 1 of Executive Order Number MJF 98-64, is amended to provide as follows:

The Task Force shall be composed of a maximum of twenty-four (24) members appointed by, and serving at the pleasure of, the governor. The membership of the Task Force shall be selected as follows:

- A. The governor, or the governor's designee;
- B. The secretary of the Department of Transportation and Development, or the secretary's designee;
- C. The commissioner of administration, or the commissioner's designee;
- D. The chair of the House Transportation, Highways, and Public Works Committee, or the chair's designee;
- E. The chair of the Senate Transportation, Highways, and Public Works Committee, or the chair's designee;
- F. The Federal Highway Administrator for the state of Louisiana, or the Federal Highway Administrator's designee;
- G. Citizens of the state of Louisiana who reside in a community in the region of LA 1 between Grand Isle/Port Fourchon and Alexandria;
- H. Representatives of businesses and/or industries that are located in the region of LA 1 between Grand Isle/Port Fourchon and Alexandria; and
- I. Five (5) at-large members.

SECTION 2: All other sections and subsections of Executive Order Number MJF 98-46 shall remain in full force and effect.

SECTION 3: Executive Order Nos. MJF 98-62² and MJF 98-64 are terminated and rescinded.

SECTION 4: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

¹Executive Order No. MJF 98-62, signed on November 10, 1998, also altered the composition of the Task Force membership. However, that executive order was terminated and rescinded in Section 2 of Executive Order No. MJF 98-64.

²See Note 1.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 12th day of January 1999.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9902#005

EXECUTIVE ORDER MJF 99-3

SECURE Review Commission

WHEREAS, Executive Order Number MJF 98-13, signed on March 23, 1998, created and established the "Secure" Review Commission (hereafter "Commission");

WHEREAS, it is necessary to amend the Commission's reporting schedule;

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

SECTION 1: Section 3 of Executive Order Number MJF 98-13 is amended to provide as follows:

The Commission shall submit a comprehensive written report on the issues set forth in Section 2 to the governor, the speaker of the Louisiana House of Representatives, and the president of the Louisiana Senate by March 1, 1999, and March 1 of every year thereafter.

SECTION 2: All other sections and subsections of Executive Order Number MJF 98-13 shall remain in full force and effect.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the capitol, in the city of Baton Rouge, on this 13th day of January, 1999.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9902#006

EXECUTIVE ORDER MJF 99-4

Coordinating Council on Domestic Violence

WHEREAS, Executive Order No. MJF 97-32, signed on August 26, 1997, created and established the Louisiana Coordinating Council on Domestic Violence (hereafter "Council");

WHEREAS, it is necessary to amend the Order to extend the Council's reporting schedule;

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

SECTION 1: Section 3 of Executive Order No. MJF 97-32 is amended to provide as follows:

The Council shall submit to the governor, on or before March 31, 1999, a detailed written report containing its initial findings and recommendations.

Thereafter, the Council shall submit to the governor, on or before March 31, 2000, a final report of its findings and recommendations.

SECTION 2: All other sections and subsections of Executive Order No. MJF 97-32 shall remain in full force and effect.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 27th day of January, 1999.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9902#010

EXECUTIVE ORDER MJF 99-5

Declaration of Public Health and Safety Emergency

WHEREAS, video tape obtained by WAFB-TV, Baton Rouge, reveals the great likelihood that the Delta Women's Clinic located in Baton Rouge may be operating in such an unsanitary and medically deficient manner that the health and safety of the citizens of the state of Louisiana who are using the facility may be endangered;

WHEREAS, pursuant to the inherent police power of the state of Louisiana, it is the state of Louisiana's duty to protect and preserve public health, morals, safety, and welfare; and

WHEREAS, citizens using medical and health related facilities operating in the state of Louisiana are entitled to know and be assured that such facilities are being operated in a sanitary manner;

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

SECTION 1: Pursuant to the inherent police power of the state of Louisiana, a public health and safety emergency is declared to exist.

SECTION 2: The State Public Health Officer is ordered to take all necessary and immediate action to inspect the Delta Women's Clinic located in Baton Rouge and all other medical and health related facilities in the state of Louisiana which are not being regularly inspected to ensure compliance with appropriate health, safety, and sanitation standards.

SECTION 3: The attorney general of the state of Louisiana is requested to review all video tapes obtained by WAFB-TV, Baton Rouge, related to Delta Women's Clinic, Baton Rouge, and to conduct all necessary investigations to evaluate whether any criminal offenses may have been committed.

SECTION 4: The State Public Health Officer is ordered to regularly inspect all medical and health related facilities operating in the state of Louisiana to ensure that such facilities are operating in accordance with appropriate health, safety, and sanitation standards.

SECTION 5: All state officials and officers are authorized to take all necessary action to fulfill the purpose of this Order including, but not limited to, taking legal action on behalf of the governor.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 5th day of February, 1999.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9902#040

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Office of Financial Institutions

Capital Companies Tax Credit Program
(LAC 10:XV.305)

Under the authority of the Louisiana Administrative Procedure Act, LSA-R.S. 49:950 et seq., and particularly R.S. 49:953(B)(1) relative to emergency rulemaking, and in accordance with R.S. 51:1929 of the Capital Companies Tax Credit Program, R.S. 51:1921 et seq., the Acting Commissioner of Financial Institutions hereby intends to adopt an emergency rule, which amends the present Capital Companies Tax Credit Program rule by qualifying the ability of investors in a certified Louisiana capital company (CAPCO) to sell or otherwise transfer state income tax credits to third parties without first obtaining the prior written approval of the Commissioner of the Division of Administration, and that failure to do so would pose an imminent adverse effect upon the State treasury and thus imperil the public health, safety and welfare.

The Office of Financial Institutions ("Office") is statutorily charged with the certification and supervision of CAPCOs created pursuant to the Capital Companies Tax Credit Program. In view of this mandate, and as a result of the massive state income tax credits proposed to be transferred by investors in current CAPCOs to third parties during the most recent tax year, the result of which would negatively impact the State treasury, the Office concludes that modification of an investor's ability to sell or otherwise transfer such income tax credits is necessary and also ensures the effectuation of the intent of the Louisiana Legislature in enacting the Capital Companies Tax Credit Program.

I, Doris B. Gunn, in my capacity as Acting Commissioner of Financial Institutions for the State of Louisiana, do hereby order that as of the effective date of this Declaration of Emergency, no person may transfer any income tax credit earned after January 1, 1998 in conjunction with an investment in a certified Louisiana capital company, without first obtaining the written approval of the Commissioner of the Division of Administration at least thirty (30) days prior to the anticipated transfer or sale of such income tax credits. Further, the Commissioner of the Division of Administration shall not approve any transfer or sale of any income tax credits in an amount in excess of the funds budgeted for such purpose.

Therefore, in accordance with R.S. 49:953(B), the Office hereby adopts this Declaration of Emergency, the effective date of which is January 13, 1999 at 4:30 p.m.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part XV. Other Regulated Entities

Chapter 3. Capital Companies Tax Credit Program

§305. Income and Premium Tax Credits

A. ...

B. Income or premium tax credits may be sold or transferred, subject to the following conditions.

1. - 6. ...

7. No person may transfer or sell any income tax credit earned after January 1, 1998, without first obtaining the written approval of the Commissioner of the Division of Administration at least 30 days prior to the anticipated transfer or sale of any such income tax credits. The Commissioner of the Division of Administration shall not approve the transfer or sale of any income tax credits in excess of the funds budgeted for such purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1924, 1927, 1928 and 1929, and R.S. 22:1068(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 16:762 (September 1990), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1132 (September 1997), amended LR 25:

Doris B. Gunn
Acting Commissioner

9902#047

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)
Out-of State High Schools (LAC 28:IV.1701)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Tuition Opportunity Program for Students (R.S. 17:3042.1 and R.S. 17:3048.1).

The emergency rules are necessary to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore,

determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective January 12, 1999, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

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

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1701. Eligibility of Graduates Based Upon the High School Attended

A.1 - A.3. ...

4. Out-of-State High Schools

a. all other public or non-public high schools located in one of the United States other than Louisiana, which have been approved by the state's chief state or territorial school officer listed in the Louisiana Department of Education Bulletin 1462, or by the public body which is that state's equivalent of Louisiana's Board of Elementary and Secondary Education, and those high schools located in foreign countries which have been authorized or approved by a Department in the Executive Branch of the United States government to teach the dependents of members of the U.S. Armed Forces stationed abroad;

i. graduates of out-of-state high schools are eligible to participate in the Rockefeller State Wildlife Scholarship and the State Student Incentive Grant Programs;

ii. graduates of out-of-state high schools who are Louisiana residents or the dependents of a Louisiana resident serving on active duty with the Armed Forces or who have a parent who is a Louisiana resident are eligible to participate in TOPS.

b. a school will be deemed to be approved by the appropriate state agency if that state agency certifies:

i. that the high school in question received funding from the state to cover all or a portion of the costs of instruction; and

ii. that the high school in question adopted and does adhere to state and federal non-discrimination policies and statutes.

* * *

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 24:642 (April 1998), amended LR 24:1911 (October 1998), LR 25:

Jack L. Guinn
Executive Director

9902#001

DECLARATION OF EMERGENCY

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Payment Program for Medical School Students
(LAC 28:IV.2301-2311, and 2313)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to implement rules for the Tuition Payment Program for Medical School Students (R.S. 17:3041.10-3041.15).

The emergency rules are necessary to allow the Louisiana Office of Student Financial Assistance and state educational institutions to administer this program. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective January 12, 1999, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

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

Chapter 23. Tuition Payment Program for Medical School Students

§2301. General Provisions

A. Legislative Authority. The Tuition Payment Program for Medical School Students was created by Act 281, of the 1997 Regular Session of the Louisiana Legislature. This bill added R.S. 17:3041.10-3041.15.

B. Description, History and Purpose. The Tuition Payment Program for Medical School Students:

1. annually awards not more than four monetary loans to eligible students who commit to practice the profession of medicine as a primary care physician, as defined herein, for at least four consecutive years in a rural or poor community in Louisiana designated a "rural health shortage area" by the Louisiana Department of Health and Hospitals (hereinafter referred to as a "Designated Area"). When the individual receiving the award practices medicine in a Designated Area for four consecutive years as provided in these rules, the loans are forgiven in full;

2. was first funded for the 1998-99 award year;

3. was created to provide an incentive for Louisiana's medical school students to practice as primary care physicians in a Designated Area.

C. Award Amounts

1. Loans are made in an amount not to exceed the full tuition and room and board amount for students enrolled at one of the medical schools of Louisiana State University.

2. Recipients may receive a maximum of two years of funding.

3. Recipients may receive other financial awards in conjunction with the Tuition Payment Program for Medical School Students.

4. In the event the student's total aid exceeds the Cost of Attendance as defined in §301 of these rules, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the Tuition Payment for Medical School Students shall be reduced by the amount of any remaining over award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:

§2303. Establishing Eligibility

A. To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. Citizen and be registered with the Selective Service, if required, unless the institutional Financial Aid Officer determines that failure to register was not willful; and

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV for at least two years prior to April 15 of the calendar year in which the award will be made;

3. submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is applicable to the student, by April 15th of the calendar years in which an award is being sought (for those students applying for the 1998/1999 academic year, the deadline for filing the FAFSA is extended to March 1, 1999);

4. be enrolled and entering the third year of study at one of the LSU medical schools as a full-time student in a course of study leading to a doctorate degree in medicine with the intent to enter a residency program leading to a specialization in a primary care field. A "primary care field" shall include the following fields of medicine: family medicine, general internal medicine, general pediatrics, obstetrics/gynecology or a medical/pediatrics practice;

5. agree to the full time practice of the profession of medicine as a primary care physician in a Designated Area for at least four consecutive years after graduating from medical school and completing a residency program in a primary care field as defined in §2303.D, above;

6. complete and submit such other documentary evidence as may be required by LASFAC within the deadline specified;

7. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC;

8. not have a criminal conviction, except for misdemeanor traffic violations; and

9. agree that the award will be used exclusively for educational expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:

§2305. Application Process and Selection Criteria

A. The LSU Medical Center shall seek applications from medical students desiring to apply for a loan under this program and shall determine and report to the Commission, no later than the date specified by the Commission:

1. the academic standing of those applicants who meet the prerequisites of §2303.4 and 5. In determining the academic standing of applicants, the LSU Medical Center shall employ an evaluation system which is equitable to all applicants regardless of the medical school they attend; and

2. those applicants who have demonstrated an interest in primary care medicine through involvement in student activities which are supportive of the future practice of medicine as a primary care physician and which have been identified by the LSU Medical Center and approved by the administrator as meriting the award of extra points in the ranking of applicants.

B. From the list of applicants submitted by the LSU Medical Center, the Commission shall rank the applicants in order of merit and select no more than four individuals to receive the award in any one year (hereinafter "Recipient(s)"). The applicant's order of merit shall be determined by the academic standing of the applicant as reported by the LSU Medical Center and the extra points earned through student activities related to the practice of primary care medicine. The award shall be in the form of a loan to the Recipient as described in these rules.

§2307. Award Amount

A. The loan shall not exceed the full cost of tuition plus room and board, as those terms are defined herein, for two academic years.

B. The loan disbursement will be in two increments during each academic year based upon requests for disbursements submitted by the LSU Medical Schools which are consistent in timing with the normal payment of tuition by medical school students.

C. The loans for each of the two academic years are dependent upon sufficient appropriation by the State Legislature. Should the State Legislature fail to appropriate sufficient funds in each year to provide for the amount of the award agreed to by the Commission and student, the obligation to repay the loan will be remitted.

D. The cost of room and board included in an award under this section shall not exceed the cost allocated to room and board in the calculation of "cost of attendance" determined in accordance with 20 U.S.C. 10871l.

E. Tuition shall not exceed the fees, charges and other costs normally required to be paid by all medical students at the school attended.

F. The specific award amount for each loan shall be that amount stated in the agreement between the student and the Commission and shall not exceed the tuition and room and board charged at the school attended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:

§2309. Maintaining Eligibility

A. To continue receiving the Tuition Payment for Medical School Students, Recipients must meet all of the following criteria:

1. have received less than two years of funding under the Tuition Payment for Medical School Students;
2. be considered in good standing by the LSU Medical Center and continue to make satisfactory progress towards a medical degree in a primary care field;
3. continue to enroll each subsequent term as a full-time student, unless granted an exception for cause by LASFAC, in a course of study leading to a degree in medicine;
4. annually apply for federal and state student aid by completing the FAFSA or Renewal FAFSA, whichever is applicable to the student, by the state deadline;
5. have no criminal convictions, except for misdemeanor traffic violations; and
6. be in compliance with the terms of all other federal and state aid programs which the student may be receiving and which are administered by LASFAC.

B. Upon graduation from medical school, an award Recipient will be continued in a deferred payment status under the terms of the Tuition Payment Program for Medical Students Promissory Note ("Promissory Note") as long as the Recipient is enrolled in a residency program leading to a medical specialty in a primary care field. The Recipient shall notify LASFAC of the place and duration of the Recipient's residency program no later than the Recipient's date of graduation from medical school. The notice shall include an endorsement from the LSU Medical Center or its designee that the residency program is a program that will lead to the ability to practice as a primary care physician as defined herein. The LSU Medical Center shall make available to the Recipient a list of Designated Areas. The Recipient shall identify the Designated Area in which the Recipient intends to practice medicine and include this selection in the notice sent to LASFAC. By July 30 of each year after graduation from medical school, the Recipient shall notify LASFAC of the Recipient's current address and include in such notice an endorsement from an appropriate official of the residency program in which the Recipient is engaged that the Recipient is making satisfactory progress in the program. The Recipient shall notify LASFAC in writing of the completion of the residency program and the date the Recipient will initiate practice in a Designated Area. Each year thereafter, on the anniversary of the date the Recipient enters a primary care practice in a Designated Area, the Recipient shall send a written confirmation to LASFAC that the Recipient has practiced medicine during that year as required under the terms of the Promissory Note. The written confirmation shall be in the form of an affidavit executed before a notary public and shall be endorsed by the Louisiana Department of Health and Hospitals, affirming that the Recipient has practiced in a Designated Area. Failure of the Recipient to send any of the notices required under the terms of the Promissory Note in a timely manner shall cause the Recipient to be placed in a repayment status.

C. Students who fail to maintain eligibility for the second year of the loan will be placed in a repayment status within six

(6) months of their loss of eligibility, unless granted an exception for cause by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:

§2311. Completion of Promissory Note and Acceptance of Award

Prior to receiving an award, the Recipient must agree to the terms and conditions contained in and execute the Tuition Payment Program for Medical Students Promissory Note ("Promissory Note"). The Promissory Note obligates the Recipient to initiate a primary care practice in a Designated Area upon the completion of a primary care residency program. The Recipient shall complete the primary care residency program within four years of the date of graduation from medical school and shall initiate the full time practice of medicine as a primary care physician in a Designated Area within six (6) months from the date of completion of the residency program. The Designated Area in which the Recipient initiates practice shall be that area designated in the notice required by §2309.B, above, or such other Designated Area chosen by the Recipient, with the concurrence of LASFAC, upon completion of the residency program. The Promissory Note shall provide that if the area chosen in the notice provided for in §2309.B, above, is no longer an area designated a "rural health shortage area" by the Louisiana Department of Health and Hospitals at the time the Recipient finishes the residency program, it shall continue to be considered a Designated Area for purposes of discharge of the loan amount under these rules. The Recipient shall be deemed to be in a full time primary care practice if the Recipient performs direct patient care for an average of at least 36 hours per week in a normal annual work schedule. Should a Recipient fail to enter into the practice of medicine on a full time basis as a primary care physician within the time specified herein, the loan shall be placed in a repayment status and repaid together with all accrued interest and any collection costs incurred by the Commission, as specified in the Promissory Note.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:

§2313. Discharge of Obligation

A. The loan may be discharged by engaging in a full time primary care medical practice in a Designated Area for a period of four years, by monetary repayment or by cancellation.

B. Discharging the loan by entering into the full time practice as a primary care physician in a Designated Area is accomplished by:

1. completing a residency in a primary care field of medicine within four (4) years of the graduation from medical school; and
2. practice as a primary care physician on a full time basis for a period of at least four consecutive years in a Designated Area.

C. Recipients who fail to complete the medical practice requirements as specified in the Promissory Note shall be required to repay the entire loan obligation in accordance with subsection D, below.

D. Discharging the Promissory Note by Monetary Repayment. Recipients who elect not to discharge the obligation by practicing medicine as required in these rules and the Promissory Note and who are not eligible for discharge by cancellation must repay the loan principal plus accrued interest and any collection costs incurred according to the following terms and conditions:

1. interest shall accrue on the outstanding principal from the date of disbursement to the Recipient, at the rate determined by the Commission and reflected in the Promissory Note, not to exceed the maximum rate of interest which can be legally charged under Louisiana law for such loans. Annually, accrued interest shall be capitalized, meaning added to principal;

2. interest on each disbursement shall accrue from the date of disbursement until repaid, or fulfilled and shall be capitalized annually and at the time the Recipient enters repayment status.

E. Repayment Status

1. The Recipient will enter into a repayment status the first of the month following:

a. determination by LASFAC that the Recipient cannot discharge the loan by practicing medicine as required by these rules and the Promissory Note within the required time period; or

b. the date the Recipient notifies LASFAC that monetary repayment is desired; or

c. six months after LASFAC determines that the Recipient is no longer participating in a residency program in a primary care medical field or has otherwise failed to comply with the terms of the Promissory Note;

2. The amount to be repaid annually will be the greater of:

a. the amount necessary to amortize the loan principal together with capitalized and accruing interest within five (5) years; or

b. \$5,000 per year or the unpaid balance, whichever is less.

3. Recipients in repayment status may have their payments deferred in accordance with §2105.B, Deferment of Repayment Obligation.

4. During the period of time a Recipient is in a deferment status, a Recipient is not required to make payments and interest does not accrue.

5. The period of time for completion of repayment will be extended by a period of time equal to the length of time the Recipient is in deferment status.

D. Cancellation. The obligation to repay any remaining unpaid balance of the Promissory Note shall be canceled in the event either of the following occurs:

1. upon submission to LASFAC of a sworn affidavit from a qualified physician that the Recipient is precluded from gainful employment because of a complete and permanent medical disability or condition; or

2. upon submission to LASFAC of a death certificate or other evidence conclusive under state law, that the Recipient is deceased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:

Jack L. Guinn
Executive Director

9902#002

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Board of Trustees of the State Employees Group Benefits Program

Diabetes Self-Management Program

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

This rule shall become effective on February 20, 1999, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend the Plan Document to implement the provisions of Act Number 1439 of the 1997 Regular Session of the Louisiana Legislature (R.S. 22:215.18), regarding benefits for diabetes self management training. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section I, Subsection F, by adding a new paragraph, 36, to read as follows:

36. outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes, and non-insulin using diabetes, when such self-management training and education is provided by a licensed health care professional with demonstrated expertise in diabetes care and treatment who has completed an educational program required by the appropriate licensing board in compliance with the National Standards for Diabetes Self-Management Education Program as developed by the American Diabetes Association, and only as follows:

a. a one-time evaluation and training program for diabetes self management, conducted by the health care professional in compliance with the National Standards for Diabetes Self-Management Education Program as developed by the American Diabetes Association, upon certification by

the health care professional that the covered person has successfully completed the program, such benefits not to exceed \$500;

b. additional diabetes self-management training required because of a significant change in the covered person's symptoms or conditions, limited to benefits of \$100 per year and \$2,000 per lifetime;

* * *

Jack W. Walker, Ph.D.
Chief Executive Officer

9902#041

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Board of Trustees of the State Employees Group
Benefits Program**

PPO/EPO—Provider Contracting Criteria

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, and in accordance with R.S. 40:2204(D), the Board of Trustees hereby invokes the Emergency Rule provisions of La. R.S. 49:953(B).

The Board finds that it is necessary to establish a process and implement criteria governing contracting with health care providers or groups of providers for participation in a preferred provider organization or other managed care arrangement. Failure to adopt this rule on an emergency basis will result in a financial impact adversely affecting the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state. Accordingly, the following Emergency Rule is effective January 19, 1999, and shall remain in effect for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

Criteria for Participation in a Preferred Provider Organization, Exclusive Provider Organization, or Other Managed Care Arrangement

I. Notice of Intent to Contract

Notice of intent to contract with health care providers, or with groups or organizations of health care providers, on behalf of the State Employees Group Benefits Program, for participation in a preferred provider organization, exclusive provider organization, or other managed care arrangement shall be given by publication in the official journal of the State of Louisiana or by direct solicitation setting forth the Program's intent to contract, describing the services sought, and providing a contact point for requesting a detailed explanation of the services sought and the criteria to be used in developing contracts.

II. Preferred Provider Organization (PPO) Criteria

The following criteria shall govern participation in the Program's Preferred Provider Organization (PPO).

A. The health care provider shall be appropriately licensed in accordance with the laws of the state where the services are to be rendered.

B. The health care provider shall accept the reimbursement schedule established by the Program.

C. The health care provider shall execute a PPO contract setting forth the Program's the terms and conditions.

III. Exclusive Provider Organization Criteria

In addition to the PPO criteria, following criteria shall govern participation in the Program's Exclusive Provider Organization (EPO).

A. Hospital Participation

1. In each regional service area established by the Program, at least one tertiary care hospital facility shall be selected for participation.

2. To be eligible for selection as a tertiary care hospital facility, the hospital shall provide the following services:

a. general medical and surgical facilities (inpatient and outpatient);

b. intensive and critical care units;

c. emergency care facility;

d. cardiovascular care unit;

e. obstetrical care, unless the Program contracts directly with an obstetrical care hospital facility in the region;

f. rehabilitation; and

g. skilled nursing unit.

3. Selection will be based upon cost analysis (60 percent) and market acceptability for plan participants (40 percent).

4. The hospital shall agree to participate for a minimum term of one year, consistent with the Program's plan year.

5. Selected hospitals shall execute an EPO hospital contract setting forth the Program's terms and conditions.

B. Physician Network Participation

1. In each regional service area established by the Program, at least one physician network shall be selected for participation.

2. To be eligible for selection, a physician network shall have at least twenty (20) primary care physicians for each proposed region. Primary care physicians are licensed medical doctors practicing in the areas of family practice, general practice, internal medicine, pediatrics, and obstetrics/gynecology. A minimum of four (4) physicians must practice in each of the following categories:

a. Family Practice, General Practice, or Internal Medicine;

b. Pediatrics; and

c. Obstetrics/Gynecology.

3. In addition to the primary care physician requirements, the physicians network in each proposed region shall include physicians practicing in the areas of Urology, General Surgery, Orthopedics, Radiology, Pathology, Anesthesiology, Otolaryngology, Neurology, Allergy, Gastroenterology, Ophthalmology and Dermatology. The

Program may relax or enlarge this requirement based upon its contracting experience with a particular specialty.

4. A primary care physician may not participate in more than one EPO network in each region.

5. All physicians in the network shall participate for a minimum term of one year, consistent with the Program's plan year, except for reasons of retirement from the practice of medicine or relocation of the physician's practice out of the region.

6. Selection will be based upon cost analysis (60 percent) and market acceptability for plan participants (40 percent).

7. Selected physician networks shall execute an EPO physician contract setting forth the Program's terms and conditions.

Jack W. Walker, Ph.D.
Chief Executive Officer

9902#007

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Veterinary Medicine

Consulting and Providing Legend and Certain Controlled Substances (Ketamine) (LAC 46:LXXXV.704)

The Board of Veterinary Medicine has adopted the following Emergency Rule, effective February 8, 1999, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), and the Veterinary Practice Act, La. R.S. 37:1518 et seq., and it shall be in effect for the maximum period allowed by law.

To protect the public health and safety, the board has amended LAC 46:LXXXV.704.B to include ketamine as a controlled substance which an animal control agency may use for the sole purpose of animal capture and restraint, so long as a licensed veterinarian who possesses a state controlled dangerous substance license at the shelter location where the drugs will be stored and administered agrees to be responsible for the ketamine used. The emergency amendment further prescribes the conditions under which ketamine is used and stored by an animal control agency. This emergency rule will allow animal control agencies to perform their mission in a manner that will serve to protect the public from dangerous animals. Ketamine is a drug used to immobilize feral, diseased, and vicious animals. In the case of some animals, ketamine (sometimes in combination with non-controlled drugs) is the preferred drug for restraint or capture. The lack of access to ketamine may place animal control agency personnel at greater risk from dangerous animals.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§704. Consulting and Providing Legend and Certain Controlled Substances

A.1. - 5. ...

B. Telazol (Tiletamine HCL and Zolazepam HCL) and Ketamine (Ketamine HCL)

1. When an animal control agency which is operated by a state or local governmental agency or which is operated by any duly incorporated humane society which has a contract with a local governmental agency to perform animal control services on behalf of the local governmental agency seeks to administer the controlled substances Telazol (tiltamine HCL and zolazepam HCL) or Ketamine (ketamine HCL), to an animal for the sole purpose of animal capture and/or animal restraint, the animal control agency must have a staff or consulting veterinarian who is licensed to practice veterinary medicine by the Board of Veterinary Medicine, and who is registered with the Drug Enforcement Administration (DEA) and licensed by the state controlled dangerous substances program at the shelter location where the drugs will be stored and administered, who obtains and who is responsible for the Telazol (tiletamine HCL and zolazepam HCL) or Ketamine (ketamine HCL) used.

2. A storage and use plan for Telazol (tiletamine HCL and zolazepam HCL) and Ketamine (ketamine HCL) which meets or exceeds the requirements of all federal or state drug enforcement agencies (including storage of controlled substances in a securely locked, substantially constructed cabinet and the keeping of a perpetual inventory as required by LAC 48.Chapter 39) and the record keeping requirements of this Chapter shall be submitted to the Board of Veterinary Medicine for approval.

a. This usage plan shall include a requirement that each use of Telazol (tiletamine HCL and zolazepam HCL) and Ketamine (ketamine HCL) shall be documented for review by the licensed veterinarian responsible for the purchase and inventory of that drug.

b.i - vi. ...

c. This usage plan shall include a requirement that a review of each use of Telazol (tiletamine HCL and zolazepam HCL) and Ketamine (ketamine HCL) shall be made by the responsible veterinarian and that said veterinarian shall initial the usage log entries to indicate this review. A review of the usage plan shall be made at least quarterly and the quantities of the drug used and on hand shall be tallied and authenticated. Any variance shall be noted in the log and steps should be taken and documented to correct the problem.

d. This usage plan shall include a requirement that any removal of Telazol (tiletamine HCL and zolazepam HCL)

or Ketamine (ketamine HCL) from the securely locked, substantially constructed cabinet shall be in minimal amounts, shall be maintained in a locked container when not in use, and shall be documented in a manner to include, but not be limited to:

i. - iv. ...

C. ...

D. This Section does not pertain to any controlled substances listed in any DEA classification schedule or state of Louisiana classification schedule, except Telazol (tiletamine HCL and zolazepam HCL) and Ketamine (ketamine HCL). This Section specifically does not apply to sodium pentobarbital, which is regulated for animal control agency use in R.S. 37:1551-1558.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 20:666 (June 1994), amended LR 24:334 (February 1998), LR 25:

Charles B. Mann
Executive Director

9902#034

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodology— Large Public Non-State Rural Hospitals

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will adopt the following emergency rule in the Medical Assistance Program as authorized by LA. R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:953B(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule March 20, 1998 governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 24, Number 3). This rule was adopted pursuant to Act 19 of the 1998 Legislative Session and Act 1485 of the 1997 Legislative Session. Act 19 provides for different treatment of disproportionate share funds for uncompensated costs in small non-state operated local government hospitals and private rural hospitals with 60 beds or less. Act 1485 allows rural hospitals to meet less stringent criteria in order to receive the maximum disproportionate share funding available in accordance with the amounts appropriated by the Legislature and to the extent authorized by federal law. Therefore, the Department has determined that it is necessary to amend the March 20, 1998 rule by increasing the disproportionate share payment for large public non-state rural hospitals by allowing the qualifying hospitals to certify uncompensated care

expenditures as match and receive the equivalent of Federal Financial Participation (FFP) in the same manner as small public non-state rural hospitals. The provisions contained in the March 20, 1998 rule otherwise remain intact.

This action is necessary to secure enhanced federal funding and is in accordance with the Joint Legislative Budget Committee's directive of October 16, 1998 to change the disproportionate share payment methodology for large public non-state rural hospitals for state fiscal year 1999. It is estimated that the expenditure necessary to implement this rule will be \$6,779,745 in federal funds only for state fiscal year 1999. This rule will not require the expenditure of any additional state general funds.

Emergency Rule

Effective March 1, 1999, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the disproportionate share payment for large public non-state rural hospitals for state fiscal year 1999 only, by allowing these qualifying hospitals to certify uncompensated care expenditures as match and receive the equivalent of Federal Financial Participation (FFP) in the same manner as small public non-state rural hospitals. This payment will be in lieu of a lower payment that these hospitals would have otherwise received under the disproportionate share payment methodologies for other hospitals receiving disproportionate share payments contained in the March 20, 1998 rule. The provisions contained in the March 20, 1998 rule otherwise remain intact.

A large public non-state rural hospital is a hospital owned by a local government that is not included in Section III.A or B of the March 20, 1998 rule and meets the following criteria:

- (1) is located in a parish with a population of less than fifty thousand; or
- (2) is located in a municipality with a population of less than twenty thousand.

The designation large public non-state rural hospital includes distinct-part psychiatric units, but excludes long-term, rehabilitation, or free-standing psychiatric hospitals. Large public non-state rural hospitals must qualify as a disproportionate share hospital as indicated in Section II, entitled "Qualifying Criteria for a Disproportionate Share Hospital," of the March 1998 rule.

Disproportionate share payments for state fiscal year 1999 to each qualifying large public non-state rural hospital are equal to that hospital's pro rata share of uncompensated costs for all hospitals meeting these criteria for the cost reporting period ended during the period April 1, 1997 through March 31, 1998 multiplied by the amount set for this pool. If the cost reporting period is not a full period (twelve months), actual uncompensated cost data for the previous cost reporting period may be used on a pro rata basis to equate to a full year.

A pro rata decrease necessitated by the conditions specified in Section I.B of the March 20, 1998 rule for hospitals described in this section will be calculated using the ratio determined by dividing the qualifying hospital's uncompensated costs by the uncompensated costs for all large public non-state rural hospitals, then multiplying by the amount of disproportionate share payments calculated in

excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this public notice. The deadline for receipt of all written comments is February 21, 1999 by 4:30 p.m. A copy of this public notice is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

9902#052

DECLARATION OF EMERGENCY

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

Pharmacy Program—Erectile Dysfunction Drugs

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides coverage for prescription drugs for treatment of erectile dysfunction without limitation through the Pharmacy Program under the Medicaid Program. Effective October 7, 1998 the department determined it was necessary to limit the number of units of these drugs that are reimbursed under the Medicaid Program to six units per month (*Louisiana Register*, Volume 24, Number 10). This subsequent emergency rule is being adopted in order to continue the effort to prevent potential abuse of these prescription drugs.

Emergency Rule

Effective for dates of service on or after February 3, 1999, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will limit the number of units of prescription drugs for the treatment of erectile dysfunction that are reimbursable by the Medicaid Program to six units per month per patient. Units include tablets, injectable, intraurethral pellets and any other dosage form which may become available. In addition, the following provisions will govern the reimbursement for these drugs.

1. Prescriptions issued for the treatment of erectile dysfunction must be hand written and shall include a medically accepted indication.

2. An ICD-9 diagnosis code must be written on the hard copy of the prescription or attached to the prescription which is signed and dated by the prescriber.

3. Recipient specific diagnosis information from the prescriber via the facsimile is acceptable when signed and dated by the prescriber.

4. Acceptable ICD-9 diagnosis codes for these drugs include impotence of non-organic origin or impotence of organic origin.

5. No reimbursement for therapeutic duplication of drugs, early refills, or duplicate drug therapy within the therapeutic class of drugs used to treat erectile dysfunction is allowed.

David W. Hood
Secretary

9902#054

DECLARATION OF EMERGENCY

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

Standards for Payment for Adult Day Health Care (ADHC) Services (LAC 50:II.10905 and 10907)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following emergency rule in the Medicaid Program as authorized by R.S. 46:153. This emergency rule is adopted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals is responsible for licensing adult day health care centers as authorized by Public Act 705 of the 1984 Louisiana Legislative Session. Current licensing standards for providers of Adult Day Health Care Centers require:

1) enrolled Title XIX Adult Day Health Care Centers shall be licensed by the Department of Health and Hospitals, Division of Licensing and Certification;

2) a provider agreement must be executed wherein the applicant agrees to comply with the Standards for Payment for Adult Day Health Care Centers; and

3) an applicant for enrollment shall have completed two years as a Louisiana licensed health care provider.

Copies of applicable licenses must be provided to the Division of Medical Assistance (*Louisiana Register*, Vol. 14, Number 11).

The Department has determined that it is necessary to amend the standards for participation for Adult Day Health Care Centers by deleting the requirement for the completion of two years as a Louisiana licensed healthcare provider as a condition for licensure. In addition, the Department has created the Division of Home and Community Based Services Waivers (DHCBSW) to be responsible for the operation and management of the Home and Community Based Services Waiver as well as Case Management Services Programs. The DHCBSW shall be included in the list of definitions applicable to adult day health care centers.

This action is necessary to enhance statewide access to services and to avoid possible federal sanctions for lack of statewide access. It is anticipated that implementation of this emergency rule will result in an increase in revenues of \$600 for each new adult day health care license issued.

Emergency Rule

Effective February 21, 1999 the Department of Health and Hospitals, Bureau of Health Services Financing amends §10905 entitled Definitions and §10907 entitled Licensure as follows:

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 3. Standards for Payment

Chapter 109. Standards for Payment—Adult Day

Health Care Services

§10905. Definitions

* * *

DHCBSW—Division of Home and Community-Based Services Waivers of the Bureau of Health Services Financing.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:623 (June 1985), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended LR 25:

§10907. Licensure

A. Enrolled Title XIX Adult Day Health Care Centers shall be licensed by the Department of Health and Hospitals.

B. A Provider Agreement must be executed wherein the applicant agrees to comply with the Standards for Payment for Adult Day Health Care Centers.

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:623 (June 1985), amended by the Department of Health and Hospitals, Office of the Secretary, LR 14:793 (November 1988), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1150 (September 1997), amended LR 25:

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

9902#051

DECLARATION OF EMERGENCY

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

Targeted Case Management Services

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following emergency rule under the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a rule in June of 1997 governing the provision of case management services to targeted populations and certain home and community based services waiver groups (*Louisiana Register*, Vol. 23, Number 6). This rule addressed programmatic requirements including general provisions, standards for provider participation, standards for payment, consumer eligibility and reimbursement methodology.

The Department has subsequently determined it is necessary to restructure targeted case management services under the Medicaid Program in order to enhance the quality of services and assure statewide access to services. Section 4118(i) of the "Omnibus Budget Reconciliation Act of 1987" permits the State to limit the case managers available with respect to case management services for eligible individuals with developmental disabilities or chronic mental illness in order to ensure that the case managers are capable of ensuring that such individuals receive needed services. Therefore, the Department has decided to limit the number of case management agencies who may be enrolled to provide services to recipients in the Mentally Retarded/ Developmentally Disabled (MR/DD) Waiver Program by means of a selective contract. The participation of case management agencies providing service to other targeted and waiver populations will also be limited contingent on the approval of a 1915(b)(4) waiver by the Health Care Financing Administration (HCFA). In addition, all case management agencies shall be required to incorporate personal outcome measures in the development of comprehensive plans of care and to implement procedures for self-evaluation of the agency.

This action is necessary to avoid possible federal sanctions for non-compliance with our corrective action plan for Home and Community Based Services Waiver Program. It is anticipated that the implementation of this emergency rule will be cost neutral.

Emergency Rule

Effective March 1, 1999, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the

June 20, 1997 rule and adopts the following rule governing the provision of case management services to targeted population groups and certain home and community based services waiver groups. The number of case management agencies who may be enrolled to provide services to recipients in the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver Program shall be limited to those agencies who have been awarded a contract by the Department. The participation of case management agencies providing service to other targeted and waiver populations will also be limited contingent on the approval of a 1915(b)(4) waiver by the Health Care Financing Administration (HCFA). In addition, all case management agencies shall be required to incorporate personal measures in the development of comprehensive plans of care and to implement procedures for self-evaluation of the agency. All case management agencies must comply with the policies contained in this rule and the Medicaid Case Management Services Provider Manual issued March 1, 1999 and all subsequent changes.

I. General Provisions

A. Case Management Agency Responsibilities

Case Management is defined as services provided to individuals to assist them in gaining access to the full range of needed services including medical, social, educational, and other support services. The department utilizes a broker model of case management in which recipients are referred to other agencies for the specific services they need. These services are determined by professional assessment of the recipient's needs and are provided in accordance with a written comprehensive plan of care which includes measurable person centered outcomes. All Medicaid enrolled case management agencies are required to perform the following core elements of case management services.

1. **Case Management Intake.** The purpose of intake is to serve as an entry point for case management services and gather baseline information to determine the recipient's need, appropriateness, eligibility and desire for case management.

2. **Case Management Assessment.** Assessment is the process of gathering and integrating formal and informal information regarding a recipient's goals, strengths, and needs to assist in the development of a person centered comprehensive plan of care. The purpose of the assessment is to establish a contract between the case manager and recipient and the assessment shall be performed in the recipient's home.

3. **Comprehensive Plan of Care Development.** The comprehensive plan of care (CPOC) is a written plan based upon assessment data (which may be multi disciplinary), observations and other sources of information which reflect the recipient's needs, capacities and priorities. The purpose of the CPOC is to identify the services required and resources available to meet these needs.

a. The CPOC must be developed through a collaborative process involving the recipient, family, case manager, other support systems, appropriate professionals and service providers. It shall be developed in the presence of the recipient; therefore, it cannot be completed prior to a meeting with the recipient. The recipient, family, case manager, support system and appropriate professional personnel must be

directly involved and agree to assume specific functions and responsibilities.

b. The CPOC must be completed and submitted for approval within 35 calendar days of the referral for case management services.

4. **Case Management Linkage.** Linkage is the arranging of services agreed upon with the recipient and identified in the CPOC. Upon the request of the recipient or responsible party attempts must be made to meet service needs with informal resources as much as possible.

5. **Case Management Follow-Up/Monitoring.** Follow-up/monitoring is the mechanism used by the case manager to assure the appropriateness of the CPOC. The purpose of follow-up/monitoring contacts is to determine if the services are being delivered as planned; are effective and adequate to meet the recipient's needs; and whether the recipient is satisfied with the services. Through follow-up/monitoring activity, the case manager not only determines the effectiveness of the CPOC in meeting the recipient's needs, but identifies when changes in the recipient's status necessitate a revision in the CPOC.

6. **Case Management Reassessment.** Reassessment is the process by which the baseline assessment is reviewed and information is gathered for evaluating and revising the overall CPOC. At least every six months, a complete review of the CPOC must be performed to assure that goals and services are appropriate to the recipient's needs as identified in the assessment/reassessment process. A reassessment is also required when a major change occurs in the status of the recipient and/or his family.

7. **Case Management Transition/Closure.** Discharge from a case management agency must occur when the recipient no longer requires services, desires to terminate services, becomes ineligible for services, or chooses to transfer to another case management agency. The closure process must ease the transition to other services or care systems. The agency may not retaliate in any way against the recipient for terminating services or transferring to another agency for case management services.

8. **Maintenance of Records.** All agency records must be maintained in an accessible, standardized order and format at the DHH enrolled office site. The agency must have sufficient space, facilities and supplies to ensure effective record keeping.

a. Administrative and recipient records must be maintained in a manner to ensure confidentiality and security against loss, tampering, destruction or unauthorized use.

b. The case management agency must retain its records for the longer of the following time frames:

(1). five years from the date of the last payment; or

(2). until the records are audited and all audit questions are answered.

c. Agency records must be available for review by the appropriate state and federal personnel at all reasonable times.

B. Recipient Freedom of Choice

Selection of Case Management Agency. Recipients have the right to select the provider of their case management services from among those available agencies enrolled for participation. Recipients must be linked to a case management

agency for a six month period before they can transfer to another agency. Recipients who fail to initially select a provider will be automatically assigned to an agency. They may choose another available provider within 30 days of the automatic assignment.

II. Standards of Participation

A. In order to participate as a case management services provider in the Medicaid Program, an agency must comply with licensure and certification requirements, provider enrollment requirements, and the specific terms of individual contractual agreements.

B. Provider Enrollment Requirements

A separate PE-50 and Disclosure of Ownership form shall be submitted to the Bureau for each targeted or waiver population and DHH designated region that the agency plans to serve, as well as for each office site it plans to operate. The agency shall provide services only in the parishes of the DHH administrative region for which approval has been granted. The following enrollment requirements are applicable to all case management agencies, regardless of the targeted or waiver group served. Failure to comply with these requirements may result in sanctions and/or recoupment:

1. demonstrate direct experience in successfully serving the target population and demonstrated knowledge of available community services and methods for accessing them including the following:

a. maintain a current file of community resources available to the target population and have established linkages with those resources;

b. demonstrate knowledge of the eligibility requirements and application procedures for federal, state, and local government assistance programs which are applicable to the target population served;

c. employ a sufficient number of case manager and supervisory staff to comply with the staff coverage, staffing qualifications and maximum caseload size requirements described in section III. A, B, and D;

2. demonstrate administrative capacity and financial resources to provide all core elements of case management services and ensure effective service delivery in accordance with DHH licensing and programmatic requirements;

3. submit cost reports in compliance with BHSF guidelines and have no outstanding or unresolved audit disclaimer with BHSF;

4. assure that all agency staff is employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations. The sub-contracting of individual case managers and/or supervisors is prohibited. However, those agencies who have been awarded Medicaid contracts for case management services may sub-contract with another licensed case management agency for case manager and/or supervisory staff if prior approval has been obtained from the Department;

5. assure that all new staff satisfactorily completes an orientation and training program in the first 90 days of employment. All case managers must attend all training mandated by the Department. Each case manager and supervisor must satisfactorily complete case management related training annually to meet the minimum training requirements;

6. implement and maintain an on-going quality assurance plan and self-evaluation plan approved by the department to determine program compliance and effectiveness;

7. document and maintain recipient records in accordance with federal and state regulations governing confidentiality and licensing requirements;

8. assure the recipient's right to elect to receive or terminate case management services (except for recipients in the MR/DD or Elderly and Disabled Adult Waiver Programs). Assure that each recipient has freedom of choice in the selection of a case management agency, a qualified case manager, or other service providers and the right to change providers or case managers;

9. assure that the agency and case managers will not provide case management and Medicaid reimbursed direct services to the same recipient(s) unless there is a separate board of directors;

10. with the recipient's permission, agree to maintain regular contact, share relevant information and coordinate medical services with the recipient's attending physician;

11. demonstrate the capacity to participate in the department's electronic data gathering system(s). All requirements for data submittal must be followed and participation is required for all enrolled case management agencies. The software is the property of the department;

12. complete management reports as described in the manual.

C. Agencies serving certain specific target groups must meet the following additional enrollment requirements.

1. Case management agencies serving high risk pregnant women must also demonstrate successful experience with the coordination and/or delivery of services for pregnant women; have a working relationship with a local obstetrical provider and acute care hospital that provides deliveries for 24-hour medical consultation; and have a multi disciplinary team which consists, at a minimum, of the following professionals: a physician, primary nurse associate or certified nurse manager, registered nurse, social worker, and nutritionist. The team members must meet the licensure and perinatal experience requirements applicable for services to high-risk pregnant women; and

2. case managers serving HIV-infected individuals must also satisfactorily complete a one-day training approved by the department's HIV Program Office.

III. Standards for Payment

In order to be reimbursed by the Medicaid Program, an enrolled provider of targeted or waiver case management service must comply with all of the requirements listed below.

A. Staff Coverage

1. Case management agencies must maintain sufficient staff to serve recipients within the mandated caseload size of thirty-five (35) with a supervisor to staff ratio of no more than eight case managers per supervisor. All case managers must be employed by the agency at least 40 hours per week and work at least 50 percent of the time during normal business hours (8 a.m. to 5 p.m., Monday through Friday). Case management supervisors must be full time employees and must be continuously available to case managers by telephone or

beeper at all other times when not on site when case management services are being provided. All exceptions to the maximum caseload size or full time employment of staff requirements must be prior authorized by the Bureau. The agency must have a written policy to ensure service coverage for all recipients during the normal absences of case managers and supervisors or prior to the filling of vacated staff positions.

2. The agency must maintain a toll-free telephone number to ensure that recipients have access to case management services 24 hours a day, seven days a week. Recipients must be able to reach an actual person in case of an emergency, not a recording.

B. Staff Qualifications

Each Medicaid-enrolled agency must have the appropriate knowledge and skills in hiring case management staff to ensure that all staff providing case management services meet the following qualifications, skills and training requirements prior to assuming any caseload responsibilities.

1. Education and Experience for Case Managers

All case managers must meet one of the following minimum education and experience qualifications.

a. a bachelor's degree in a human-service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited college or university and one year of paid experience in a human-service-related field providing direct services or case management services; or

b. a licensed registered nurse with one year of paid experience as a registered nurse in public health or a human-service-related field providing direct services or case management services; or

c. a bachelor's or master's degree in social work from a social work program accredited by the Council on Social Work Education.

The above-referenced minimum qualifications for case managers are applicable for all targeted and waiver groups. Thirty hours of graduate level course credit in a human-service-related field may be substituted for the one year of required paid experience.

In addition, case managers serving High-Risk Pregnant Women must demonstrate knowledge about perinatal care and either meet one of the qualifications cited above or the following qualification:

d. a registered dietician with one year of paid experience in providing nutrition services to pregnant women.

2. Education and Experience for Case Management Supervisors

All case management supervisors hired or promoted must meet one of the following education and experience requirements. Supervisors of case managers for High-Risk Pregnant Women must demonstrate knowledge about perinatal care in addition to meeting one of these qualifications:

a. a master's degree in social work, psychology, nursing, counseling, rehabilitation counseling, education (with special education certification), occupational therapy, speech therapy or physical therapy from an accredited college or university and two years of paid post-master's degree experience in a human-service related field providing direct

services or case management services. One year of this experience must be in providing direct services to the target population served; or

b. a bachelor's degree in social work from a social work program accredited by the Council on Social Work Education and three years of paid post-bachelor degree experience in a human-service related field providing direct services or case management services. One year of this experience must be in providing direct services to the target population served; or

c. a licensed registered nurse with three years of paid post-licensure experience as a registered nurse in public health or a human service-related field providing direct services or case management services. Two years of this experience must be in providing direct services to the target population served; or

d. a bachelor's degree in a human-service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited college or university and four years of paid post-bachelor degree experience in a human service related field providing direct services or case management services. Two years of this experience must be in providing direct services to the target population served.

The above minimum qualifications for case management supervisors are applicable for all targeted and waiver groups. Thirty hours of graduate level course credit in a human-service-related field may be substituted for one year of the required paid experience.

3. Training

Training for case managers and supervisors must be provided or arranged for by the case management agency at its own expense.

a. Training for New Staff. A minimum of sixteen (16) hours of orientation must be provided to all staff, volunteers, and students within one week of employment. A minimum of eight hours of the orientation training must address the target population including, but not limited to, specific service needs, available resources and other topics. In addition to the required 16 hours of orientation, all new employees who have no documentation of previous training must receive a minimum of 16 hours of training during the first 90 calendar days of employment related to the target population and the skills and techniques needed to provide case management to that population.

b. Annual Training. Case managers and supervisors must satisfactorily complete a minimum of forty (40) hours of case-management related training annually which may include updates on subjects covered in orientation and initial training. The 16 hours of orientation training required for new employees are not included in the annual training requirement of at least 40 hours.

C. Supervisory Responsibilities

Each case management supervisor shall be responsible for assessing staff performance, reviewing individual cases, providing feedback, and assisting staff to develop problem solving skills using two or more of the following methods:

1. individual, face-to-face sessions with staff;

2. group face-to-face sessions with all case management staff; or

3. sessions in which the supervisor accompanies a case manager to meet with recipients.

IV. Reimbursement

The reimbursement methodology for optional targeted and waiver case management services is a fixed monthly rate for the provision of the core elements of case management services as described in Section I.A. The primary objective of case management is the attainment of the personal outcomes identified in the recipient’s comprehensive plan of care.

In addition to the provision of the core elements, a minimum of one home visit per quarter is required for all recipients of optional targeted and waiver case management services. The agency shall ensure that more frequent home visits are performed if indicated in the recipient’s CPOC. The purpose of the home visit is to assess the effectiveness of support strategies and to assist the individual to address problems, maximize opportunities and/or revise support strategies or personal outcomes, if it is determined necessary.

The case management agency shall also be responsible for monitoring service providers quarterly through telephone monitoring, on-site visits and review of the service providers’ records. The agency must also ensure that the service provider is given a copy of the recipient’s most current CPOC and any subsequent updates.

A technical amendment (Public Law 100-617) in 1988 specifies that the Medicaid Program is not required to pay for case management services that are furnished to consumers without charge. This is in keeping with Medicaid’s longstanding position as the payer of last resort. With the statutory exceptions of case management services included in Individualized Education Programs (IEP’S) or Individualized Family Service Plans (IFSP’s) and services furnished through Title V public health agencies, payment for case management services cannot be made when another third party payer is liable, nor may payments be made for services for which no payment liability is incurred.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

9902#049

DECLARATION OF EMERGENCY

**Department of Natural Resources
Office of Conservation**

Pollution Control—Statewide Order No. 29-B
(LAC 43:XIX.129)

Pursuant to the power delegated under the laws of the State of Louisiana, and particularly Title 30 of the Revised Statutes

of 1950, as amended, and in conformity with the provisions of the Louisiana Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2), 954(B)(2), as amended, the following Emergency Rule and reasons therefor are now adopted and promulgated by the Commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the State of Louisiana, as well as the environment generally, by continuing a procedure for testing E&P waste after receipt at a commercial facility and identifying acceptable storage, treatment and disposal methods for certain E&P wastes at commercial facilities.

Need and Purpose

Certain oil and gas exploration and production waste (E&P waste) is exempt from the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA). This exemption is based on findings from a 1987-1988 Environmental Protection Agency (EPA) study and other studies that determined this type of waste does not pose a significant health or environmental threat when properly managed. The EPA, in its regulatory determination, found that these wastes are adequately regulated under existing federal and state programs.

Existing Louisiana State regulations governing the operations of commercial E&P waste disposal facilities (Statewide Order Number 29-B) require only very limited testing of the waste received for storage, treatment and disposal at each commercial facility. Such limited testing finds its basis in the above-mentioned national exemption for E&P waste recognized by the EPA. However, public concern warranted the Commissioner of Conservation to issue a first Emergency Rule effective May 1, 1998 (May 1, 1998 Emergency Rule), the purpose of which was to gather technical data regarding the chemical and physical makeup of E&P waste disposed of at permitted commercial E&P waste disposal facilities within the State of Louisiana. The May 1, 1998 Emergency Rule had an effective term of 120 days. However, technical experts under contract with the Office of Conservation determined during the term of the May 1, 1998 Emergency Rule that sampling and testing should be extended for an additional 30 days for the purpose of receiving additional data in order to strengthen the validity of the inferred concentration distributions within the various E&P waste types. Therefore, a second Emergency Rule was issued on August 29, 1998, and effective through September 30, 1998.

The second Emergency Rule required continued comprehensive analytical testing of E&P waste at the site of generation together with verification testing at the commercial E&P waste disposal facility. During the terms of the first and second Emergency Rules, approximately 1,800 E&P waste testing batches were analyzed, with the raw data results being filed with the Office of Conservation. Technical experts under contract with the Office of Conservation, together with staff of the Office of Conservation, determined that the number of raw data sets of E&P waste types, along with other published analytical results of E&P waste testing, provided adequate numbers of validated test results of the various generic E&P waste types to reach statistically valid

conclusions regarding the overall chemical and physical composition of each type of E&P waste.

Therefore, continued testing of E&P waste at the site of generation was unnecessarily redundant, and was discontinued. The third Emergency Rule adopted on October 1, 1998 required continued testing of each E&P waste shipment at the commercial disposal facility according to procedures described in Section D. Such continued testing was required to assure that E&P waste shipments received for disposal at commercial facilities were consistent with evolving E&P waste profiles.

The fourth Emergency Rule adopted herein provides requirements for continued testing of all E&P waste shipments received for disposal at commercial E&P waste disposal facilities, as well as identifying acceptable methods of storage, treatment and disposal of certain E&P waste types at such commercial facilities. Concurrent with implementation of this Emergency Rule, the Office of Conservation will continue development of the permanent rule for the management and disposal of E&P waste at commercial facilities within the State of Louisiana. Best E&P waste management practices, based on established E&P waste profiles, will be incorporated into the permanent rule. Such permanent rule will also address specific storage, treatment and disposal options for the various categories of E&P waste.

Synopsis

1. E&P Waste Will Be Transported with Identification

Each load of E&P waste transported from the site of generation to a commercial facility for disposal will be accompanied by an Oilfield Waste Shipping Control Ticket (Form UIC-28) and presented to the operator before offloading. Copies of completed Form UIC-28 are required to be timely filed with the Office of Conservation.

Produced water, produced formation fresh water and other E&P waste fluids are exempt from certain provisions of the testing requirements provided they are:

- 1) transported in enclosed tank trucks, barges, or other enclosed containers;
- 2) stored in enclosed tanks at a commercial facility; and
- 3) disposed by deepwell injection.

Such provision is reasonable because, provided the above conditions are met, exposure to the public and to the environment would be minimal.

2. Each Load of E&P Waste Will Be Tested at Commercial Facility

Before offloading at a commercial E&P waste disposal facility and in order to verify that the waste qualifies for the E&P category, each load of E&P waste shall be sampled for required parameters. Additionally, the presence and concentration of BTEX (benzene, toluene, ethyl benzene and xylene) compounds and hydrogen sulfide must be determined. Appropriate records of tests shall be kept at each commercial facility for review by the Office of Conservation.

3. Identification of Acceptable Storage, Treatment and Disposal Methods (Options) for E&P Waste

It is required that all offsite storage, treatment and disposal methods for E&P waste utilize approved technologies that are protective of public health and the environment. This

fourth Emergency Rule recognizes and requires that injection in Class II wells, after storage in a closed system, shall be utilized for Waste Types 01 and 14. The remainder of the E&P waste types are currently under study to confirm acceptable storage, treatment and disposal methods. Any additional acceptable storage, treatment and disposal methods will be promulgated in the near future.

Reasons

Recognizing the potential advantages of a testing program that is fully protective of public health and the environment and that adequately characterizes such waste as to its potentially toxic constituents, and by the identification of acceptable storage, treatment and disposal methods for certain types of E&P waste, it has been determined that failure to establish such procedures and requirements in the form of an administrative rule may lead to the existence of an imminent peril to the public health, safety and welfare of the people of the State of Louisiana, as well as the environment generally.

Protection of the public and our environment therefore requires the Commissioner of Conservation to take immediate steps to assure that adequate testing is performed and acceptable storage, treatment and disposal methods for certain types of E&P waste are employed at commercial facilities. The Emergency Rule, Amendment to Statewide Order Number 29-B (Emergency Rule) set forth hereinafter, is now adopted by the Office of Conservation.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation - General Operations

Subpart 1. Statewide Order Number 29-B

Chapter 1. General Provisions

§129. Pollution Control

A. - L. ...

M. Off-site Storage, Treatment and/or Disposal of E&P Waste Generated From Drilling and Production of Oil and Gas Wells

1. Definitions

* * *

Commercial Facility—a legally permitted waste storage, treatment and/or disposal facility which receives, treats, reclaims, stores, or disposes of exploration and production waste for a fee or other consideration, and shall include the term “transfer station”.

* * *

Exploration and Production (E&P) Waste - drilling fluids, produced water, and other waste associated with the exploration, development, or production of crude oil or natural gas and which is not regulated by the provisions of the Louisiana Hazardous Waste Regulations and the Louisiana Solid Waste Regulations. Such wastes include, but are not limited to, the following:

WASTE TYPE	WASTE DESCRIPTION
01	salt water (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations
02	oil-base drilling mud and cuttings

03	water-base drilling mud and cuttings
04	workover and completion fluids
05	production pit sludges
06	production storage tank sludges
07	produced oily sands and solids
08	produced formation fresh water
09	rainwater from ring levees and pits at production and drilling facilities
10	washout water generated from the cleaning of containers that transport E&P waste and are not contaminated by hazardous waste or material
11	washout pit water and solids from oilfield related carriers that are not permitted to haul hazardous waste or material
12	natural gas plant processing (E&P) waste which is or may be commingled with produced formation water
13	waste from approved salvage oil operators who only receive oil (BS&W) from oil and gas leases
14	pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pigging waste, i.e., waste fluids/solids generated from the cleaning of a pipeline
15	wastes from permitted commercial facilities
16	crude oil spill clean-up waste
50	salvageable hydrocarbons
99	other approved E&P waste

NOW—exploration and production waste

* * *

M.2. - M.5.i.i. ...

ii. Testing Requirements

(a). Before offloading E&P waste at a commercial facility, including a transfer station, each load of E&P waste shall be sampled and analyzed by commercial facility personnel for the following:

(i). color, turbidity, (clear, cloudy or muddy) and viscosity low, medium, or high); and

(ii). pH, electrical conductivity (EC -mmhos/cm) and chloride (Cl) content; and

(iii). the presence and concentration of BTEX (benzene, toluene, ethyl benzene, and xylene) compounds using an organic vapor monitor or other procedures sufficient to identify and quantify BTEX;

(iv). the sample temperature (degrees Fahrenheit) representing actual testing conditions of the sample obtained for BTEX analysis by methodology that will assure sufficient accuracy; and

(v). the presence and concentration of hydrogen sulfide (H₂S) using a portable gas monitor.

(b). The commercial facility operator shall enter the color, turbidity, viscosity, the pH, electrical conductivity, chloride (Cl) content, BTEX, BTEX sample temperature and

hydrogen sulfide measurements on the manifest (Form UIC-28) which accompanies each load of E&P waste.

(c). Produced water, produced formation fresh water, and other E&P waste fluids are exempt from organic vapor monitoring measurement (BTEX), and the H₂S measurement in (a) above if the following conditions are met:

(i). if transported by the generator or transporter in enclosed tank trucks, barges, or other enclosed containers; and

(ii). if stored in an enclosed container at a commercial facility; and

(iii). if disposed by deep well injection.

(d). Records of these tests shall be kept on file at each commercial facility for a period of three years and be available for review by the Commissioner or his designated representative. Copies of completed Form UIC-28 shall be filed with the Office of Conservation as provided in 129.M.6.d.

M.5.i.iii. - M.5.l. ...

m. It is required that all offsite storage, treatment and disposal methods for E&P waste utilize approved technologies that are protective of public health and the environment. The following chart includes acceptable and required storage, treatment and disposal methods for each type of E&P waste disposed of at commercial facilities within the State of Louisiana:

WASTE TYPE	REQUIRED STORAGE, TREATMENT AND DISPOSAL METHOD(S)
01	Injection in Class II well utilizing a closed system
02	(reserved)
03	(reserved)
04	(reserved)
05	(reserved)
06	(reserved)
07	(reserved)
08	(reserved)
09	(reserved)
10	(reserved)
11	(reserved)
12	(reserved)
13	(reserved)
14	Pipeline test water - Injection in Class II well utilizing a closed system Pipeline pigging waste - (reserved)
15	(reserved)
16	(reserved)
50	Commercial salvage oil facility
99	(reserved)

Summary

The Emergency Rule hereinabove adopted evidences the finding of the Commissioner of Conservation that failure to adopt the above rules may lead to an imminent risk to public health, safety and welfare of the citizens of Louisiana, and that there is not time to provide adequate notice to interested parties. However, the Commissioner of Conservation notes again that a copy of the permanent Amendment to Statewide Order Number 29-B will be developed in the immediate future, with a public hearing to be held as per the requirements of the Administrative Procedure Act.

The Commissioner of Conservation concludes that the above Emergency Rule will better serve the purposes of the Office of Conservation as set forth in Title 30 of the Revised Statutes, and is consistent with legislative intent. The adoption of the above Emergency Rule meets all the requirements provided by Title 49 of the Louisiana Revised Statutes. The adoption of the above Emergency Rule is not intended to affect any other provisions, rules, orders, or regulations of the Office of Conservation, except to the extent specifically provided for in this Emergency Rule.

Within five days from date hereof, notice of the adoption of this Emergency Rule shall be given to all parties on the mailing list of the Office of Conservation by posting a copy of this Emergency Rule with reasons therefor to all such parties. This Emergency Rule with reasons therefor shall be published in full in the *Louisiana Register* as prescribed by law. Written notice has been given contemporaneously herewith notifying the Governor of the State of Louisiana, the attorney general of the State of Louisiana, the Speaker of the House of Representatives, the President of the Senate and the State Register of the adoption of this Emergency Rule and reasons for adoption.

F. Effective Date and Duration

1. The effective date for this emergency rule shall be January 29, 1999.

2. The Emergency Rule herein adopted as a part thereof, shall remain effective for a period of not less than 120 days hereafter, or until the adoption of the final version of an Amendment to Statewide Order Number 29-B as noted herein, whichever occurs first.

Signed at Baton Rouge, Louisiana, this 28th day of January, 1999.

Philip N. Asproditis
Commissioner of Conservation

9902#053

DECLARATION OF EMERGENCY

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

Food Stamps—Alien Eligibility (LAC 67:III.1994)

The Department of Social Services, Office of Family Support, has exercised the emergency provision [R.S. 49:953(B)]of the Administrative Procedure Act, to amend

LAC 67:III.1994 pertaining to the Food Stamp Program effective March 1, 1999.

Pursuant to Public Law 105-185, the Agricultural Research, Extension, and Education Reform Act of 1998, changes were required regarding the eligibility of certain non-citizens for food stamp benefits. The law extended the eligibility period for certain groups of aliens from five to seven years and made additional groups of aliens eligible for food stamp benefits. Amendments to the *United States Code* mandated by the law were effective November 1, 1998; an emergency rule was necessary to avoid federal sanctions or penalties which could be imposed if implementation is delayed. This declaration is necessary to extend the original emergency rule of November 1, 1998 since it is effective for a maximum of 120 days and will expire before the final rule takes effect. (Note: the related Notice of Intent published at LR 24:2032 was superseded by the Notice of Intent published at LR 25:180.)

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter K. Action on Households with Special Circumstances

§1994. Alien Eligibility

A. Effective November 1, 1998, only the following non-citizens are eligible for benefits for a period not to exceed seven years after they obtain designated alien status:

1. - 4. ...

5. Amerasian immigrants admitted pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 (as contained in §101(e) of P.L. 100-202 and amended by the 9th proviso under migration and refugee assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, P.L. 100-461, as amended);

B.1. - 3. ...

4. effective November 1, 1998, individuals who were lawfully residing in the United States on August 22, 1996 and are receiving benefits or assistance for blindness or disability as defined in §3(r) of the Food Stamp Act of 1997;

5. effective November 1, 1998, individuals who were lawfully residing in the United States on August 22, 1996 and were 65 years of age or older;

6. effective November 1, 1998, individuals who were lawfully residing in the United States on August 22, 1996 and are under 18 years of age;

C.1. - 4. ...

D. effective November 1, 1998, individuals who are lawfully residing in the United States and were members of a Hmong or Highland Laotians tribe at the time the tribe rendered assistance to the United States personnel by taking part in a military rescue operation during the Vietnam era beginning August 5, 1964 and ending May 7, 1975 (as defined in §101 of Title 38, United States Code); the spouse or an unmarried, dependent child of such an individual; or the unremarried surviving spouse of such an individual who is deceased;

E. effective November 1, 1998, individuals who are American Indian born in Canada to whom the provisions of §289 of the Immigration and Nationality Act apply or who is a member of an Indian tribe as defined in §4(e) of the Indian Self-Determination and Education Assistance Act.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 104-208, P.L. 105-33 and P.L. 105-185.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 24:354 (February 1998), LR 25:

Madlyn B. Bagneris
Secretary

9902#055

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Bay Junop Oyster Season

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 967, and under the authority of R.S. 56:433 and R.S. 56:434, notice is hereby given that the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declare:

that the Bay Junop Oyster Seed Reservation will remain open for oyster harvest until one-half hour after sunset on May 15, 1999.

Bill A. Busbice, Jr.
Chairman

9902#026

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Offshore Shrimp Season Closure

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close the State's offshore waters to shrimping, the Wildlife and Fisheries Commission hereby orders a closure to shrimping in that portion of the State's Territorial Waters, south of the Inside/Outside Shrimp Line as described in R.S. 56:495, from the Atchafalaya River Ship Channel at Eugene Island as delineated by the River Channel buoy line to the eastern shore of Freshwater Bayou. This closure is effective at 6:01 a.m., Monday, February 8, 1999.

R.S. 56:498 provides that the minimum legal count on white shrimp is 100 (whole shrimp) count per pound after the third Monday in December. Current biological sampling conducted by the Department of Wildlife and Fisheries has indicated that white shrimp in this portion of the State's outside waters do not average 100 count minimum legal size or larger and are present in significant numbers. This action is being taken to protect these small white shrimp and allow them the opportunity to grow to a more valuable size.

The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to close to shrimping, if necessary to protect small white shrimp, any part of the remaining Territorial Waters, if biological and technical data indicates the need to do so, and to reopen any area closed to shrimping when the closure is no longer necessary; and hereby authorizes the Secretary of the Department of Wildlife and Fisheries to open special seasons for the harvest of white shrimp in any portion of the State's inshore waters where such a season would not detrimentally impact small brown shrimp.

Bill A. Busbice, Jr.
Chairman

9902#025

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Supplemented Hunting Preserves

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of Louisiana Constitution, Article IX, Section 7, R.S. 36:601 et seq., R.S. 56:115, R.S. 56:171 et seq. and R.S. 56:651 et seq., the Wildlife and Fisheries Commission adopts the following Emergency Rule.

This Declaration of Emergency is necessary to implement portions of the written stipulations entered into on August 10, 1998, in the matter entitled *Jenkins et al. v. Odom et al.*, No. 449244, 19th Judicial District Court, and further to provide for regulation of hunting of white-tailed deer and exotics on Supplemented Hunting Preserves. This Declaration of Emergency will govern the regulation of hunting on Supplemented Hunting Preserves until the ratification of permanent rules.

Supplemented Hunting Preserves: Hunting Seasons and Deer Management Assistance Program Participation

A. Definitions

Exotics—for purposes of this rule means any animal of the family Bovidae (except the Tribe Bovini [cattle]) or Cervidae which is not indigenous to Louisiana and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

Hunting—in its different tenses and for purposes of this rule means to take or attempt to take, in accordance with R.S. 56:8.

Same as Outside—for purposes of this rule means hunting on a Supplemented Hunting Preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission (LWFC).

Supplemented Hunting Preserve—For purposes of this rule means any enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the Department of Wildlife and Fisheries (LDWF) and is authorized in writing by the LDAF and LDWF to permit hunting.

White-tailed Deer—for purposes of this rule means any animal of the species *Odocoileus virginianus* which is confined on a Supplemented Hunting Preserve.

B. Hunting Seasons

1. White-tailed Deer: All hunting seasons for farm-raised white-tailed deer are still hunt only.

a. Archery: October 1, 1999-January 31, 2000, either-sex.

b. Modern Firearms: November 1-December 6, 1999; December 21 - 23, 1999; and December 26, 1999-January 31, 2000.

c. Either-sex deer may be taken November 1-3, December 21-23, and December 26-30, otherwise, all modern firearm dates are bucks only. (Either-sex deer may also be taken in accordance with provisions of the Deer Management Assistance Program).

d. Muzzleloader: December 7-December 20, 1999, either-sex.

2. Exotics: Year round.

C. Methods of Take

1. White-tailed Deer: Same as outside.

2. Exotics: Exotics may be taken with longbow (including compound bow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or

muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only.

D. Shooting Hours

1. White-tailed Deer: Same as outside.

2. Exotics: one-half hour before sunrise to one-half hour after sunset.

E. Bag Limit

1. Farm-Raised White-tailed Deer: Same as outside.

2. Exotics: No limit.

F. Hunting Licenses

1. White-tailed Deer: Same as outside.

2. Exotics: No person shall hunt any exotic without possessing a valid basic and big game hunting license.

G. Tagging. White-tailed Deer and Exotics: Each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

H. Deer Management Assistance Program. Supplemented Hunting Preserves may be eligible to participate in the Deer Management Assistance Program (DMAP) in accordance with the DMAP rules.

I. Additional Restrictions. Except as otherwise specified herein, all of the provisions of Title 56 of the Louisiana Revised Statutes and the LWFC rules pertaining to the hunting and possession of white-tailed deer shall apply to white-tailed deer and exotics located on Supplemented Hunting Preserves.

J. Effective Date. This Declaration of Emergency shall become effective on February 28, 1999, and supplant any prior Declaration of Emergency pertaining to hunting of farm-raised deer and exotics.

Bill A. Busbice, Jr.
Chairman

9902#024

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).

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

EMPLOYEE'S ATTORNEY

6. Name _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

7. Name _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

EMPLOYER

**INSURER/ADMINISTRATOR
(circle one)**

8. Name _____
Street or Box _____
City _____
State _____ Zip _____
Phone () _____

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*
--------------	-----

*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

9902#031

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Animal Health Services

Diseases of Animals—Pet Turtles
(LAC 7:XXI.2301, 2302, 2307,
2309, 2311, 2317 and 2327)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry proposes to amend regulations regarding the licensing requirements for the farming and selling of Louisiana pet turtles.

The Department of Agriculture and Forestry is amending these rules and regulations to insure that pet turtle farmers upgrade their facilities to assist the industry in its efforts to lift the FDA ban that was imposed on the sale of pet turtles in the United States and to increase the industry's ability to control *Salmonella* spp. These rules comply with and are enabled by LSA-R.S. 3:2358.2.

No preamble concerning the proposed rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

§2301. Definitions

* * *

Bactericide—Any organic or inorganic substance, chemical, or compound that has the capacity to kill microorganisms.

* * *

Exporter—A person who is not a certified turtle farmer but who is licensed by the U.S. Fish and Wildlife Service to engage in the business of exporting groups of turtles or groups of turtle eggs.

Farmer-Exporter—A certified turtle farmer that is also licensed by the U.S. Fish and Wildlife Service and the La. Dept. Of Wildlife and Fisheries to engage in the business of exporting groups of turtles or groups of turtle eggs.

* * *

Pet Turtle—A turtle with a carapace length of less than four (4) inches that originates from a Louisiana licensed turtle farm.

Pet Turtle Farm—Any area of land or water used to breed, raise or keep pet turtles.

* * *

Turtle Lot—Any amount of pet turtles or pet turtle eggs up to 20,000 in number. The term turtle lot may be used interchangeably with the terms turtle group, group of turtles, or group of turtle eggs.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture,

Office of Animal Health Services, LR 17:350 (April 1991), amended LR 25:

§2302. Facilities

A. Effective June 1, 1999, all new applicants for initial licensure as Certified Turtle Farmers shall be required to meet, prior to licensure, all standards of construction and operations established by their rules and regulations.

B. All Certified Turtle Farmers that are licensed prior to June 1, 1999, shall be required to meet all standards of construction and operation established by these rules and regulations no later than January 1, 2001.

C. Each facility operated by a licensed certified turtle farmer shall be of sufficient size to contain no less than the following: turtle ponds, turtle laying area, egg washing area, egg treatment area, hatching area, holding or post-hatching area, inventory storage area, and whatever other specifics that may be deemed essential under LDAF guidelines to produce a *Salmonella*-free pet turtle for the public. In addition, each such facility shall possess hot and cold water, restroom and hand washing facilities, adequate cooling and ventilation, be free of rodents and pests, be properly disinfected, and utilize stainless steel or non-porous tables, buckets, and baskets to help eliminate *Salmonella* spp.

D. A list of facilities as delineated in Subsection C shall be submitted to and approved by the LDAF prior to relicensure of all farms that are licensed prior to June 1, 1999. All changes necessary to bring a facility into compliance with these rules and regulations shall be implemented by January 1, 2001.

E. The physical structure for business operations shall consist of a free-standing (wood, concrete, metal, or prefabricated) building that is dedicated only for the washing, treating, hatching, incubation, shipping, or holding of turtles or turtle eggs. The washing, treating, hatching, incubation, shipping, and holding of turtles or turtle eggs shall be performed in a free standing building that is separate and apart from the pond area and the egg laying area.

F. All floors in the washing or treating areas shall consist of concrete or non-porous covering with drainage sufficient to prevent the accumulation of water. All materials that come in contact with turtle or turtle eggs shall be non-porous.

G. The walls of all rooms shall be constructed of materials to insure sanitation and odor control.

H. All washing and treating areas shall be well lighted and ventilated.

I. Written protocols acceptable to LDAF shall be utilized to prevent contamination of the washing or treating areas as well as clothing, equipment or other items used in such areas from the pond or laying areas.

J. The hatching area shall be an identifiable room in which the temperature can be maintained and controlled and in which all eggs in designated groups can be found. The walls should be of a material that can be cleaned.

K. The holding or post-hatching area shall be of a size to humanely accommodate all groups of turtles that have not been

sold. Lighting, ventilation, and cooling shall insure humane treatment. Identification of all turtles in respective groups shall be maintained at all times.

L. The turtle production area (ponds and laying areas) shall be free of debris, trash and offensive odors.

M. The turtle laying areas and ponds shall be a size to humanely accommodate the number of adult turtles contained in the ponds or laying areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 25:

§2307. Movement of Pet Turtles and Pet Turtle Eggs

A. - A.8. ...

9. Turtle eggs that are offered for sale shall be washed and treated by the Egg Immersion Method, possess a group designation number, be laboratory tested, and be declared Salmonella-free, unless prior approval has been granted by the Louisiana Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 17:351 (April 1991), amended LR 25:

§2309. Identification of Groups of Turtles and Groups of Turtle Eggs

A. - B. ...

C. All pet turtle eggs shall originate from LDAF licensed pet turtle farms. They shall be continuously identifiable and properly labeled.

D. All pet turtles, treated by the Egg Immersion Method, in licensed pet turtle farms, shall be placed in a designated lot and remain a component of the same lot until they are sold or destroyed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.7.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 17:351 (April 1991), amended LR 25:

§2311. Microbiological Test Procedures

A. - B. ...

C. All groups of turtles or groups of turtle eggs that are found to be positive for Salmonella spp. shall be quarantined and disposed of as provided by law and these regulations. Provided, however, the owner of each group of turtles or group of turtle eggs that test positive for Salmonella spp. may, within the time prescribed by law for disposal of such pet turtles, subdivide the affected positive group into a maximum of four equal subgroups. Each such subgroup shall be separately identified, simultaneously randomly sampled and tested by an approved diagnostic laboratory in accordance with normal protocol. The laboratory results of each subgroup of the previously test positive group shall be final. No further testing shall be allowed. Any subgroup which tests positive for Salmonella spp. shall be disposed of in accordance with the law and these regulations.

D. All pet turtles that are in licensed pet turtle farms shall originate from eggs that are produced by licensed pet turtle farms and have been subjected to the Egg Immersion

Method treatments, random sampling and tested by an approved diagnostic laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.12.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 17:351 (April 1991), amended LR 25:

§2317. Form and Control of Records

A. ...

B. All turtles or turtle eggs that are offered for sale or sold by licensed certified turtle farmers-exporters shall be accompanied by a current chain of custody document, laboratory report and health certificate.

C. Each farmer, farmer-exporter or exporter shall be required to initiate and maintain accurate, current documentation on the origin and distribution of all groups of turtles or groups of turtle eggs.

D. The records shall be maintained in a manner that allow for an orderly inspection. The records shall include the following documents:

1. Official Certificate of Inspection for pet turtles and eggs;
2. group designation and distribution laboratory reports;
3. facility inspection reports;
4. health certificates;
5. sale transaction reports;
6. U.S. Fish and Wildlife Service Form 3-177 (exporters only);
7. turtle replenishment reports;
8. citations.

All documents are required to be maintained for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.7.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 17:352 (April 1991), amended LR 25:

§2327. Violations and Penalties

A. ...

B. It shall be a violation of these regulations for anyone to engage in the falsification or misrepresentation of groups of turtles or groups of turtle eggs for sampling, testing or retesting.

C. It shall be a violation of these regulations for anyone to alter or falsify or to provide documents for alteration or falsification of groups of turtles or groups of turtle eggs.

D. Unless otherwise provided, it shall be a violation of these regulations for any person to sell, transmit or have transmitted groups of turtles or groups of turtle eggs to any other person except a licensed and bonded freight forwarder, agent, exporter, or approved research institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 17:353 (April 1991) amended LR 25:

A public hearing will be held on these rules on March 18, 1999 at 9:30 a.m. at 5825 Florida Blvd., Baton Rouge, Louisiana 70806 and any written comments are to be received

by the close of business on March 25, 1999 at the above stated address. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Diseases of Animals—Pet Turtles**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no implementation costs or savings to local or state governmental units. The purpose of these proposed rule changes is to conform to FDA requirements which might assist pet turtle farmers in having the FDA ban on the sale of pet turtles in Louisiana lifted or modified.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that there will be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There will be no costs and/or benefits to directly affected persons or nongovernmental groups except for those pet turtle farmers that may have to upgrade their facilities to meet licensing requirements. These proposed rule changes may require some pet turtle farmers to upgrade their facility in terms of sanitation and separation of breeding areas from handling areas as well as providing some changes in testing requirements to control salmonella spp. The cost to upgrade those facilities in which pet turtle farmers are currently in business may be between \$3,000 and \$5,000 dollars. If groups of turtles or groups of turtle eggs are found to be positive for salmonella spp., farmers are required to quarantine and destroy all those contaminated. This will result in loss of income to pet turtle farmers.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

Skip Rhorer
Assistant Commissioner
9902#012

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Civil Service
Board of Ethics**

Definitions, Records and Reports
(LAC 52:I.101, 1304, and 1310)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to promulgate amendments and changes to the Rules for the Board of Ethics regarding the reporting requirements for disclosure statements

filed pursuant to Section 1114 of the Code of Governmental Ethics (R.S. 42:1114).

**Title 52
ETHICS**

Part I. Board of Ethics

Chapter 1. Definitions

§101. Definitions

* * *

Department Officer—the secretary, deputy secretary, or undersecretary of the twenty principal departments of the executive branch of state government or any officials carrying out the responsibilities of the secretary, deputy secretary, or undersecretary of such departments.

* * *

Chapter 13. Records and Reports

* * *

**§1304. Statements Filed Pursuant to Section 1114 of
the Code of Governmental Ethics**

A. Statements filed pursuant to Section 1114 of the *Code of Governmental Ethics* shall:

1. be in writing on a form approved by the Board of Ethics; and
2. be filed annually no later than May 1 and shall include required information for the previous calendar year.

B. Statements filed pursuant to Section 1114(A) of the *Code of Governmental Ethics* shall contain:

1. the amount of income or value of anything of economic value derived;
2. the nature of the business activity;
3. the name and address, and relationship to the public servant, if applicable; and
4. the name and business address of the legal entity, if applicable.

C. Statements filed pursuant to Section 1114(B) of the *Code of Governmental Ethics* shall contain:

1. the amount of income or value of anything of economic value derived;
2. the nature of the business activity;
3. the name and address, and relationship to the legislator, if applicable; and
4. the name and business address of the legal entity, if applicable.

D. Statements filed pursuant to Section 1114(C) of the *Code of Governmental Ethics* shall contain:

1. the amount of income or value of anything of economic value derived;
2. the nature of the business activity;
3. the name and address, and relationship to the elected official, if applicable; and
4. the name and business address of the political subdivision, if applicable.

E. Statements filed pursuant to Section 1114(D)(1) of the *Code of Governmental Ethics* shall contain:

1. the name and address of the contracting party and their relationship to the legislator, person certified by the secretary of state as elected to the legislature, or department officer; and
2. the name and business address of the political subdivision.

F. Statements filed pursuant to Section 1114(D)(2) of the *Code of Governmental Ethics* shall contain:

1. the name and address of the party performing the services, and their relationship to the legislator, person certified by the secretary of state as elected to the legislature, or department officer;

2. the amount of all income or compensation which is related to services performed for or in connection with a person who is substantially interested in the gaming industry as defined by R.S. 18:1505.2L(3), received by either the person filing, his spouse, or any corporation, partnership or other legal entity in which such person or his spouse owns any interest, excepting only publicly traded corporations; and

3. the name and business address of the person who is substantially interested in the gaming industry as defined by R.S. 18:1505.2L(3).

G. The executive secretary shall maintain these forms suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended by the Department of Civil Service, Board of Ethics, LR 25:

§1310. Disclosure Forms Filed Pursuant to R.S. 42:1114(D)(2)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1300 (October 1997), repealed by the Department of Civil Service, Board of Ethics, LR 25:

No preamble to the proposed rule changes has been prepared. Interested persons may direct their comments to R. Gray Sexton, Board of Ethics, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809-7017, telephone (225) 922-1400, until March 12, 1999.

If necessary, a public hearing will be held by the Board of Ethics at 8401 United Plaza Boulevard, Baton Rouge, Louisiana, 70809-7017 between March 27, 1999 and April 1, 1999.

R. Gray Sexton
Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Definitions, Records and Reports

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the amendments to the rules for the Board of Ethics will increase expenditures by \$140 for publishing the rules in the *Louisiana Register*. The costs will be absorbed in the Board's existing budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The amendments to the rules for the Board of Ethics are not expected to have any additional fiscal impact on revenue collections of state and local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs nor economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Maris L. McCrory
Deputy General Counsel
9902#028

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Civil Service
Civil Service Commission**

Dual Career Ladder Classification Program

The State Civil Service Commission will hold a public hearing on March 3, 1999 to consider the following rule proposals. The hearing will begin at 9:00 a.m. and will be held in the Department of Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana.

Proposed Adoption of Rule 1.14.1.2

1.14.1.2 'Dual Career Ladder' means a set of one or more non-supervisory jobs in a job series which receives higher pay than traditional non-supervisory jobs because they require performance of higher level, more complex duties and possession of advanced, specialized skills. The purpose of the dual career ladder is to provide another route of advancement for employees as an alternative to promotion to supervisory or managerial positions.

Proposed Adoption of Rule 5.9

5.9 Dual Career Ladder Classification Program

Subject to the provisions of Rule 6.29, an appointing authority may participate in a dual career ladder program for selected job series by submitting an agency policy requesting the establishment of a job or jobs to provide a mechanism to implement a dual career ladder program. The agency policy must be approved by the Civil Service Commission prior to implementation. All such programs must comply with the following requirements:

(a) The dual career ladder jobs must be in a scientific, medical, information technology, or engineering field that exhibits one or more of the following characteristics:

1. requires substantial technical or professional training and expertise beyond the basic level;
2. is known for rapid innovation;
3. possesses the potential for employees to receive national credentials or licenses.

(b) Such a program shall be implemented in accordance with written policies and procedures established by each department. These written policies must include at a minimum the following elements:

1. program goals and expectations;
2. performance standards for employees eligible to enter the program;
3. selection procedures to move employees into a dual career ladder job title;
4. supplemental qualification requirements for each position encompassed by the program;
5. the scope of intended use including the location and number of dual career ladder positions and job specifications for all dual career ladder jobs;
6. program assessment procedures and reports.

(c) Approved policies may be in effect for a period not to exceed five years at which time renewal requests must be submitted for approval by the Civil Service Commission if the agency is to continue the program. Subsequent amendments to policies by an agency must also be submitted for prior approval by the Civil Service Commission.

(d) Pay for employees in dual career ladder jobs shall be established in accordance with Civil Service Rules governing pay.

(e) Applicants may be placed in dual career ladder positions using normal procedures for filling positions or through reallocation.

(f) Agencies must report to the Department of State Civil Service annually on the use and effectiveness of the program. Such annual reports should reflect fiscal year information.

(g) The Director shall review all programs and report annually to the Civil Service Commission on the program's use and effectiveness.

Explanation

A dual career ladder is a program utilizing an additional job or jobs intended to provide agency management with an alternative or dual career path to offer employees in lieu of the traditional promotion to a supervisory or managerial job title. It is an opportunity to recognize the value and contribution of highly skilled employees who possess the ability to perform the most complex duties critical to the success of the agency as described in an agency policy requiring prior approval by the Civil Service Commission.

The program offers several potential benefits for agencies and Civil Service:

- a. encourages our most skilled and valuable employees to remain in government by providing expanded career opportunities;
- b. discourages agencies from creating supervisory and managerial jobs just to be able to promote a good employee;
- c. allows employees to remain in their chosen careers and not be forced to move into managerial jobs just to get a pay increase;
- d. decreases pressure to misallocate, reevaluate and create special jobs just to give pay increases to employees;
- e. encourages employees to continually develop their skills and enhance their value to the organization.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the Director of State Civil Service at Post Office Box 94111, Baton Rouge, Louisiana 70804-9111.

If any accommodations are needed, please notify the Civil Service Department prior to the meeting.

Allen H. Reynolds
Director

9902#013

NOTICE OF INTENT

Department of Economic Development Board of Architectural Examiners

Association with Registered Architect
(LAC 46:I.1119)

Under the authority of La. R.S. 37:144(C) and in accordance with the provisions of La. R.S. 49:951 et seq., the Board of Architectural Examiners gives notice that rule making procedures have been initiated for the adoption of LAC 46:I.1119 pertaining to the board's interpretation of La. R.S. 37:155(A)(3). R.S. 37:155(A)(3) exempts from the Architects Licensing Law, La. R.S. 37:141 et seq., registered architects of other states when associated with any registered architect of this state who will seal or stamp and bear professional responsibility for all specifications and other construction documents pertaining to work in this state. The proposed rule interprets the meaning of "associated" in this statute.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 11. Administration

§1119. Interpretation of La. R.S. 37:155(A)(3)

Registered architects of other states will be deemed to be associated with a registered architect of this state on a specific project within the meaning of R.S. 37:155(A)(3) only when:

1. a written agreement is signed by both the out-of-state and the in-state architects describing the association prior to executing the work;
2. the in-state architect reviews all documents prepared by the out-of-state architect and makes necessary revisions to bring the design documents into compliance with applicable codes, regulations, and requirements;
3. the in-state architect independently performs or contracts with an engineer or engineers licensed in Louisiana to perform necessary calculations, and maintains such calculations on file;
4. after reviewing, analyzing and making revisions and/or additions, the in-state architect issues the documents with his/her title block and seal (by applying his/her seal the architect assumes professional responsibility as the architect of record); and
5. the in-state architect maintains control over the use of the design documents just as if they were his/her original design.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 25: Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, Louisiana 70809.

Mary "Teeny" Simmons
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Association with Registered Architect**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated implementation costs (savings) to state or local governmental units associated with this proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units associated with this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition or employment associated with this proposed rule.

Mary "Teeny" Simmons Robert E. Hosse
Executive Director General Government Section Director
9902#056 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Board of Architectural Examiners**

**Carry Over of Continuing Education Hours (CEH)
(LAC 46:I.1117)**

Under the authority of La. R.S. 37:144 and in accordance with the provisions of La. R.S. 49:951 et seq., the Board of Architectural Examiners gives notice that rule making procedures have been initiated for the amendment of LAC 46:I.1117 pertaining to the carry over of continuing education hours (CEH). The existing rule prohibits the carry over of CEH from prior years. The Board proposes to amend this rule to permit the carry over of a maximum of 12 qualifying CEH to the subsequent renewal period.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part I. Architects**

**Chapter 11. Administration
§1117. Continuing Education**

* * *

- F. Number of Continuing Education Hours Earned
1. Continuing education credits shall be measured in CEH and shall be computed as follows:
 - a. attending seminars, lectures, presentations, workshops, or courses shall constitute one CEH for each contact hour of attendance;
 - b. successfully completing tutorials, short courses, correspondence courses, televised or video-taped courses, monographs and other self-study courses shall constitute the CEH recommended by the program sponsor;
 - c. teaching or instructing a qualified seminar, lecture, presentation, or workshop shall constitute two CEH for each contact hour spent in the actual presentation. Teaching credit shall be valid for teaching a seminar or course in its initial presentation only. Teaching credit shall not apply to full-time faculty at a college, university or other educational institution;
 - d. authoring a published paper, article or book shall be equivalent of 8 CEH;
 - e. successfully completing one or more college or university semester or quarter hours shall satisfy the continuing education hours for the year in which the course was completed.
 2. Any program in HSW contained in the record of an approved professional registry will be accepted by the board as fulfilling the continuing education requirements of these rules. The board approves the AIA as a professional registry, and contact hours listed in HSW in the AIA/CES Transcript of Continuing Education Activities will be accepted by the board for both resident and non-resident architects.
 3. If the architect exceeds the continuing education requirements in any renewal period (January 1 through December 31), the architect may carry over a maximum of 12 qualifying CEH to the subsequent renewal period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-145.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 17:753 (June 1991), amended LR 18:250 (March 1992), LR 24:910 (May 1998), LR 25:

Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, Louisiana 70809.

Mary "Teeny" Simmons
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Carry Over of Continuing Education
Hours (CEH)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated implementation costs (savings) to state or local governmental units associated with this proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units associated with this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule is beneficial to architects in that satisfying the requirements of continuing education will be somewhat easier. However, there are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition or employment associated with this proposed rule.

Mary "Teeny" Simmons Robert E. Hosse
Executive Director General Government Section Director
9902#057 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Board of Architectural Examiners**

Rules of Conduct; Violations (LAC 46:I.1701)

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners gives notice that rule making procedures have been initiated for the amendment and repromulgation of LAC 46:I.1701 pertaining to the rules of conduct for architects. The Board proposes to replace its existing rules of conduct with the rules and commentaries published by the National Council of Architectural Registration Boards Professional Conduct Committee.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part I. Architects

Chapter 17. Rules of Conduct; Violations

§1701. Rules of Conduct

(NOTE: Commentaries provided by the NCARB Professional Conduct Committee, except the numbering has been changed to conform to the format required by the *Louisiana Register*.)

A. Competence

1. In practicing architecture, an architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill which is ordinarily applied by architects of good standing, practicing in the same locality.

Commentary—Although many of the existing state board rules of conduct fail to mention standards of competence, it is clear that the public expects that incompetence will be disciplined and, where appropriate, will result in revocation of the license. Section 1701.A.1 sets forth the common law standard which has existed in this country for a hundred years or more in judging the performance of architects. While some few courts have stated that an architect, like the manufacturer of goods, impliedly warrants that his design is fit for its intended use, this rule specifically rejects the minority standard in favor of the standard applied in the vast majority of jurisdictions that the architect need be careful but need not always be right. In an age of national television, national universities, a national registration exam, and the like, the reference to the skill and knowledge applied in the same locality may be less significant than it was in the past when there was a wide disparity across the face of the United States in the degree of skill and knowledge which an architect was expected to bring to his or her work. Nonetheless, the courts have still recognized this portion of the standard, and it is true that what may be expected of an architect in a complex urban setting may vary from what is expected in a more simple, rural situation.

2. In designing a project, an architect shall take into account all applicable state and municipal building laws and regulations. While an architect may rely on the advice of other professionals (e.g., attorneys, engineers, and other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, an architect shall not knowingly design a project in violation of such laws and regulations.

Commentary—It should be noted that the rule is limited to applicable state and municipal building laws and regulations. Every major project being built in the United States is subject to a multitude of laws in addition to the applicable building laws and regulations. As to these other laws, it may be negligent of the architect to have failed to take them into account, but the rule does not make the architect specifically responsible for such other laws. Even the building laws and regulations are of sufficient complexity that the architect may be required to seek the interpretation of other professionals. The rule permits the architect to rely on the advice of such other professionals.

3. An architect shall undertake to perform professional services only when he or she, together with those whom the architect may engage as consultants, are qualified by education, training, and experience in the specific technical areas involved.

Commentary—While an architect is licensed to undertake any project which falls within the definition of the practice of architecture, as a professional, the architect must understand and be limited by the limitations of his or her own capacity and knowledge. Where an architect lacks experience, the rule supposes that he or she will retain consultants who can

appropriately supplement his or her own capacity. If an architect undertakes to do a project where he or she lacks knowledge and where he or she does not seek such supplementing consultants, the architect has violated the rule.

4. No person shall be permitted to practice architecture if, in the board's judgment, such person's professional competence is substantially impaired by physical or mental disabilities.

Commentary—Here the state registration board is given the opportunity to revoke or suspend a license when the board has suitable evidence that the license holder's professional competence is impaired by physical or mental disabilities. Thus, the board need not wait until a building fails in order to revoke the license of an architect whose addiction to alcohol, for example, makes it impossible for that person to perform professional services with necessary care.

B. Conflict of Interest

1. An architect shall not accept compensation for services from more than one party on a project unless the circumstances are fully disclosed to and agreed to (such disclosure and agreement to be in writing) by all interested parties.

Commentary—This rule recognizes that in some circumstances an architect may receive compensation from more than one party involved in a project but that such bifurcated loyalty is unacceptable unless all parties have understood it and accepted it.

2. If an architect has any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with the performance of professional services, the architect shall fully disclose in writing to his or her client or employer the nature of the business association or financial interest, and if the client or employer objects to such association or financial interest, the architect will either terminate such association or interest or offer to give up the commission or employment.

Commentary—Like §1701.B.1, this rule is directed at conflicts of interest. It requires disclosure by the architect of any interest which would affect the architect's performance.

3. An architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.

Commentary—This rule appears in most of the existing state standards. It is absolute and does not provide for waiver by agreement.

4. When acting as the interpreter of building contract documents and the judge of contract performance, an architect shall render decisions impartially, favoring neither party to the contract.

Commentary—This rule applies only when the architect is acting as the interpreter of building contract documents and the judge of contract performance. The rule recognizes that that is not an inevitable role and that there may be circumstances (for example, where the architect has an interest in the owning entity) in which the architect may appropriately decline to act in those two roles. In

general, however, the rule governs the customary construction industry relationship where the architect, though paid by the owner and owing the owner his or her loyalty, is nonetheless required, in fulfilling his or her role in the typical construction industry documents, to act with impartiality.

C. Full Disclosure

1. An architect, making public statements on architectural questions, shall disclose when he or she is being compensated for making such statement or when he or she has an economic interest in the issue.

Commentary—Architects frequently and appropriately make statements on questions affecting the environment in the architect's community. As citizens and as members of a profession acutely concerned with environmental change, they doubtless have an obligation to be heard on such questions. Many architects may, however, be representing the interests of potential developers when making statements on such issues. It is consistent with the probity which the public expects from members of the architectural profession that they not be allowed under the circumstances described in the rule to disguise the fact that they are not speaking on the particular issue as an independent professional but as a professional engaged to act on behalf of a client.

2. An architect shall accurately represent to a prospective or existing client or employer his or her qualifications, capabilities, experience, and the scope of his or her responsibility in connection with work for which he or she is claiming credit.

Commentary—Many important projects require a team of architects to do the work. Regrettably, there has been some conflict in recent years when individual members of that team have claimed greater credit for the project than was appropriate to their work done. It should be noted that a young architect who develops his or her experience working under a more senior architect has every right to claim credit for the work which he or she did. On the other hand, the public must be protected from believing that the younger architect's role was greater than was the fact.

3. The architect shall not falsify or permit misrepresentation of his or her associate's academic or professional qualifications. The architect shall not misrepresent or exaggerate his or her degree of responsibility in or for the subject matter or prior assignments. Brochures or other presentations incidental to the solicitation of employment shall not misrepresent pertinent facts concerning employer, employees, associates joint ventures, or his/her or their past accomplishments with the intent and purpose of enhancing his/her qualifications or his/her work.

4.a. If, in the course of his or her work on a project, an architect becomes aware of a decision taken by his or her employer or client, against the architect's advice, which violates applicable state or municipal building laws and regulations and which will, in the architect's judgment, materially affect adversely the safety to the public of the finished project, the architect shall,

i. report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws and regulations,

ii. refuse to consent to the decision, and

iii. in circumstances where the architect reasonably believes that other such decisions will be taken notwithstanding his objection, terminate his services with reference to the project unless the architect is able to cause the matter to be resolved by other means.

b. In the case of a termination in accordance with §1701.C.4.a.iii, the architect shall have no liability to his or her client or employer on account of such termination.

Commentary—This rule holds the architect to the same standard of independence which has been applied to lawyers and accountants. In the circumstances described, the architect is compelled to report the matter to a public official even though to do so may substantially harm the architect's client. Note that the circumstances are a violation of building laws which adversely affect the safety to the public of the finished project. While a proposed technical violation of building laws (e.g., a violation which does not affect the public safety) will cause a responsible architect to take action to oppose its implementation, the Committee specifically does not make such a proposed violation trigger the provisions of this rule. The rule specifically intends to exclude safety problems during the course of construction which are traditionally the obligation of the contractor. There is no intent here to create a liability for the architect in this area. Section 1701.C.4.a.iii gives the architect the obligation to terminate his or her services if he or she has clearly lost professional control. The standard is that the architect reasonably believes that other such decisions will be taken notwithstanding his or her objection. The rule goes on to provide that the architect shall not be liable for a termination made pursuant to §1701.C.4.c. Such an exemption from contract liability is necessary if the architect is to be free to refuse to participate on a project in which such decisions are being made.

5. An architect shall not deliberately make a materially false statement or fail deliberately to disclose a material fact requested in connection with his or her application for registration or renewal.

Commentary—The registration board which grants registration or renews registration on the basis of a misrepresentation by the applicant must have the power to revoke that registration.

6. An architect shall not assist the application for registration of a person known by the architect to be unqualified in respect to education, training, experience, or character.

7. An architect possessing knowledge of a violation of these rules by another architect shall report such knowledge to the board.

Commentary—This rule has its analogue in the Code of Professional Responsibility for lawyers. Its thrust is consistent with the special responsibility which the public expects from architects.

D. Compliance with Laws

1. An architect shall not, in the conduct of his or her architectural practice, knowingly violate any state or federal criminal law.

Commentary—This rule is concerned with the violation of a state or federal criminal law while in the conduct of the registrant's professional practice. Thus, it does not cover criminal conduct entirely unrelated to the registrant's architectural practice. It is intended, however, that rule §1701.E.4 will cover reprehensible conduct on the part of the architect not embraced by rule §1701.D.1. At present, there are several ways in which member boards have dealt with this sort of rule. Some have disregarded the requirement that the conduct be related to professional practice and have provided for discipline whenever the architect engages in a crime involved "moral turpitude."

The Committee declined the use of that phrase as its meaning is by no means clear or uniformly understood. Some member boards discipline for felony crimes and not for misdemeanor crimes. While the distinction between the two was once the distinction between serious crimes and technical crimes, that distinction has been blurred in recent years. Accordingly, the committee specifies crimes in the course of the architect's professional practice, and, under §1701.E.4, gives to the member board discretion to deal with other reprehensible conduct. Note that the rule is concerned only with violations of state or federal criminal law. The Committee specifically decided against the inclusion of violations of the laws of other nations. Not only is it extremely difficult for a member board to obtain suitable evidence of the interpretation of foreign laws, it is not unusual for such laws to be at odds with the laws, or, at least, the policy of the United States of America. For example, the failure to follow the dictates of the "anti-Israel boycott" laws found in most Arab jurisdictions is a crime under the laws of most of those jurisdictions; while the anti-Israel boycott is contrary to the policy of the government of the United States and following its dictates is illegal under the laws of the United States.

2. An architect shall neither offer nor make any payment or gift to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the architect is interested.

Commentary—Section 1701.D.2 tracks a typical bribe statute. It is covered by the general language of §1701.D.1, but it was the Committee's view that §1701.D.2 should be explicitly set out in the rules of conduct. Note that all of the rules under this section look to the conduct of the architect and not to whether or not the architect has actually been convicted under a criminal law. An architect who bribes a public official is subject to discipline by the state registration board, whether or not the architect has been convicted under the state criminal procedure.

3. An architect shall comply with the registration laws and regulations governing his or her professional practice in any United States jurisdiction.

Commentary—Here, again, for the reasons set out under §1701.D.1, the Committee chose to limit this rule to United States jurisdictions.

E. Professional Conduct

1. Any office offering architectural services shall have an architect resident and regularly employed in that office.

2.a. An architect shall not sign or seal drawings, specifications, reports or other professional work which was not prepared by or under the responsible supervision of the architect; except that:

i. he or she may sign or seal those portions of the professional work that were prepared by or under the responsible supervision of persons who are registered under the architecture registration laws of this jurisdiction if the architect has reviewed in whole or in part such portions and has either coordinated their preparation or integrated them into his or her work, and

ii. he or she may sign or seal portions of the professional work that are not required by the architects' registration law to be prepared by or under the responsible supervision of an architect if the architect has reviewed and adopted in whole or in part such portions and has integrated them into his or her work.

b. *Responsible supervision* shall be that amount of supervision over and detailed professional knowledge of the content of technical submissions during their preparation as is ordinarily exercised by architects applying the required professional standard of care. Reviewing, or reviewing and correcting, technical submissions after they have been prepared by others does not constitute the exercise of responsible supervision because the reviewer has neither supervision over nor detailed knowledge of the content of such submissions throughout their preparation. Any registered architect signing or sealing technical submissions not prepared by that architect but prepared under the architect's responsible supervision by persons not regularly employed in the office where the architect is resident shall maintain and make available to the board upon request for the prescriptive period applicable to claims against the architect which may arise from his or her involvement in the project adequate and complete records demonstrating the nature and extent of the architect's supervision over and detailed knowledge of such technical submissions throughout their preparation.

Commentary—This provision reflects current practice by which the architect's final construction documents may comprise the work of other architects as well as that of the architect who signs and seals professional submissions. The architect is permitted to apply his or her seal to work over which the architect has both control and detailed professional knowledge, and also to work prepared under the direct supervision of another architect whom he or she employs when the architect has both coordinated and reviewed the work.

3. An architect shall neither offer nor make any gifts, other than gifts of nominal value (including, for example,

reasonable entertainment and hospitality), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the architect is interested.

Commentary—This provision refers to "private bribes" (which are ordinarily not criminal in nature) and the unseemly conduct of using gifts to obtain work. Note that the rule realistically excludes reasonable entertainment and hospitality and other gifts of nominal value.

4. An architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.

Commentary—Violations of this rule may involve criminal conduct not covered by §1701.D.1 (crimes committed "in the conduct of his or her architectural practice"). The Committee believes that a state board must, in any disciplinary matter, be able to point to a specific rule which has been violated. An architect who is continuously involved in nighttime burglaries (no connection to his daytime professional practice) is not covered by §1701.D.1 (crimes committed "in the conduct of his or her architectural practice"). The Committee believes that serious misconduct, even though not related to professional practice, may well be grounds for discipline. To that end, the Committee recommends §1701.E.4. Many persons who have reviewed and commented on the draft rules were troubled by the sententious character of §1701.E.4. The committee has, however, found that lawyers commenting on the rules had little trouble with the standard set in §1701.E.4; it applies to conduct which would be characterized as wicked, as opposed to minor breaches of the law. While each board must "flesh out" the rule, the Committee assumes that murder, rape, arson, burglary, extortion, grand larceny, and the like, would be conduct subject to the rule, while disorderly conduct, traffic violations, tax violations, and the like, would not be considered subject to this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-145.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December, 1965; amended and repromulgated LR 10:739 (October, 1984); amended and repromulgated LR 25:

Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, Louisiana 70809.

Mary "Teeny" Simmons
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Rules of Conduct**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units associated with this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units associated with this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment associated with this proposed rule.

Mary "Teeny" Simmons Robert E. Hosse
Executive Director General Government Section Director
9902#058 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of Financial Institutions**

**Capital Companies Tax Credit Program
(LAC 10:XV.301, and 305)**

Under the authority of the Louisiana Administrative Procedure Act, LSA-R.S. 49:950 et seq., and in accordance with R.S. 51:1929 of the Capital Companies Tax Credit Program, R.S. 51:1921 et seq., the Acting Commissioner of Financial Institutions proposes to amend LAC 10:XV.305 of the current Capital Companies Tax Credit Program rule, LAC 10:XV.301 - 321, to provide that no person may transfer any income tax credit earned after January 1, 1998 in conjunction with an investment in a certified Louisiana capital company without first obtaining the written approval of the Commissioner of the Division of Administration at least thirty (30) days prior to the anticipated transfer or sale of such tax credits. Further, the Commissioner of the Division of Administration shall not approve any transfer or sale of any income tax credits in an amount that would exceed the funds budgeted for such purpose and may establish standards necessary to determine when and to what extent such tax credits may be transferred or sold. Finally, this proposed rule makes minor technical corrections to LAC 10:XV.301 and 305.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES, AND UCC**

Part XV. Other Regulated Entities

Chapter 3. Capital Companies Tax Credit Program

§301. Description of Program

These rules implement the Capital Companies (CAPCOs) Tax Credit Program pursuant to R.S. 51:1921 et seq. and R.S. 22:1068(E). This program was created by Act 642 of the 1983 Legislature, amended by Act 891 in 1984, Acts 695 and 915 in 1986, Act 496 in 1989, Acts 279 and 724 of 1993, Act 21 of 1996 and Act 70 of 1998.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1933.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1128 (September 1997), LR 25:

§305. Income and Premium Tax Credits

A. ...

B. Income or premium tax credits may be sold or transferred, subject to the following conditions.

1. The transfer or sale of income or premium tax credits, pursuant to R.S. 51:1924(F) or R.S. 22:1068(E)(4), will be restricted to transfers or sales between affiliates and sophisticated investors, collectively referred to as acquirors. Furthermore, even though a transfer or sale of credits, known as an election under this Section, may involve several entities, only one election may be made during any calendar year. Therefore, an investor in a CAPCO may only transfer or sell credits once during a calendar year and the entity that purchases the credit may not transfer credits obtained during the calendar year of purchase. In any subsequent calendar year, the purchaser of the credits may make one election per year, if needed.

2. Companies and/or individuals shall submit to the Department of Insurance or the Department of Revenue in writing, a notification of any transfer or sale of income or premium tax credits within 30 days of the transfer or sale of such credits. The notification shall include the original investor's income or premium tax credit balance prior to transfer, the remaining balance after transfer, all tax identification numbers for both transferor and acquiror, the date of transfer, and the amount transferred.

3. ...

4. If income tax credits are transferred between affiliates or sophisticated investors ("acquirors"), the notification submitted to the Department of Revenue must include a worksheet, which the transferor and each acquiror shall also attach to their Louisiana corporate and/or individual income tax returns, which shall contain the following information for each corporation or individual involved:

4.a. - 6. ...

7. No person may transfer or sell any income tax credit earned after January 1, 1998, without first obtaining the written approval of the Commissioner of the Division of Administration at least 30 days prior to the anticipated transfer or sale of any such income tax credits. The Commissioner of the Division of Administration shall not approve the transfer or sale of any income tax credits in excess of the funds budgeted for such purpose. The Commissioner of the Division of Administration may also establish standards to determine when and to what extent income tax credits may be transferred or sold in any manner he deems necessary and appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1924, 1927, 1928 and 1929, and R.S. 22:1068(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December

1989), LR 16:762 (September 1990), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1132 (September 1997), amended LR 25:

All written comments regarding this proposed rule must be submitted no later than March 26, 1999 to Gary L. Newport, Chief Attorney, Office of Financial Institutions, Post Office Box 94095, Baton Rouge, Louisiana, 70804-9095 or by hand-delivery, before 5:00 p.m., to 8660 United Plaza Boulevard, 2nd Floor, Baton rouge, Louisiana 70809.

Doris B. Gunn
Acting Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Capital Companies Tax Credit Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no additional costs associated with the implementation of this Rule other than the incidental costs of promulgating the rule. The State can expect to retain revenue in FY 99 as a result of the Rule's limit on the transferability of unusable Louisiana income tax credits. These credits are earned by investors in certified Louisiana capital companies (Direct CAPCO Investors). If CAPCO investors can not utilize their income credits, they may transfer or sell the credits to qualified Louisiana taxpayers (Indirect CAPCO Investors). Prior to this rule, the amount of credits that could be taken by Direct CAPCO Investors or transferred to Indirect CAPCO Investors in any one year was unlimited and could severely reduce general fund revenues. This Rule limits the amount of tax credits that may be transferred to Indirect CAPCO Investors; it does not affect the amount of tax credits that may be taken by Direct CAPCO Investors.

The state of Louisiana will retain greater amounts of revenue on an annual basis as a result of deferring income tax credits received by investors in certified Louisiana capital companies from FY 99 into future years.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will result in the retention of state income tax collections for FY 99 by deferring into future years unusable credits resulting from limitations imposed on their transferability. The credits potentially utilized prior to the promulgation of this rule were \$45,902,697 for the current fiscal year. As a result of the rule, the estimated income tax credits to be utilized for FY 99 will be approximately \$5,083,259.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The directly affected non-governmental groups will be direct investors into certified Louisiana capital companies, who: 1) are eligible to receive an income tax credit; 2) are unable to utilize all or a portion of the credits; and 3) wish to transfer them in FY 99. These investors may realize economic loss resulting from their inability to immediately sell unused tax credits. Other persons potentially affected are indirect investors who otherwise could purchase tax credits which would reduce their state income tax liability. The exact amount of potential economic loss is undeterminable.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

The proposed rule is not anticipated to have any effect on competition or employment in Louisiana.

Doris B. Gunn
Acting Commissioner
9902#046

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Apprentice's Contract
(LAC 46:XLI.705)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 46:XLI.705, Apprentice's Contract, in order to shorten an apprentice jockey's apprentice period from 3 to 2 years, which will be consistent with other racing jurisdictions.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XLI. Horseracing Occupations
Chapter 7. Jockeys and Apprentice Jockeys
§705. Apprentice's Contract**

A. ...

B. An apprentice shall start with 5 pounds allowance. He shall continue this allowance for one year from the date of his fifth winner, after which, if he has not ridden 40 winners in the year following the date of his fifth winner, he shall continue the allowance for a period not to exceed two years from the date of his fifth winner or until he has ridden 40 winners, whichever occurs first.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, R.S. 4:150 and R.S. 4:151.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:431 (December 1976), LR 3:27 (January 1977), repromulgated LR 4:276 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 17:588 (June 1991), LR 25:

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact Paul D. Burgess, executive director or C. A. Rieger, assistant director, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through Monday, February 8, 1999, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Paul D. Burgess
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Apprentice's Contract

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This action is not anticipated to affect revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action benefits apprentice jockeys by shortening their apprenticeship period, thereby allowing them to race as journeymen jockeys sooner.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
9902#045

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Displaying Daily Double Rule
(LAC 35:XIII.10521)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:XIII.10521, Displaying Daily Double Rule, in order to change rule posting requirements. It will no longer be necessary to publish the daily double rule in an association's daily racing form, however it will now be necessary to post the rule in a conspicuous place in wagering areas. This is consistent with other wagering rules.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 105. Daily Double

§10521. Displaying Daily Double Rule

This rule shall be prominently displayed throughout the betting area of each track conducting the daily double and printed copies of this rule shall be distributed by the track to patrons upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 11:616 (June 1985), amended by the Department of Economic Development, Racing Commission, LR 25:

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact Paul D. Burgess, executive director or C. A. Rieger, assistant director, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through Monday, February 8, 1999, to

320 North Carrollton Avenue, Suite 2-B, New Orleans,
Louisiana 70119-5100.

Paul D. Burgess
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Displaying Daily Double Rule

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This action is not anticipated to affect revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action benefits patrons by requiring the daily double rule to be posted in plain view in and around wagering areas.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This action has no effect on competition nor employment.

Paul D. Burgess

Executive Director
9902#043

Robert E. Hosse

General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Horse in Racing Condition
(LAC 46:XLI.313)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 46:XLI.313, Horse in Racing Condition, to allow for horses to race without horseshoes under special circumstances as permitted by the stewards.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLI. Horseracing Occupations

Chapter 3. Trainer

§313. Horse in Racing Condition

A. A trainer shall not enter or start a horse which is not in serviceably sound racing condition, has been tracheatubed or has been nerved.

B. However, horses which have had a posterior digital (heel nerve) neurectomy or cryosurgical intervention in the areas reserved for posterior digital neurectomies performed on one or more feet, may be permitted to race.

C. All horses which have undergone either of the above procedures shall be so designated on the foal certificate and be certified by the practicing veterinarian.

D. All horses which have undergone either of the above procedures prior to the adoption of this rule must also be certified, and it is the responsibility of the trainer to see that

either of such procedures will be carried on the foal certificate.

E. All nerved horses, high or low, and all horses having had a cryosurgical intervention, as aforesaid, must be published on the bulletin board in the racing secretary's office.

F. Any horse which is high nerved shall not be permitted to enter in a race.

G. Except as provided herein, a trainer shall not enter or start a horse which has been "nerve blocked" or treated with, or been given any drug internally, externally or by hypodermic injection, except as permitted by LAC 35:I.1501 et seq.

H. Nor shall a trainer enter or start a horse which is blind or whose vision is seriously impaired in both eyes, is on a steward's, veterinarian's, starter's or disqualified list or is permanently barred from racing in any jurisdiction.

I. Additionally, a trainer shall not enter or start a horse which is not properly plated except where permission to start without shoes is obtained from the stewards prior to entry. However, once a horse has started without shoes, it must race unshod for the balance of the meet, unless otherwise approved by the stewards. In any emergency situation the stewards shall have sole discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:150.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:430 (December 1976), LR 3:26 (January 1977), repromulgated LR 4:275 (August 1978), amended LR 5:325 (October 1979), LR 25:

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact Paul D. Burgess, executive director or C. A. Rieger, assistant director, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through Monday, February 8, 1999, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Paul D. Burgess
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Horse in Racing Condition**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Economic benefits/costs will be limited to horsemen, but not measurable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
9902#044

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Paint Horse Racing
(LAC 35:I.Chapter 10)

The Louisiana State Racing Commission hereby gives notice that it intends to adopt Chapter 10, Paint Horse Racing, of Title 35, Part I of the Rules of Racing, which provides for the authorization of racing paint horses in the state of Louisiana. The rules within this Chapter are §1001 through §1009.

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 10. Paint Horse Racing

§1001. Applicable Rules

The rules of the commission shall govern Paint horse racing wherever they are applicable. When not applicable, the stewards may enforce the rules of the American Paint Horse Association, provided they are consistent with the rules of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§1003. Cases not Covered

Cases not covered by American Paint Horse Association rules shall be decided by the stewards with the advice and consent of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§1005. Jurisdiction

The jurisdiction of a licensed Paint horse race meeting shall be vested solely with the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§1007. Official Registry

The American Paint Horse Association shall be recognized as the sole official registry for Paint horses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§1009. Races with Other Breeds

Races between Paint horses and other horse breeds are prohibited unless special permission is granted by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact Paul D. Burgess, executive director or C. A. Rieger, assistant executive director, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested parties may submit written comments relative to this proposed Chapter through Monday, February 8, 1999, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Paul D. Burgess
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Paint Horse Racing**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is likely to be a positive effect on revenue collections, however, probably minimal since there will be a very limited number of paint horse races scheduled.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Economic benefits will most likely be limited to horsemen involved in the paint horse industry.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This action would probably have little or no effect on competition nor employment, but would be limited to individuals employed in the paint horse industry.

Paul D. Burgess
Executive Director
9902#042

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Port Development Program
(LAC 13:I.Chapter 80)

In accordance with R.S. 51:2341, notice is hereby given that the Department of Economic Development, Office of the Secretary, proposes to promulgate rules and regulations in LAC 13:I.Chapter 80 for the Port Development Program.

Title 13

**ECONOMIC DEVELOPMENT
Part I. Commerce and Industry
Subpart 3. Financial Incentives**

Chapter 80. Port Development Program

§8001. Purpose and Scope

The purpose of the program is to provide financial assistance to public port authorities for capital projects which improve or maintain waterborne commerce and intermodal port infrastructure. Under this program, the Louisiana Department of Economic Development (DED) is authorized to accept and review applications from eligible port authorities for project assistance. Upon favorable evaluation and prioritization of individual projects by DED's review committee, recommendations may be made to the Secretary of Economic Development for funding qualified projects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8003. Definitions

Applicant—the sponsoring Louisiana port authority requesting financial assistance from DED under this program.

Award—funding approved under this program for eligible applicants.

Awardee—an applicant receiving an award under this program.

Capital Projects—include any port infrastructure development project, including land acquisition and attendant development costs.

Cash—any asset on the port's records used for the project.

DED—Louisiana Department of Economic Development.

In-Kind—any service, land or equipment donated to a port outside of its legal entity.

Intermodal Infrastructure Development—refers to the provision of highway, rail, water, or air access; and internal trans-loading or distribution facilities to property owned and maintained by a local port authority.

Program—the Port Development Program.

Project Priority List—a list of projects proposed by eligible applicants ranked for program funding by the Louisiana Department of Economic Development.

Secretary—the Secretary of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8005. Program Objective

The objectives of this program are to develop and sustain the Louisiana ports and the navigable waterways system, particularly those infrastructures that improve efficiency of the system and contribute to the location of new industry, or expansion and retention of existing industry and employment within the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8007. Eligibility

All Louisiana public port authorities are eligible to participate in the program. However, port projects that are eligible for funding under the Louisiana Port Construction and Development Priority Fund administered by the Louisiana Department of Transportation and Development will not be eligible for funding under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8009. Types of Projects

The types of projects funded under the program will include any type of port capital development projects, rehabilitation and maintenance, intermodal projects, land acquisition, site prep work and project feasibility studies that promote water transport and waterfront development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8011. Match

Each port authority will provide a match equal to at least 50 percent of the total cost of the project. The match may be furnished in cash or in-kind. No state funds can be used as matching funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8013. Application Procedure

A. Port authorities sponsoring projects are expected to provide complete and verifiable information on the proposed projects. The project information supplied should be accurate and documented in order for the Department to adequately assess the merits of the project and prepare a project priority list. The sponsoring port authority must submit an application on a form provided by the Department which will contain, but not be limited to, the following:

1. a description of the proposed project including the nature and goals of the project, design and its major components. Justify the immediate need for the project;
2. indicate the total cost of the project. Also show the sources of funding and when they will be available;
3. provide construction, operation and maintenance plans, and a timetable for the project's completion;
4. any additional information the Secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8015. Submission of Applications

Applications must be submitted to the DED to be considered for funding. Two copies of the application with all attachments should be submitted to the Secretary of DED .

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8017. Criteria

A. Consideration will be given to projects which have completed preliminary planning work and ensure that the project is initiated within the funding year in which the project is approved.

B. Consideration will be given to project contribution to regional economic development.

C. Preference will be given to projects with high employment potential and payroll.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8019. Project Review Procedure

A. Submitted applications will be reviewed and evaluated by a DED review committee. The Committee will prepare a list of projects for funding, and if necessary, 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 port's plan.

B. After evaluation the review committee will submit a list of projects recommended to be eligible for funding to the Secretary of the Department of Economic development.

C. The Secretary of DED will have the final authority in funding any recommended project under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8021. Funding

In the event the fund falls below \$5 million, the projects will be limited to \$1 million each. However, in 1998 as available funds are limited, a port may be allocated up to 50 percent of the appropriated funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8023. Conditions for Disbursement of Funds

Grant award funds will be available to each port on a reimbursement basis following submission of required documentation to DED. Only funds spent on the project after the Secretary's approval will be considered eligible for reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

Interested persons may comment on the proposed rules in writing until March 20, 1999 to Randy Rogers, National Marketing Director, Department of Economic Development, Post Office Box 94185, Baton Rouge, LA 70804-9185 or 101 France Street, Suite 202, Baton Rouge, LA 70802.

Kevin P. Reilly, Sr.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Port Development Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Pursuant to Acts 1998, No. 29, Section 1 of the regular Session of the Legislature, this is a new program administered by the Department of Economic Development (DED), Office of the Secretary. No changes in cost are anticipated. Existing staff within the National Marketing Division will be used to administer the program and to provide the economic impact analysis.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collection is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This program expects to serve approximately four to five (4-5) Ports with its first year's funding. The number to be served in future years is anticipated to increase exponentially depending on the increased level of funding.

LAC 13:1, Chapter 80 establishes the Rules of the Port Development Program. It provides, among other things, the purpose and objectives of the program, eligibility requirements, financial match requirements, application procedures, review procedures, and disbursement of funding criteria.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This program's goal will be to reduce unemployment and the risk of future unemployment by assisting businesses and Public Port Authorities through incentives.

Kevin P. Reilly, Sr.
Secretary
9902#059

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Accountability System (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The proposed amendment adds the School Accountability System as a part of Bulletin 741.

**Title 28
EDUCATION**

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

A. Bulletin 741

* * *

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

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:

Bulletin 741

Louisiana Handbook for School Administrators

I. Preface

A. The Louisiana Public Education Accountability system is intended to drive fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The system is designed to encourage and support school improvement by:

1. clearly establishing the state's goals for schools and students;
2. creating an easy way to communicate to schools and the public how well a school is performing;
3. recognizing schools for their effectiveness in demonstrating growth in student achievement; and
4. focusing attention, energy, and resources on those schools that need help improving student achievement.

B. The accountability system is based on the concept of continuous growth. Every school can improve. Every school is expected to show academic growth. Every school is compared to itself.

1. The underlying beliefs of the accountability system are:
 - a. all students can and must learn at significantly higher levels;
 - b. the need to improve student achievement is urgent;
 - c. continuous growth in student achievement must occur in all schools;
 - d. the focus must be on measurable student achievement results;
 - e. poverty impacts student learning; however, it does not prevent students from achieving;
 - f. low-performing schools must receive technical assistance and necessary resources to improve;
 - g. rewards and corrective actions can motivate educators, communities, and students to improve student learning;
 - h. parents, educators, and community members should be involved in the ongoing development and revision of school and district improvement plans;
 - i. districts and school sites must have the flexibility to improve learning in schools;
 - j. the general public must be kept involved in and informed about the accountability process;
 - k. it is essential that all stakeholders (i.e., students, parents, educators, and community) work together to reach the state education goals;
 - l. the accountability system must be kept simple;
 - m. the State must provide adequate funding to support the accountability system and not back down on funding or standards once instituted.

2.006.00 Every School shall participate in a school accountability system based on student achievement as approved by the State Board of Elementary and Secondary Education.

Refer to R.S. 17:10.1

Indicators for School Performance Scores

2.006.01 A school's School Performance Score shall be determined using a weighted composite index derived from three or four indicators: criterion-referenced tests (CRT), norm-referenced tests (NRT), and student attendance for grades K-12, and dropout rates for grades 7-12.

Louisiana's 10- and 20-Year Education Goals

2.006.02 Each school shall be expected to reach 10- and 20-Year Goals that depict minimum educational performances.

Indicators	Grades Administered	10-Year Goal	20-Year Goal
CRT Tests (60 percent K-12)	Grades 4, 8, 10, 11	Average student score at BASIC	Average student score at PROFICIENT
NRT Tests (30 percent K-12)	Grades 3, 5, 6, 7, 9	Average composite standard score corresponding to the 55th percentile rank in the tested grade level	Average composite standard score corresponding to the 75th percentile rank in the tested grade level
Attendance (10 percent K-6; 5 percent 7-12)		95 percent (grades K-8) 93 percent (grades 9-12)	98 percent (grades K-8) 96 percent (grades 9-12)
Dropout Rate (5 percent 7-12)		4 percent (grades 7-8) 8 percent (grades 9-12)	2 percent (grades 7-8) 4 percent (grades 9-12)

School Performance Scores

2.006.03 A School Performance Score (SPS) shall be calculated for each school. This score shall range from 0-100 and beyond, with a score of 100 indicating a school has reached the 10-Year Goal and a score of 150 indicating a school has reached the 20-Year Goal. The lowest score that a given school can receive for each individual indicator index and/or for the SPS as a whole is "0."

Every year of student data shall be used as part of a school's SPS. The initial school's SPS shall be calculated using the most recent year's NRT and CRT test data and the prior year's attendance and dropout rates. Subsequent calculations of the SPS shall use the most recent two years' test data and attendance and dropout rates from the two years prior to the last year of test data used.

A baseline School Performance Score shall be calculated in Spring 1999 for Grades K-8 and in Spring 2001 for Grades 9-12.

During the summer of 1999 for K-8 schools and summer of 2001 for 9-12 schools, each school shall receive two School Performance Scores as follows:

- C A score for regular education students, including gifted, talented, speech or language impaired, and 504 students.
- C A score including regular education students AND students with disabilities eligible to participate in the CRT and/or NRT tests.
- C For the purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools and during the summer of 2001 for 9-12 schools, the School Performance Score that includes only regular education students shall be used.

Formula for Calculating an SPS

The SPS for a sample school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, [(66.0 * 60 percent) + (75.0 * 30 percent) + (50.0 * 10 percent)] = 67.1

Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60 percent	39.6
NRT	75.0	30 percent	22.5
Attendance	50.0	10 percent	5.0
Dropout	N/A	0 percent	0
			SPS = 76.1

Criterion-Referenced Tests (CRT) Index Calculations

A school's CRT Index score equals the sum of the student totals divided by the number of student eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.

Advanced =	200 points
Proficient =	150 points
Basic =	100 points
Approaching Basic =	50 points
Unsatisfactory =	0 points

Formula for Calculating a CRT Index for a School

1. Calculate the total number of points by multiplying the number of students at each performance level times the points for those respective performance levels, for all content areas.
2. Divide by the total number of students eligible to be tested times the number of content area tests.
3. Zero shall be the lowest CRT Index score reported for accountability calculations.

Initial Transition Years

To accommodate the phase-in of Social Studies and Science tests for K-8 schools, the following CRT scores shall be used for each year:

1999 Baseline CRT Score =	1999 Math and English Language Arts (Grades 4 and 8)
2001 Comparison CRT Score =	2000 and 2001 Math and English Language Arts (both years averaged for each subject and each grade)

2001 <i>New</i> Baseline CRT Score =	2000 and 2001 Math, English, Social Studies, and Science (both years averaged for each subject and each grade)
2003 Comparison CRT Scores =	2002 and 2003 Math, English, Social Studies, and Science (both years averaged for each subject and each grade)
This re-averaging shall result in a re-calculated baseline to include science and social studies for K-8 schools in 2001. A similar schedule shall be used for 9-12 schools to begin with a 2001 baseline year.	

Formula for Calculating a School's NRT Index
<ol style="list-style-type: none"> 1. Calculate the index for each student, using the grade-appropriate formula relating standard score to NRT Index. 2. Compute the total number of index points in all grades in the school. 3. Divide the sum of NRT Index points by the total number of students eligible to be tested. 4. Zero shall be the lowest NRT Index score reported for accountability calculations.

Norm-Referenced Tests (NRT) Index Calculations For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a school's NRT Index score.						
<i>NRT Goals and Equivalent Standard Scores</i>						
Composite Standard Scores Equivalent to Louisiana's 10- and 20-Year Goals, by Grade Level *						
Grade						
Goals	Percentile Rank	3	5	6	7	9
10-Year Goal	55th	189	220	232	245	264
20-Year Goal	75th	201	237	252	267	288
* Source of percentile rank-to-standard score conversions: <i>Iowa Tests of Basic Skills, Norms and Score Conversions, Form M (1996)</i> and <i>Iowa Test of Educational Development, Norms and Score Conversions, with Technical Information, Form M (1996)</i> , Chicago, IL: Riverside Publishing Company.						

Attendance Index Calculations		
An Attendance Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indices shall be calculated using the prior two years' average attendance rates as compared to the state goals.		
<i>Attendance Goals</i>		
	10-Year Goal	20-Year Goal
Grades K-8	95 percent	98 percent
Grades 9-12	93 percent	96 percent
Attendance Index Formulas		
Grades K-8 Indicator (ATT K-8) = (16.667 * ATT) - 1483.4		
Grades 9-12 Indicator (ATT 9-12) = (16.667 * ATT) - 1450.0 Where ATT is the attendance percentage, using the definition of attendance established by the State Department of Education		

Lowest Attendance Index Score
Zero shall be the lowest Attendance Index score reported for accountability calculations.

NRT Formulas Relating Student Standard Scores to NRT Index	
Where the 10-year and 20-year goals are the 55th and 75th percentile ranks respectively and where SS = a student's standard score, then the index for that student is calculated as follows:	
Grade 3:	Index 3rd grade = (4.167 * SS) - 687.6 SS = (Index 3rd grade + 687.6)/4.167
Grade 5:	Index 5th grade = (2.941 * SS) - 547.0 SS = (Index 5th grade + 547.0)/2.941
Grade 6:	Index 6th grade = (2.500 * SS) - 480.0 SS = (Index 6th grade + 480.0)/2.500
Grade 7:	Index 7th grade = (2.273 * SS) - 456.9 SS = (Index 7th grade + 456.9)/2.273
Grade 9:	Index 9th grade = (2.083 * SS) - 449.9 SS = (Index 9th grade + 449.9)/2.083

Dropout Index Calculations		
A Dropout Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indices shall be calculated using the prior two year's average dropout rates as compared to the state goals.		
<i>Dropout Goals</i>		
	10-Year Goal	20-Year Goal
Grades 7 and 8	4 percent	2 percent
Grades 9-12	8 percent	4 percent

Dropout Index Formulas	
Non-Dropout Rate (NDO) = 100 - Dropout Rate (DO) (expressed as a percentage)	
Grades 7 and 8	Dropout Index (7-8) = Indicator (DO Gr 7-8) = (25 * NDO) - 2300.0 NDO = (Indicator DO Gr 7-8 + 2300.0) /25
Grades 9-12	Dropout Index (9-12) = Indicator (DO Gr 9-12) = (12.5 * NDO) - 1050.0 NDO = (Indicator DO Gr 9-12 + 1050.0) /12.5
Lowest Dropout Index Score	
Zero shall be the lowest Dropout Index score reported for accountability calculations.	

Data Collection

2.006.04 A test score shall be entered for all eligible students within a given school. For any eligible student who does not take the test, including those who are absent, a score of "0" on the CRT and NRT shall be calculated in the school's SPS. To assist a school in dealing with absent students, the State Department of Education shall provide an extended testing period for test administration. The only exception to this policy is a student who was sick during the test and re-testing periods AND who has formal medical documentation for that period.

Growth Targets

2.006.05 Each school shall receive a Growth Target that represents the amount of progress it must make every two years to reach the state 10- and 20-Year Goals.

In establishing each school's Growth Target, the SPS inclusive of students with disabilities shall be used as the baseline. However, the percentage of students with disabilities varies significantly across schools and the rate of growth for such students, when compared to regular education students, may be different. Therefore, the proportion of students with disabilities eligible to participate in the CRT or NRT test in each school will be a factor in determining the Growth Target for each school.

Growth Targets

During the first ten years, the formula is the following:

$[PropRE * (100 - SPS)/N] + [PropSE * (100 - SPS)/2N]$, or 5 points, whichever is greater

where

PropSE = the number of special education students in the school who are eligible to participate in the NRT or CRT tests, divided by the total number of students in the school who are eligible to participate in the NRT or CRT tests. For purposes of this calculation, gifted, talented, speech or language impaired, and 504 students shall not be counted as special education students, but shall be included in the calculations as regular education students.

PropRE = 1-PropSE. PropRE is the proportion of students not in special education.

SPS = School Performance Score

N = Number of remaining accountability cycles in the 10-Year Goal period

During the second ten years, the formula is the following:

$[PropRE * (150 - SPS)/N] + [PropSE * (150 - SPS)/2N]$, or 5 points, whichever is greater

Growth Labels

2.006.06 A school shall receive a label based on its success in attaining its Growth Target.

Growth Labels

A school exceeding its Growth Target by 5 points or more shall receive a label of *Exemplary Academic Growth*.

A school exceeding its Growth Target by fewer than 5 points shall receive a label of *Recognized Academic Growth*.

A school improving, but not meeting its Growth Target, shall receive a label of *Minimal Academic Growth*.

A school with a flat or declining SPS shall receive a label of *School in Decline*.

When a school's SPS is greater than or equal to the state goal, "Minimal Academic Growth" and "School in Decline" labels shall no longer apply.

Performance Labels

2.006.07 A Performance Label shall be given to a school that qualifies, in addition to Growth Labels.

A school with an SPS of 30 or below shall be identified as an Academically Unacceptable School. This school immediately enters Corrective Actions.

For purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools and during the summer of 2001 for 9-12 schools, the SPS that includes only regular education students shall be used. Any school with an SPS of 30 or less, based on the test scores of regular education students only, shall be deemed an Academically Unacceptable School.

A school with an SPS of 100.0 - 124.9 shall be labeled a *School of Academic Achievement*.

A school with an SPS of 125.0 - 149.9 shall be labeled a *School of Academic Distinction*.

A school with an SPS of 150.0 or above shall be labeled a *School of Academic Excellence* and shall have no more Growth Targets.

A school with these labels shall no longer be subject to Corrective Actions and shall not receive "negative" growth labels, i.e., School in Decline and Minimal Academic Growth. This school shall continue to meet or exceed Growth Targets to obtain "positive" growth labels, recognition, and possible rewards.

Rewards/Recognition

2.006.08 A school shall receive recognition and possible monetary awards when it meets or surpasses its Growth Targets and when it shows growth in the performance of students who are classified as high poverty.

School personnel shall decide how any monetary awards shall be spent; however, possible monetary rewards shall not be used for salary or stipends. Other forms of recognition shall also be provided for a school that meets or exceeds its Growth Targets.

Corrective Actions

2.006.09 A school that does not meet its Growth Target shall enter into Corrective Actions. A school that enters Corrective Actions shall receive additional support and assistance, with the expectation that extensive efforts shall be made by students, parents, teachers, principals, administrators, and the school board to improve student achievement at the school. There shall be three levels of Corrective Actions.

Corrective Actions Level I: Working with District Assistance Teams, a school shall utilize a state diagnostic process to identify school needs, redevelop school improvement plans, and examine the use of school resources.

Corrective Actions Summary Chart

Corrective Actions Level II: A highly trained Distinguished Educator (DE) shall be assigned to a school by the state. The DE shall work in an advisory capacity to help the school improve student performance. The DE shall make a public report to the school board of recommendations for school improvement. Districts shall then publicly respond to these recommendations. If a school is labeled as Academically Unacceptable, parents shall have the right to transfer their child to a higher performing public school (See Transfer Policy Standard Number 2.006.11).

Corrective Actions Level III: The DE shall continue to serve the school in an advisory capacity. Parents shall have the right to transfer their child to a higher performing public school (See Transfer Policy, Standard Number 2.006.11). A district must develop a Reconstitution Plan for the school at the beginning of the first year in this level and submit the plan to SBESE for approval.

If a Corrective Actions Level III school has achieved at least 40 percent of its Growth Target or 5 points, whichever is greater, during its first year, then that school may proceed to a second year in Level III. If such minimum growth is not achieved during the first year of Level III, but SBESE has approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If SBESE does not approve the Reconstitution Plan AND a given school does not meet the required minimum growth, the school shall lose state approval and all state funds.

Any reconstituted School's SPS and Growth Target shall be re-calculated utilizing data from the end of its previous year. SBESE shall monitor the implementation of the Reconstitution Plan.

A school initially enters Corrective Actions Level I if it has an SPS of 30 or less or if it has an SPS of less than 100 and fails to reach its Growth Target.

A school moves into a more intensive level of Corrective Actions when adequate growth is not demonstrated during each 2-year cycle.

A school with an SPS of 30 or less, i.e., Academically Unacceptable School, shall move to the next level of Corrective Actions as long as its score is 30 or less.

A school with an SPS of 30.1 to 50.0 shall move to the next level of Corrective Actions if it grows fewer than 5 points. If it grows 5 points or more each cycle, but less than its Growth Target, a school may remain in Corrective Actions Level I for two cycles and Corrective Actions Level II for one cycle.

A school with an SPS of 50.1 to 99.9 shall remain in Corrective Actions Level I as long as its growth is at least its Growth Target minus 5 points, but not less than 0.1 points. During the first 10-year cycle, there is no maximum number of cycles that such a school can stay in Level I as long as this minimum growth is shown each cycle.

A school exits Corrective Actions if its School Performance Score is above 30 and the school achieves its Growth Target.

School Level Tasks

Level I

- 1) Utilize state diagnostic process to identify needs; and
- 2) Develop/implement a consolidated improvement plan, including an integrated budget; process must include: a) opportunities for significant parent and community involvement, b) public hearings, and c) at least two-thirds teacher approval

Level II

- 1) Work with advisory Distinguished Educator, teachers, parents, and others to implement revised School Improvement Plan; and
- 2) Distinguished Educator works with principals to develop capacity for change

Level III

- 1) Distinguished Educator continues to assist with improvement efforts and the design of that school's Reconstitution Plan

Reconstitution or No State Approval/No Funding

- 1) If Reconstitution Plan is approved by SBESE: a) implement Reconstitution Plan, and b) utilize data from the end of the previous year to re-calculate school performance goals and Growth Targets. If Reconstitution Plan is not approved, no state approval/no state funding

District Level Tasks

Level I

- 1) Create District Assistance Teams to assist schools;
- 2) Publicly identify existing and additional assistance being provided by districts, such as funding, policy changes, and greater flexibility;
- 3) As allowed by law, reassign or remove school personnel as necessary; and
- 4) For Academically Unacceptable schools, ensure schools receive at least their proportional share of applicable state, local, and federal funding.

Level II

- 1) District Assistance Teams continue to help schools;
- 2) Hold public hearing and respond to Distinguished Educators' written recommendations;
- 3) As allowed by law, local boards reassign or remove personnel as necessary; and
- 4) For Academically Unacceptable Schools, authorize parents to send their children to other public schools

Level III

- 1) District Assistance Teams shall continue to help schools;
- 2) Authorize parents to send their children to other public schools;
- 3) Design Reconstitution Plan; and
- 4) At the end of year one, one of the following must occur: a) schools must make adequate growth of at least 40 percent of the Growth Target or 5 points, whichever is greater; b) District shall develop Reconstitution Plan to be approved by SBESE; and c) SBESE grants non-school approval status

Reconstitution or No State Approval/Funding

- 1) If Recommendation Plan is approved by SBESE, provide implementation support. If the Reconstitution Plan is not approved, no state approval/no state funding

State Level Tasks
Level I

- 1) Provide diagnostic process for schools;
- 2) Provide training for District Assistance Teams;
- 3) For some Academically Unacceptable Schools only, SBESE assigns advisory Distinguished Educators to schools; and
- 4) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

Level II

- 1) Assign advisory Distinguished Educator to schools; and
- 2) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

Level III

- 1) Assign advisory Distinguished Educator to schools for one additional year;
- 2) At end of Year I, SBESE approves or disapproves Reconstitution Plans; and
- 3) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

Reconstitution or No State Approval/No Funding

- 1) If Reconstitution Plan is approved by SBESE, a) monitor implementation of reconstitution plan; and b) provide additional state improvement funds; and
- 2) If Reconstitution Plan is not approved, no state approval/state funding

Reconstitution Plan

2.006.10 Districts shall develop and submit a Reconstitution Plan to SBESE for approval for any school in Correction Actions Level III during the first year in that level. This Reconstitution Plan indicates how the district shall remedy the school's inadequate growth in student performance. The plan shall specify how and what reorganization shall occur and how/why these proposed changes shall lead to improved student performance.

If a Corrective Actions Level III school has grown at least 40 percent of its Growth Target or 5 points, whichever is greater, during its first year, then that school may continue another year in Level III. If such minimum growth is not achieved during the first year, but SBESE has approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If SBESE does not approve the Reconstitution Plan AND a given school does not meet the required minimum growth, it shall lose state approval and all state funds.

Transfer Policy

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

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

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

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

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

Progress Report

2.006.12 The SBESE shall report annually on the state's progress in reaching its 10- and 20-Year Goals. The State Department of Education shall publish an individual School Report Card to provide information on every school's performance. The School Report Card shall include the following information: School Performance Scores, school progress in reaching Growth Targets, school performance when compared to similar (like) schools, and subgroup performances.

Appeals Procedures

2.006.13 The State Department of Education shall define "appeal," what may be appealed, and the process that the appeal shall take.

Student Mobility

2.006.14 As a general rule, the test score of every eligible student who takes a test at a given school shall be included in that school's performance score regardless of how long that student has been enrolled in that school. A school that has at least 10 percent of its students transferring from outside the district and enrolled in the school after October 1 may request that the State Department of Education calculate what its SPS would have been if such out-of-district enrollees had not been included. If there is at least a 5 point difference between the two School Performance Scores, then the school may appeal any negative accountability action taken by the state, e.g., movement into Corrective Actions, application of growth labels.

Pairing/Sharing of Schools with Insufficient Test Data

2.006.15 In order to receive an SPS, a given school must have at least one grade level of CRT testing and at least one grade level of NRT testing. A school that does not meet this requirement must either be "paired or shared" with another school in the district as described below. For the purpose of the State Accountability System, such a school shall be defined as a "non-standard school."

A school with a grade-level configuration such that it participates in neither the CRT test nor in the NRT test (e.g., a K, K-1, K-2 school) must be "paired" with another school that has at least one grade level of CRT testing and one grade level of NRT testing. This "pairing" means that a single SPS shall be calculated for both schools by averaging both schools' attendance and/or dropout data and using the test score data derived from the school that has at least two grade levels of testing.

A school with a grade-level configuration where students participate in either CRT or NRT testing, but not both (e.g., a K-3, 5-6 school), must "share" with another school that has at least one grade level of the type of testing missing. Both schools shall "share" the missing grade level of test data. This shared test data must come from the grade level closest to the last grade level in the non-standard school. The non-standard school's SPS shall be calculated by using the school's own attendance, dropout, and testing data AND the test scores for just one grade from the other school.

A district must identify the school where each of its non-standard schools shall be either "paired or shared." The "paired or shared" school must be the one that receives by promotion the largest percentage of students from the non-standard school. In other words, the "paired or shared" school must be the school into which the largest percentage of students "feed." If two schools receive an identical percentage of students from a non-standard school, the district shall select the "paired or shared" school.

Once the identification of "paired or shared" schools has been made, this decision is binding for 10 years. An appeal to SBESE may be made to change this decision prior to the end of 10 years, only if a redistricting or other significant attendance change occurs.

New Schools and/or Significantly Reconfigured Schools

2.006.16 For a newly formed school, the school district may petition SBESE, following existing procedures, to have a new site code assigned to that school. Once the site code is assigned, the school shall receive its initial baseline SPS the summer following its second year of operation, since it shall need two years of testing data and one year of attendance and/or dropout data.

The district may also petition SBESE for a new SPS for a school with significant reconfiguration from the previous year, where such significant reconfiguration varies at least 50 percent from the previous year's grade structure and/or size. For example, a K-4 school changes to a K-8 school, or a given school's population decreases in half or doubles in size from one year to the next. If SBESE grants a new SPS and agrees that this is a significant reconfiguration, this school would receive a new baseline SPS during the summer following its second year of operation.

A school that has population and/or grade configuration change from the previous year of less than 50 percent, but more than 25 percent, is not eligible for a new SPS. Instead, such school may appeal any state accountability decisions made as a result of not meeting its Growth Targets, e.g., movement into Corrective Actions.

Inclusion of Alternative Education Students

2.006.17 Each superintendent, in conjunction with the alternative school director, shall choose from one of two options for including alternative education students in the State Accountability System for the system's alternative education schools.

Option I The score for every alternative education student at a given alternative school shall be returned to ("sent back") and included in the home-based school's SPS. The alternative school itself shall receive a "diagnostic" SPS, not to be used for rewards or Corrective Actions, if a statistically valid number of students were enrolled in the school at the time of testing.

Option II The score for every alternative education student shall remain at the alternative school. The alternative school shall be given its own SPS and Growth Target, which makes the alternative school eligible for rewards and Corrective Actions.

In order to be eligible for Option II, an alternative school shall meet all of the following requirements:

- C The alternative school must have its own site code and operate as a school;
- C The alternative school must have a required minimum number of students in the tested grade levels. The definition of "required minimum" is to be determined; and
- C At least fifty percent (50 percent) of the total school population must have been enrolled in the school for the entire school year, October 1 - May 1.

Once an option is selected for an alternative school, it shall remain in that option for at least 10 years. An appeal to SBESE may be made to change the option status prior to the end of 10 years if a school's purpose and/or student eligibility changes.

An alternative school that chooses Option II shall receive an initial baseline SPS during summer of 1999 if the majority of its students are in grades K-8. If the majority of its students are in grades 9-12, an alternative school shall receive its baseline SPS during the summer of 2001.

All students pursuing a regular high school diploma, working in curriculum developed from Louisiana Content Standards, shall be included in the state-testing program, with those scores included in an SPS.

Students 16 years of age and older who are enrolled in a Pre-GED program, not pursuing a regular high school diploma, shall not be included in the state-testing program nor in an SPS. Information on these students, e.g., number receiving a GED, shall be reported in the school's report card as a sub-report.

An alternative school in Corrective Actions II may request some flexibility in obtaining assistance from either a Distinguished Educator (DE) or a team designed to address the special needs of the alternative school population, as long as the total costs for the team do not exceed that for the DE. Sample team members could include the following: social workers, psychologists, educational diagnosticians, and counselors, etc.

Inclusion of Lab Schools and Charter Schools

Such schools shall be included in the State Accountability System following the same rules that apply to traditional and/or alternative schools. The only exceptions are that Lab Schools and Type 1, 2, and 3 Charter Schools are "independent" schools and cannot be "paired" or "shared" with another school if they do not have at least one CRT and one NRT grade level, and/or if there is no "home-based" district school to which a given student's scores can be returned if all three conditions for Option II cannot be met. Therefore, if they do not have the required grade levels and/or required minimum number of students, such schools cannot receive an SPS. Instead, the state shall publish the results from pre- and post-test student achievement results, as well as other relevant accountability data, as part of that school's report card. This policy is to be revisited during the year 2001.

For the 1999-2000 academic school year, detention and Department of Corrections facilities shall NOT receive an SPS.

Inclusion of Students with Disabilities

2.006.18 All students, including those with disabilities, shall participate in Louisiana's new testing program. The scores of all students who are eligible to take the CRT and the NRT tests shall be included in the calculation of the SPS. Most students with disabilities, approximately 80 percent of students with disabilities, shall take the CRT and the NRT tests with accommodations, if required by their Individualized Education Plan (IEP). A small percentage of students with very significant disabilities, approximately 20 percent of students with disabilities, shall take an alternate assessment, as required by their IEP.

Interested persons may submit written comments until 4:30 p.m., April 12, 1999 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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Accountability System**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation costs to state governmental units will be \$12,240,682 (See Department of Education Budget Spread). Local school systems may also incur additional costs for the following items: costs not funded by the state for teacher staff development and in service training, collection and analysis of data for the state’s diagnostic process, personnel assigned to the District Assistance Teams, development and implementation of consolidated improvement plans, and transportation costs for students who choose to attend another school within the district as part of Corrective Actions Level II or Level III.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state/local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The School and District Accountability System is based on the concept of continuous growth: every school can improve and is expected to show academic growth. Economic benefits may be realized as K-12 students acquire knowledge and skills to become more productive citizens in the workforce. Parents who choose to send their children to a school in another district as part of Corrective Actions Level II or III may incur additional transportation costs for such students since the policy specifies that such transportation costs are the responsibility of parents.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

More rigorous academic standards and higher student performance may improve school districts’ ability to recruit and retain qualified teachers. School districts may have to improve compensation and/or working conditions to recruit qualified teachers if the diagnostic process concludes that poor teacher quality is negatively affecting student performance. School districts will need to hire qualified replacements for personnel who take temporary positions as Distinguished Educators. Schools in Corrective Actions may find it difficult to recruit and retain qualified teachers. School districts may have to improve teacher compensation and/or working conditions to recruit and retain qualified teachers for such schools.

Marlyn Langley
Deputy Superintendent
Management and Finance
9902#074

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Alternative Process Issuance of Permanent Regular Teacher Certificate Non-Public Schools

In accordance with R.S. 49:950, et. seq., the Administrative Procedures Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The proposed amendment adds an alternative process for the issuance of a permanent regular teacher certificate for non-public school teachers.

**Title 28
EDUCATION**

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

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended by the Board of Elementary and Secondary Education LR 24:283 (February 1998), LR 24:1091 (June 1998), LR 24:2078 (November 1998); LR 25:

**Bulletin 746: Teacher Certification Standards
and Regulations**

* * *

**HIGHER CERTIFICATES FOR TEACHERS IN
NON-PUBLIC SCHOOLS WHO HAVE NOT COMPLETED
THE STATE TEACHER ASSESSMENT PROGRAM**

I. Louisiana state certified teachers teaching in any approved non-public school shall be awarded a permanent teaching certificate provided they have successfully:

1. taught for three (3) years in the teacher’s area of certification;

2. completed a teacher assessment program for three consecutive years at the same non-public school. This assessment shall be performed by the non-public school principal and shall, as a minimum, include satisfactory assessment of the teacher’s performance in the following areas: planning, management, instruction and professional development.

The three years of teaching in the area of certification and the three consecutive years of teacher assessment may be accomplished concurrently or during different school years. The principal of the non-public school shall certify when the above criteria have been met.

Teachers in a non-public school who have taught three consecutive years in the same non-public school and who

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Opportunity Program for Students (TOPS)
Out-of-State High Schools (LAC 28:IV.1701)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS).

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., March 20, 1999, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

have completed the school based teacher assessment program successfully are eligible for a "B*" certificate which is valid in non-public schools only. The asterisk behind the "B" would refer to a statement at the bottom of the certificate which reads:

If this teacher enters a public school system in Louisiana, he/she will be required to successfully complete the state teacher assessment program.

The same asterisk would appear on the "A" certificate. The accumulation of the required three (3) years of experience begins with the 1998-99 school year.

II. Any non-public school that would like for its teachers to participate in state teacher assessment will be allowed to do so.

* * *

Interested persons may submit comments until 4:30 p.m., April 12, 1999 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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 746—Alternative Process
Issuance of Permanent Regular Teacher
Certificate Non-Public Schools**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy. BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$60.00. Funds are available.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This policy will enable certified teachers in approved nonpublic schools in Louisiana to attain a permanent teaching certificate bearing the notation that successful completion of the state teacher assessment program will be required if the holder becomes employed in a public school. There will be no costs or economic benefits to directly affected persons or nongovernmental groups as a result of this policy.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9902#079

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Tuition Opportunity Program
for Students (TOPS) Out of State High Schools**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The implementation cost associated with publishing these rule revisions in the *Louisiana Register* as emergency, notice and rule is approximately \$100. Costs for TOPS awards to out-of-state high school applicants have already been budgeted. The projections used to request the current year TOPS budget included 255 awards for students attending approved out-of-state schools. To date, we have not surpassed that number; therefore, there is no financial impact from increased awards as a result of this rule change.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No impact on revenue collections is anticipated to result from this rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

No impact on non-governmental groups is anticipated to result from this action.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

No impact on competition and employment is anticipated to result from this rule.

Jack L. Guinn
Executive Director
9902#029

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Payment Program for Medical School Students
(LAC 28:IV.2301, 2303, 2305, 2307, 2309, 2311, 2313)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to promulgate provisions of the Tuition Payment Program for Medical School Students (R.S. 17:3041.10-15).

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., March 20, 1999, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Tuition Payment Program for Medical
School Students**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The implementation cost associated with promulgating these rules is the routine *Louisiana Register* publication charge for the emergency declaration, notice and rule of approximately \$320 and costs for awards of \$60,000 in fiscal year 1998-1999 and \$120,000 in fiscal year 1999-2000, subject to legislative funding.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No impact on revenue collections is anticipated to result from this rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Those persons who live in health shortage areas will receive medical attention as a result of the implementation of this rule.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

The program is intended to promote an increase in medical practitioners in underserved rural areas. Beginning in 2003, two to four medical doctors per year should begin their practice in rural areas.

Jack L. Guinn
Executive Director
9902#027

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Board of Trustees State
Employees Group Benefits Program**

PPO/EPO—Provider Contracting Criteria

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board hereby gives Notice of Intent to adopt a Rule to establish a process and implement criteria governing contracting with health care providers or groups of providers for participation in a preferred provider organization or other managed care arrangement. Accordingly, notice is hereby given that the Board of Trustees intends to adopt the following Rule.

The complete text of the proposed Rule may be viewed in the Emergency Rule section of this issue of the *Louisiana Register*.

Interested persons may present their views, in writing, to Jack W. Walker, Ph.D., Chief Executive Officer, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Friday, March 26, 1999.

Jack W. Walker, Ph.D.
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: PPO/EPO—Provider Contracting Criteria**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this rule will result in all members of the Program having an option of a Preferred Provider Organization that is structured as an indemnity plan, and an Exclusive Provider Organization that has benefits that are more strictly administered but available to the member at less "out of pocket" expense. This rule will result in every enrolled member of SEGBP, as well as current members of Advantage Health Care, to choose the PPO option or the EPO option during the annual open enrollment period of April 15, 1999 through May 14, 1999 with benefits becoming effective July 1, 1999. The consulting actuary has computed an estimated savings of \$18.6 million in FY 99/00, \$29.4 million in FY 00/01, and \$41.8 million in FY 01/02. These savings will reduce the impact of future rate increases that may have been necessary without implementation of this plan.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governmental units will not be effected by this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this rule change will give eligible state employees another health care option. This Exclusive Provider Organization will maintain some of the freedom of choice afforded to traditional insurance coverage while reducing the out of pocket expenses associated with high deductibles.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This additional health care choice could affect competition and employment for the State of Louisiana by giving prospective employees another health care option that is different from traditional indemnity plans and Health Maintenance Organizations.

Jack W. Walker, Ph.D.
Chief Executive Officer
9902#070

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

**Disproportionate Share Hospital
Payment Methodologies**

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule March 20, 1998 governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 24, Number 3). This rule was adopted pursuant to state law Act 19 of the 1998 Legislative Session, and the Rural Hospital Preservation Act 1485 of 1997 Legislative Session. Act 19 provides for different treatment of disproportionate share funds for uncompensated costs in small non-state operated local government hospitals and private rural hospitals with 60 beds or less. Act 1485 allows small rural hospitals to meet less stringent criteria in order to receive the maximum disproportionate share funding available in accordance with the amounts appropriated by the Legislature and to the extent authorized by federal law. The Department now proposes to amend the March 20, 1998 rule to include a definition for a teaching hospital as required by Act 19 of 1998. This rule is being published in its entirety in order to provide clarity to the existing regulations governing the disproportionate share hospital payment methodologies.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend the March 20, 1998

rule to include the definition of a teaching hospital as required by Act 19 of the 1998 Legislative Session. This rule is being published in its entirety in order to provide clarity to the existing regulations governing the disproportionate share hospital payment methodologies.

I. General Provisions

A. Reimbursement will no longer be provided for indigent care as a separate payment to hospitals qualifying for disproportionate share payments.

B. Total cumulative disproportionate share payments (DSH) under any and all DSH payment methodologies shall not exceed the federal disproportionate share state allotment for Louisiana for each federal fiscal year or the state appropriation for disproportionate share payments for each state fiscal year. The Department shall make necessary downward adjustments to hospitals' disproportionate share payments to remain within the federal disproportionate share allotment and the state disproportionate share appropriated amount.

C. Appropriate action including, but not limited to, deductions from DSH, Medicaid payments and cost report settlements shall be taken to recover any overpayments resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

D. DSH payments to a hospital other than a small rural or state hospital determined under any of the methodologies below shall not exceed the hospital's uncompensated cost for the hospital's fiscal year-end cost report ending during the previous state fiscal year ending. DSH payments to a small rural hospital determined under any of the methodologies below shall not exceed the hospital's uncompensated cost for the hospital's fiscal year end cost report ending during April 1 through March 31 of the previous year. DSH payments to a state operated hospital determined under any of the methodologies below shall not exceed the hospital's uncompensated cost for the state fiscal year to which the payment is applicable.

E. Qualification is based on the hospital's latest year-end cost report for the year ended during the period July 1 through June 30 of the previous year except that a small rural hospital's qualification is based on the hospital's year end cost report for the year ending during the period April 1 through March 31 of the previous year. Only hospitals that return timely DSH qualification documentation will be considered for disproportionate share payments. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

F. Hospitals/units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments for the remainder of the current DSH pool payment cycle and thereafter.

G. *Net Uncompensated Cost* is defined as the cost of furnishing inpatient and outpatient hospital services net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients. It is mandatory that qualifying hospitals seek all third party payments including

Medicare, Medicaid and other third party carriers. Hospitals not in compliance with free care criteria will be subject to recoupment of DSH and Medicaid payments.

H. No additional payments shall be made to a hospital if an increase in days is determined after audit. Overpayments from a hospital from reductions in pool days originally reported shall be recouped and redistributed to the hospital that has the largest number of inpatient days attributable to individuals entitled to benefits under the State Plan of any hospitals in the State for the year in which the recoupment is applicable.

I. Disapproval of any one of these payment methodology(ies) by the Health Care Financing Administration does not invalidate the remaining methodology(ies).

II. Qualifying Criteria for a Disproportionate Share Hospital:

A. in order to qualify as a Disproportionate Share Hospital, a hospital must have at least two (2) obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligibles. In the case of a hospital located in a rural area (i.e., an area outside of a Metropolitan Statistical Area), the term "obstetrician" includes any physician with staff privileges at the hospital to perform non-emergency obstetric procedures; or

B. a hospital must treat inpatients who are predominantly individuals under 18 years of age; or

C. a hospital which did not offer non-emergency obstetric services to the general population as of December 22, 1987; and

D. a hospital has a utilization rate in excess of either of the below-specified minimum utilization rates:

1) *Medicaid Utilization Rate*—a fraction (expressed as a percentage), the numerator of which is the hospital's number of Medicaid (Title XIX) inpatient days and the denominator of which is the total number of the hospital's inpatient days for a cost-reporting period. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of the mean plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments; or

2) *Low-Income Utilization Rate*—the sum of:

(a) the fraction (expressed as a percentage), the numerator of which is the sum (for the period) of the total Medicaid patient revenues plus the amount of the cash subsidies for patient services received directly from State and local governments, and the denominator of which is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the cost reporting period; and

(b) the fraction (expressed as a percentage), the numerator of which is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in Section II.D.2.a. above in the period which are reasonably attributable to inpatient hospital services; and the

denominator of which is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero ('0'). The above numerator shall not include contractual allowances and discounts (other than for indigent patients ineligible for Medicaid), i.e., reductions in charges given to other third party payers, such as HMO's, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations. A hospital providing "free care" must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Service Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and procedures for applying.

Hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of twenty-five (25 percent) per cent; or

3) effective November 3, 1997 be a small rural hospital as defined in III B below; and

E. in addition to the qualification criteria outlined in A-D above, effective July 1, 1994, the qualifying disproportionate share hospital must also have a Medicaid inpatient utilization rate of at least one (1 percent) per cent.

III. Reimbursement Methodologies

A. Public State-Operated Hospitals

1. A *Public State Operated Hospital* is a hospital that is owned or operated by the State of Louisiana.

2. DSH payments to individual public state-owned or operated hospitals shall be equal to one hundred (100 percent) of the hospital's net uncompensated costs subject to the adjustment provision in Section III.A.3. below. Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

3. In the event it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH appropriated amount, the Department shall calculate a pro rata decrease for each public (state) hospital based on the ratio determined by dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public hospitals during the state fiscal year and then multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH appropriated amount.

B. Small Rural Hospitals

1. A *Small Rural Hospital* is a hospital (other than a long-term care hospital, rehabilitation hospital, or free-standing psychiatric hospital but including distinct part psychiatric units) meeting the following criteria:

a) had no more than sixty hospital beds as of July 1, 1994, and:

(1) is located in a parish with a population of less than fifty thousand; or

(2) is located in a municipality with a population of less than twenty thousand; or

b) meets the qualifications of a sole community hospital under 42 C.F.R. § 412.92(a).

2. Payment based on uncompensated cost for qualifying small rural hospitals shall be in accordance with the following two pools:

a) *Public (non-state) Small Rural Hospitals* are small rural hospitals as defined in Section III.B.1. above which are owned by a local government.

b) *Private Small Rural Hospitals* are small rural hospitals as defined in Section III.B.1. above that are privately owned.

3. Payment is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the cost reporting period ended during the period April 1 through March 31 of the preceding year multiplied by the amount set for each pool. If the cost reporting period is not a full period (twelve months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year. No additional payment shall be made if an increase in uncompensated cost is determined after audit.

4. A pro rata decrease necessitated by conditions specified in I.B. above for rural hospitals described in this section will be calculated using the ratio determined by dividing the qualifying rural hospital's uncompensated costs by the uncompensated costs for all rural hospitals in this section, then multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state DSH appropriated amount.

C. All Other Hospitals (Private and Public Non-state Rural Hospitals over 60 Beds, Private and Public Non-State Urban Hospitals, Free-Standing Psychiatric Hospitals Exclusive of State Hospitals, Rehabilitation Hospitals and Long-term Care Hospitals).

1. Payment shall be based on actual paid Medicaid days for a six month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the Medicaid days pools is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

2. Payment based on Medicaid days provided by qualifying hospitals shall be in accordance with the following three pools:

a) *Teaching Acute Care Hospitals* are acute care hospitals (exclusive of distinct part psychiatric units) not included in Section III.A. or B. above which are recognized under the Medicare principles of reimbursement as approved teaching hospitals. Rehabilitation, long term care, and freestanding psychiatric hospitals will not be recognized as teaching hospitals.

b) *Non-Teaching Acute Care Hospitals* are acute care hospitals (excluding distinct part psychiatric units) that are not recognized under Medicare principles of reimbursement as approved teaching hospitals and are not included in III.A. or B above. Rehabilitation and long term care hospitals qualifying for DSH payments are classified in this group.

c) *Psychiatric Hospitals* are Free-standing psychiatric hospitals and distinct part psychiatric units not included in III. A. or B. above.

3. Disproportionate share payments for each pool shall be calculated based on the product of the ratio determined by dividing each qualifying hospital's actual paid Medicaid inpatient days for a six month period ending on the last day of the month preceding the date of payment (which will be obtained by DHH from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified hospitals in the pool, and multiplying by an amount of funds for each respective pool to be determined by the director of the Bureau of Health Services Financing. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days. Pool amounts shall be allocated based on the consideration of the volume of days in each pool or the average cost per day for hospitals in each pool.

4. A pro rata decrease necessitated by conditions specified in I.B. above for hospitals described in this section will be calculated based on the ratio determined by dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in this section, then multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, March 30, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Disproportionate Share Hospital
Payment Methodologies**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no fiscal impact to the state as a result of this proposed rule. However, an administrative expense of \$345 is included in SFY 1999 for the state's share of printing this proposed rule as well as the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on federal revenue collections as a result of implementing this proposed rule. Federal revenue was previously collected; therefore, the Department is only

redistributing these funds. Hence, no additional funds will be acquired. An administrative expense of \$345 is included in SFY 1999 for printing this proposed rule as well as the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

As a result of implementing this proposed rule, teaching hospitals are projected to receive an increased reimbursement of \$392,593 in SFY 1999. Non-teaching private hospitals are expected to receive a decreased amount of \$373,566 in disproportionate share payments. In addition, it is anticipated that only one (1) governmental hospital will receive decreased reimbursements of approximately \$19,207 during SFY 1999 as a result of this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9902#068

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Hospital Neurological Rehabilitation
Program—Reimbursement Methodology

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing previously adopted a rule which established the prospective reimbursement methodology for an Intensive Neurological Rehabilitation Care Services Program in a hospital setting (*Louisiana Register* Volume 19, Number 7). The reimbursement methodology provided for annual rate adjustments based on financial audits of the facility's actual cost. The Department has determined that it is necessary to amend the reimbursement methodology contained in the July 20, 1993 rule by discontinuing the automatic application of an inflationary adjustment to the prospective rates for hospital intensive neurological rehabilitation care services. The subsequent application of the inflationary adjustment to the reimbursement rates for these hospital services shall be contingent on the allocation of funds by the Legislature in the Appropriations Bill.

Public notice of this action was provided in the major Statewide newspaper publications and promulgated as an emergency rule (*Louisiana Register*, Volume 24, Number 12).

This action is necessary as the Louisiana Legislature did not include a budget allocation for an inflationary adjustment to the

reimbursement rates for hospital intensive neurological rehabilitation care services in the 1998-99 Appropriations Bill.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology for Hospital Intensive Neurological Rehabilitation Care Program contained in the July 20, 1993 rule by discontinuing the automatic application of an inflationary adjustment to the prospective rates for intensive neurological rehabilitation care services. The subsequent application of the inflationary adjustment to the reimbursement rates for these hospital services shall be contingent on the allocation of funds by the Legislature in the Appropriations Bill.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, March 30, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Hospital Neurological Rehabilitation Program—Reimbursement Methodology

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed rule will potentially reduce state program costs by approximately (\$3,715) for SFY 1999, (\$8,431) for SFY 2000, and (\$9,408) for SFY 2001. Included in SFY 1999 is \$80 for the state's administrative expense of promulgating this proposed rule as well as the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed rule will potentially reduce federal revenue collections by approximately (\$8,900) for SFY 1999, (\$19,986) for SFY 2000, and (\$22,345) for SFY 2001. Included in SFY 1999 is \$80 for the federal share of promulgating this proposed rule as well as the final rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Hospital intensive neurological rehabilitation units will not receive an automatic annual inflationary adjustment to prospective rates. Implementation of this proposed rule will result in a cost savings of approximately (\$12,615) for SFY 1999, (\$28,417) for SFY 2000, and (\$31,753) for SFY 2001. The inflationary adjustment for each state fiscal year subsequent of SFY 1999 is contingent upon the allocation of funds by the

Legislature. Therefore the projected savings are potential.
IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9902#067

Robert E. Hosse
General Government Section Director
Legislative Fiscal Officer

NOTICE OF INTENT

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

Inpatient Psychiatric Services
Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by LA. R.S. 46:153 and pursuant to Title XIX of the Social Security Act.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule which established the prospective reimbursement methodology for inpatient psychiatric services in a free-standing psychiatric hospital or a distinct part psychiatric unit in an acute care hospital (*Louisiana Register*, Volume 19, Number 6). The reimbursement methodology for inpatient psychiatric services provided for an annual adjustment to the reimbursement rate. Therefore, the Department has determined that it is necessary to amend the reimbursement methodology for inpatient psychiatric services contained in the June 20, 1993 rule by discontinuing the automatic application of the inflationary adjustment to the current reimbursement rates for inpatient services in a free-standing psychiatric hospital or distinct part psychiatric unit services. The subsequent application of the inflationary adjustment for inpatient psychiatric services shall be contingent on the allocation of funds by the Legislature in the Appropriations Bill.

Public notice of this action was provided in the major statewide newspaper publications and promulgated as an emergency rule (*Louisiana Register*, Volume 24, Number 12).

This action is necessary as the Louisiana Legislature did not include a budget allocation for an inflationary adjustment to the reimbursement rates for inpatient psychiatric services in the 1998-99 Appropriations Bill.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology for inpatient psychiatric services contained in the June 20, 1993 rule by discontinuing the automatic application of an inflationary adjustment to the prospective rates for inpatient psychiatric services.

The subsequent application of the inflationary adjustment for inpatient psychiatric services shall be contingent on the allocation of funds by the Legislature in the Appropriations Bill.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, March 30, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Inpatient Psychiatric Services Reimbursement Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will potentially reduce state program costs by approximately (\$98,402) for SFY 1999, (\$221,727) for SFY 2000, and (\$250,120) for SFY 2001. Included in SFY 1999 is \$80 for the state's administrative expense of promulgating this proposed rule as well as the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will potentially reduce federal revenue collections by approximately (\$232,915) for SFY 1999, (\$525,585) for SFY 2000, and (\$594,024) for SFY 2001. Included in SFY 1999 is \$80 for the federal share of promulgating this proposed rule as well as the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Inpatient freestanding psychiatric hospitals and distinct part psychiatric units will not receive an automatic annual inflationary adjustment to prospective rates. Implementation of this proposed rule will result in a cost savings of approximately (\$331,317) for SFY 1999, (\$747,312) for SFY 2000, and (\$844,144) for SFY 2001. The inflationary adjustment for each state fiscal year subsequent of SFY 1999 is contingent upon the allocation of funds by the Legislature. Therefore the projected savings are potential.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9902#066

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Labor Office of Workers' Compensation

Utilization Review Procedures
(LAC 40:I.Chapter 27)

In accordance with the provisions of R.S. 49:950 et seq., of the Louisiana Administrative Procedure Act, and under the authority of R.S. 23:1291(10), (12), and (13), of Act 938 of the Regular Legislative Session, the Office of Workers' Compensation gives notice of its intent to amend the rules which implement a utilization review process to resolve disputes over the necessity, advisability, and cost of proposed, or already performed, hospital care or services, medical or surgical treatment, or any non-medical treatment recognized by the laws of this state as legal and due under the Workers' Compensation Act, with the authority to audit specific medical records of a patient to determine whether an inappropriate reimbursement has been made.

The full text of this notice of intent may be obtained by contacting Judy Albarado, 342-7559 at the Department of Labor, Office of Workers' Compensation Administration, P.O. Box 94040, Baton Rouge, LA 70804-9040 or from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

Comments should be forwarded to Dan Boudreaux, Director, Office of Workers' Compensation Administration, P.O. Box 94040, Baton Rouge, Louisiana 70804-9040. Written comments will be accepted through the close of business on Friday, March 26, 1999.

Don Boudreaux
Assistant Secretary/Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Utilization Review Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not result in any implementation costs (or savings) to state or local governmental units other than those costs directly associated with the publication of these rules. The cost to the Office of Workers' Compensation Administration to reproduce one copy of the repromulgated utilization review procedure is \$8.50, with 2,000 copies being produced either in hard copy or on diskette, for a total cost of \$17,000.00. The rules are a repromulgation of existing practices and procedures, with minor revisions, which will allow for a more efficient utilization review process. The rules have not been modified or amended since 1992.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This will have no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affected persons or non-governmental groups, as the amendment

involves the repromulgation of already implemented rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Dan Boudreaux
Assistant Secretary/Director
9902#060

Robert E. Hosse
General Government Section
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

Disciplinary Board Penalty Schedule
(LAC 22:I.359)

In accordance with the Administrative Procedure Act LSA R.S. 49:953(B) and in order to comply with the First Circuit Court of Appeals ruling in *Terry Rivera, Sr. v. State of Louisiana*, et al., Number 98/CA/0507, decided December 28, 1998 (consolidated with *Joseph Romero v. La. Department of Public Safety and Corrections*, et al., Number 98/CA/0508), the Department of Public Safety and Corrections, Corrections Services hereby gives notice of intent to amend its rules and regulations dealing with the Disciplinary Board Penalty Schedule.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult and Juvenile Services

§359. Penalty Schedule. Disciplinary Report (Heard by Disciplinary Board)

- A.1.a. - d. ...
- e. Forfeiture of good time up to a maximum of 30 days.
- f. - h. ...
- 2.a. - e. ...
- f. Forfeiture of good time up to a maximum of 180 days.

* * *

Interested persons may submit oral or written comments to Richard L. Stalder, Department of Public Safety and Corrections, Box 94304, Capitol Station, Baton Rouge, Louisiana 70804-9304, (504) 342-6741. Comments will be accepted through the close of business at 4:30 p.m. on March 20, 1999.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonald*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C/A/ 81-94, USDC (Md.La.)

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), amended LR 19:653 (May 1993), LR 25:

Richard L. Stalder
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Disciplinary Board Penalty Schedule

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
LSA-R.S. 15:571.4 allows for the forfeiture of good time up to a maximum of one hundred eighty (180) days. The Department of Public Safety and Corrections, Corrections Services is currently operating at full capacity and any loss of good time will not impact the Department of Public Safety and Corrections, Corrections Services operation capacity; therefore, no fiscal impact is anticipated as a result of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is no additional costs or economic benefit directly affecting persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated impact on competition and employment.

Trey Boudreaux
Undersecretary
9902#069

H. Gordon Monk
Staff Director
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Accounting Regulations
(LAC 42:XIII.Chapter 27)

The Gaming Control Board hereby gives notice that it intends to amend LAC 42:XIII.2701, 2703, 2705, 2707, 2709, 2711, 2713, 2715, 2716, 2717, 2719, 2721, 2723, 2725, 2727, 2729, 2730, 2731, 2735, 2736, 2737, 2739, 2741, 2743, 2744, 2745, and 2747, in accordance with R.S. 27:14 and 24 and the Administrative Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part XIII. Riverboat Gaming

Chapter 27. Accounting Regulations

§2701. Procedure for Reporting and Paying Gaming Revenues and Fees

A. All Daily Fee Remittance Summary reports, together with all necessary subsidiary schedules, required under the Act shall be submitted to the Division no later than forty-eight hours from the end of the licensee's specified gaming day. For reporting purposes, licensee's specified gaming day (beginning time to ending time) shall be submitted in writing to the Division prior to implementation. For licensees which offer 24-hour gaming, gaming day is the 24-hour period by which the casino keeps its books and records for business, accounting, and tax purposes. Each licensee shall have only one gaming day, common to all its departments. Any change to

the gaming day shall be submitted to the Division ten (10) days prior to implementation of the change. All license and franchise fees related thereto must be electronically transferred to the State's designated bank account as directed by the Division. In addition to any other administrative action, civil penalties, or criminal penalties, licensees who are late in electronically transferring these fees may retroactively be assessed late penalties of fifteen percent (15%) of the amount due per annum after notice and opportunity for a hearing held in accordance with the Administrative Procedure Act. Interest may be imposed on the late payment of fees at the daily rate of .00041 multiplied by the amount of unpaid fees for each day the payment is late.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2703. Accounting Records

A. The following requirements shall apply throughout all of Chapter 27.

1. Each licensee, in such manner as the Division may approve or require, shall keep accurate, complete, legible, and permanent records of all transactions pertaining to revenue that is taxable or subject to fees under the Act. Each licensee shall keep records of all transactions impacting the financial statements of the licensee, including, but not limited to, contracts or agreements with suppliers/vendors, contractors, consultants, attorneys, accounting firms; accounts/trade payable files; insurance policies; bank statements, reconciliations and canceled checks. Each licensee that keeps permanent records in a computerized or microfiche fashion shall upon request immediately provide agents of the Division with a detailed index to the microfiche or computer record that is indexed by casino department and date, as well as access to a microfiche reader. Only documents which do not contain original signatures may be kept in a microfiche or computerized fashion.

2. Each licensee shall keep general accounting records on a double entry system of accounting, with transactions recorded on a basis consistent with generally accepted accounting principles, maintaining detailed, supporting, subsidiary records, including but not limited to:

a. detailed records identifying admissions to gaming excursions by excursion and day, revenues by day, expenses, assets, liabilities, and equity for each establishment;

b. detailed records of all markers, IOU's, returned checks, hold checks, or other similar credit instruments;

c. individual and statistical game records to reflect drop, win, and the percentage of win to drop by table for each table game, and to reflect drop, win, and the percentage of win to drop for each type of table game, for each day or other accounting periods approved by the Division and individual and game records reflecting similar information for all other games, including slots;

d. slot analysis reports which, by each machine, compare actual hold percentages to theoretical hold percentages;

e. for each licensee, the records required by the licensee's system of internal control;

f. journal entries and all workpapers (electronic or manual) prepared by the licensee and its independent accountant;

g. records supporting the accumulation of the costs for complimentary services and items. A complimentary service or item provided to patrons in the normal course of an owner's business shall be expended at an amount based upon the full cost of such services or items to the licensee;

h. detailed gaming chip and token perpetual inventory records which identify the purchase, receipt, and destruction of gaming chips and tokens from all sources as well as any other necessary adjustments to the inventories. The recorded accountability shall be verified periodically via physical counts. The Division shall have an agent, or its designee, present during destruction of any gaming chips or tokens;

i. workpapers supporting the daily reconciliation of cash and cash equivalent accountability;

j. financial statements and supporting documents; and

k. any other records that the Division specifically requires be maintained.

3. Each licensee shall create and maintain records sufficient to accurately reflect gross income and expenses relating to its gaming operations.

4. If a licensee fails to keep the records used by it to calculate gross and net gaming revenue, or if the records kept by the licensee to compute gross and net gaming revenue are not adequate to determine these amounts, the Division may compute and determine the amount of taxable revenue based on an audit conducted by the Division, any information within the Division's possession, or upon statistical analysis.

5. The Division may review or take possession of records at any time upon request.

6. All records required by this chapter shall be retained within the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2705. Records of Ownership

A. - A.10. ...

11. a schedule of all salaries, wages, and other remuneration (including perquisites), direct or indirect, paid during the calendar or fiscal year, by the corporation, to all officers, directors, and stockholders with an ownership interest at any time during the calendar or fiscal year, equal to five percent (5%) or more of the outstanding capital stock of any class of stock.

B. Each limited liability company licensee shall keep on the premises of its gaming establishment the following documents pertaining to the company:

1. a certified copy of the articles of organization and any amendments;

2. a copy of the "Initial Report" setting forth location and address of registered office and agent(s);

3. a copy of required records to be maintained at the registered office of the LLC, including current list of names and addresses of members and managers;

4. a copy of the operating agreement and amendments; and

5. a copy of the certificate of organization issued by the Louisiana Secretary of State evidencing that the limited liability company has been organized.

C. Each partnership licensee shall keep on the premises of its gaming establishment the following documents pertaining to the partnership:

1. a copy of the partnership agreement and, if applicable, the certificate of limited partnership;

2. a list of the partners including their names, birth date, social security number, addresses, the percentage of interest held by each, the amount and date of each capital contribution of each partner, and the date the interest was acquired;

3. a record of all withdrawals of partnership funds or assets; and

4. a schedule of salaries, wages and other remuneration (including perquisites), direct or indirect, paid to each partner during the calendar or fiscal year.

D. Each sole proprietorship licensee shall keep on the premises of its gaming establishment:

1. a schedule showing the name, birth date, social security number and address of the proprietor and the amount and date of the proprietor's original investment and of any additions and withdrawals;

2. a schedule of salaries, wages and other remuneration (including perquisites), direct or indirect, paid to the proprietor during the calendar or fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2707. Record Retention

A. Upon request, each licensee shall provide the Division, at a location approved by the Division, with the records required to be maintained by Chapter 27. Each licensee shall retain all such records for a minimum of five (5) years in the parish in which the licensee was approved to conduct gaming activity. In the event of a change of ownership, records of prior owners shall be retained in the parish in which the licensee was approved to conduct gaming activity for a period of five (5) years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2709. Standard Financial Statements

A. The Division shall prescribe a uniform chart of accounts including account classifications in order to insure consistency, comparability, and appropriate disclosure of financial information. The prescribed chart of accounts shall be the minimum level of detail to be maintained for each accounting

classification by the holder of an owner's license. All licensees shall prepare their financial statements in accordance with this chart or in a similar form that reflects the same information.

B. Each licensee shall furnish to the Division on a form, as prescribed by the Division, a quarterly financial report. The quarterly financial report shall present all data on a monthly basis as well. Monthly financial reports shall include reconciliation of general ledger amounts with amounts reported to the Division. The quarterly financial report shall be submitted to the Division no later than 60 days following the end of each quarter.

C. Each licensee shall submit to the Division one copy of any report, including but not limited to Forms S-1, 8-K, 10-Q, and 10-K, required to be filed by the licensee with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency, within ten (10) days of the time of filing with such commission or agency or the due date prescribed by such commission or regulatory agency, whichever comes first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2711. Audited Financial Statements

A. Each licensee shall submit to the Division, postmarked by the United States Postal Service or deposited for delivery with a private or commercial interstate carrier, audited financial statements reflecting all financial activities of the licensee's establishment prepared in accordance with generally accepted accounting principles and subjected to an examination conducted according to generally accepted auditing standards by an independent Certified Public Accountant (CPA). The CPA shall incorporate the guidelines established by the Division into current procedures for preparing audited financial statements. The submitted audited financial statements required under this part shall be based on the licensee's business year as approved by the Division. If the licensee or a person controlling, controlled by, or under common control with the licensee owns or operates food, beverage or retail facilities or operations on the riverboat, or any related shore terminals, facilities or buildings, the financial statement must further reflect these operational records.

B. The reports required to be filed pursuant to this Section shall be sworn to and signed by:

1. if from a corporation:
 - a. Chief Executive Officer; and either the
 - b. Financial Vice President; or
 - c. Treasurer; or
 - d. Controller;
2. if from a partnership, by a general partner and financial director;
3. if from a sole proprietorship, by the proprietor; or
4. if from any other form of business association, by the Chief Executive Officer.

C. All of the audits and reports required by this Section shall be prepared at the sole expense of the licensee.

D. Each licensee shall engage an independent Certified Public Accountant (CPA) licensed by the Louisiana State Board of Certified Public Accountants. The CPA shall examine the statements in accordance with generally accepted auditing standards. The licensee may select the independent CPA with the Division's approval. Should the independent CPA previously engaged as the principal accountant to audit the licensee's financial statements resign or be dismissed as the principal accountant, or if another CPA is engaged as principal accountant, the licensee shall file a report with the Division within ten (10) days following the end of the month in which the event occurs, setting forth the following:

1. - 2. ...

3. whether the principal accountant's report on the financial statements for any of the past two (2) years contained an adverse opinion or a disclaimer of opinion or was qualified. The nature of such adverse opinion or a disclaimer of opinion, or qualification shall be described; and

4. a letter from the former accountant furnished to the licensee and addressed to the Division stating whether he agrees with the statements made by the licensee in response to this Section of the licensee's submission of accounting and internal control.

E. Unless the Division approves otherwise in writing, the statements required must be presented on a comparative basis. Consolidated financial statements may be filed by commonly owned or operated establishments, but the consolidated statements must include consolidating financial information or consolidated schedules presenting separate financial statements for each establishment licensed to conduct gaming by the Division. The CPA shall express an opinion on the consolidated financial statements as a whole and shall subject the accompanying consolidating financial information to the auditing procedures applied in the examination of the consolidated financial statements.

F. Each licensee shall submit to the Division two (2) originally signed copies of its audited financial statements and the applicable CPA's letter of engagement not later than one-hundred twenty (120) days after the last day of the licensee's business year. In the event of a license termination, change in business entity, or a change in the percentage of ownership of more than twenty percent (20%), the licensee or former licensee shall, not later than one hundred twenty (120) days after the event, submit to the Division two (2) originally signed copies of audited statements covering the period between the filing of the last financial statement and the date of the event. If a license termination, change in business entity, or a change in the percentage of ownership of more than twenty percent (20%) occurs within one-hundred twenty (120) days after the end of the business year for which a statement has not been submitted, the licensee may submit statements covering both the business year and the final period of business.

G. If a licensee changes its fiscal year, the licensee shall prepare and submit to the Division audited financial statements covering the period from the end of the previous business year to the beginning of the new business year not later than one-

hundred twenty (120) days after the end of the period or incorporate the financial results of the period into the statements for the new business year.

H. Reports that directly relate to the independent CPA's examination of the licensee's financial statements must be submitted within one-hundred twenty (120) days after the end of the licensee's business year. The CPA shall incorporate the guidelines established by the Division into current procedures for preparing the reports.

I. Each licensee shall engage an independent CPA to conduct a quarterly audit of the net gaming proceeds. Two (2) signed copies of the auditor's report shall be forwarded to the Division not later than sixty (60) days after the last day of the applicable quarter. For purposes of this part, quarters are defined as follows: January through March, April through June, July through September and October through December. The CPA shall incorporate the guidelines established by the Division into current procedures for preparing the quarterly audit.

J. The Division may request additional information and documents from either the licensee or the licensee's independent CPA, through the licensee, regarding the financial statements or the services performed by the accountant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2713. Cash Reserve And Bonding Requirements; General

A. Each licensee shall maintain in cash or cash equivalent amounts sufficient to protect patrons against defaults in gaming debts owed by the holder of an owner's license as defined below:

GAMES: All Table Games
Number of games X table limit average X \$50 = _____
* * *

B. For the purposes of this Section, *table limit average* shall be defined as the sum of the highest table limit set for each and all tables during the calendar month, divided by the total number of tables. All tables shall be included in the calculation whether they are opened or closed.

C. Each licensee may submit its own procedure for calculating its cash reserve requirement which shall be approved by the Division in writing prior to implementation. Such procedure shall be implemented after the licensee receives the Division's written approval.

D. Each licensee shall submit monthly calculations of its cash reserve to the Division no later than thirty (30) days following the end of each month.

E. Cash equivalents are defined as all highly liquid investments with an original maturity of 12 months or less and available unused lines of credit issued by a federally regulated financial institution as permitted in Chapter 25 and approved pursuant to that Chapter. Approved lines of credit shall not exceed fifty percent (50%) of the total cash reserve requirement. Any changes to the initial computation submitted

to the Division shall require the licensee to resubmit the computation with all changes delineated therein including a defined time period for adjustment of the cash reserve account balance (e.g. monthly, quarterly, etc.)

F. Pursuant to Louisiana R.S. 27:52.2.b., each licensee shall be required to secure and maintain a bond from a surety company licensed to do business within the State of Louisiana that ensures specific performance under the provisions of the Act for the payment of fees, fines and other assessments. The amount of the bond shall be set at \$250,000 unless the Division determines that a higher amount is appropriate. The licensee shall submit the surety bond to the Division prior to the commencement of gaming operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2715. Internal Control; General

A. Each licensee shall establish and implement beginning the first day of operations administrative and accounting procedures for the purpose of determining the licensee's liability for revenues and fees under the Act and for the purpose of exercising effective control over the licensee's internal fiscal affairs. Each licensee shall adhere to the procedures established and implemented under the requirements of this Section of the Administrative Rules and Regulations. The procedures shall be implemented to reasonably ensure that:

1. - 2. ...
3. transactions are performed only in accordance with the licensee's internal controls as approved by the Division;
4. ...
5. access to assets is permitted only in accordance with the licensee's internal controls as approved by the Division;
6. - 7. ...
8. sensitive keys are maintained in a secure area that is subject to surveillance as follows:
 - a. all restricted sensitive keys shall be stored in an immovable dual lock box;
 - b. one key shall open only one lock on the dual lock box;
 - c. a dual key system shall be implemented wherein both keys are required to open the dual lock box and shall not be issued to different employees in the same department;
 - d. an employee shall be issued only a single key to the dual lock box; and
 - e. there shall be a surveillance camera monitoring the dual lock box at all times;
9. restricted sensitive keys are properly secured. Restricted sensitive keys shall be defined as those keys which can only be reproduced by the manufacturer of the lock or its authorized agent. These keys shall be stored in the dual lock box, with the exception of the cages, change banks/booths and the dual lock box keys. All restricted sensitive keys shall be inventoried and accounted for on a quarterly basis. These keys include but are not limited to:
 - a. slot drop cabinet keys;

- b. bill validator release keys;
- c. bill validator contents keys;
- d. table drop release keys;
- e. table drop contents keys;
- f. count room keys;
- g. high level Caribbean Stud key;
- h. vault entrance key;
- i. CCOM (processor) keys;
- j. card and dice storage keys;
- k. slot office storage box keys;
- l. dual lock box keys;
- m. change bank/booth keys;
- n. secondary chip access keys;
- o. weigh calibration key;

10. all other sensitive keys not listed in §2715.A.9 are listed in the licensee's internal controls and are controlled as prescribed therein;

11. all damaged sensitive keys are disposed of timely and adequately. The licensee shall notify the Division prior to the destruction. Notification shall include type of key(s), number of key(s), and the place and manner of disposal;

12. all access to the count rooms and the vault is documented on a log maintained by the count team and vault personnel respectively. Such logs shall be kept in the count rooms and vault room respectively, such logs shall be available at all times, and such logs shall contain entries with the following information:

- a. name of each person entering the room;
- b. reason each person entered the room;
- c. date and time each person enters and exits the room;
- d. date, time and type of any equipment malfunction in the room;
- e. a description of any unusual events occurring in the room; and
- f. such other information required in the licensee's internal controls as approved by the Division;

13. only transparent trash bags are utilized in restricted areas.

B. Each licensee and each applicant for a license shall describe, in such manner as the Division may approve or require, its administrative and accounting procedures in detail in a written system of internal control. Each licensee and applicant for a license shall submit a copy of its written system of internal controls to the Division for approval prior to commencement of the licensee's operations. Each written system of internal control shall include:

- 1. an organizational chart depicting appropriate segregation of functions and responsibilities;
- 2. a description of the duties, responsibilities, and access to sensitive areas of each position shown on the organizational chart;
- 3. a detailed, narrative description of the administrative and accounting procedures designed to satisfy the requirements of §2715.A. and §2325.C.;
- 4. a flow chart illustrating the information required in Paragraphs 1, 2 and 3 above;

5. a written statement signed by an officer of the licensee or a licensed owner attesting that the system satisfies the requirements of this Section;

6. a listing of all available gaming computer reports and the purpose of each report;

7. an approved alternate drop transportation route in the event that a licensee cannot utilize its primary route; and

8. other information as the Division may require.

C. The licensee may not implement its initial system of internal control procedures unless the Division, in its sole discretion, determines that the licensee's proposed system satisfies §2715.A, and approves the system in writing. In addition, the licensee must engage an independent CPA to review the proposed system of internal control prior to implementation. The CPA shall forward two (2) signed copies of the report reflecting the results of the evaluation of the proposed internal control system prior to implementation.

D. A separate internal audit department (whose primary function is performing internal audit work and who is independent with respect to the departments subject to audit) shall be maintained by either the licensee, the parent company of the licensee, or be contracted to an independent CPA firm. The internal audit department or independent CPA firm shall develop quarterly reports providing details of all exceptions found and subsequent action taken by management. All material exceptions resulting from internal audit work shall be investigated and resolved. The results of the investigation shall be documented and retained within the State of Louisiana for five (5) years.

E. Each licensee shall require the independent CPA engaged by the licensee for purposes of examining the financial statements to submit to the licensee two (2) originally signed copies of a written report of the continuing effectiveness and adequacy of the licensee's written system of internal control one hundred fifty (150) days after the end of the licensee's fiscal year. Using the guidelines and standard internal control questionnaires and procedures established by the Division, the independent CPA shall report each event and procedure discovered by or brought to the CPA's attention which the CPA believes does not satisfy the internal control system approved by the Division. Not later than one hundred fifty (150) days after the end of the licensee's fiscal year, the licensee shall submit an originally signed copy of the CPA's report and any other correspondence directly relating to the licensee's system of internal control to the Division accompanied by the licensee's statement addressing each item of noncompliance as noted by the CPA and describing the corrective measures taken.

F. Before adding or eliminating any game; adding any computerized system that affects the proper reporting of gross revenue; adding any computerized system of betting at a race book; or adding any computerized system for monitoring slot machines or other games, or any other computerized equipment, the licensee shall:

- 1. amend its accounting and administrative procedures and its written system of internal control;

2. submit to the Division a copy of the amendment of the internal controls, signed by the licensee's Chief Financial Officer or General Manager, and a written description of the amendments;

3. comply with any written requirements imposed by the Division regarding administrative approval of computerized equipment; and

4. after compliance with Paragraphs 1-3 and approval has been obtained from the Division, implement the procedures and internal controls as amended.

G. Any change or amendment in procedure including any change or amendment in the licensee's internal controls previously approved by the Division shall be submitted to the Division for prior written approval as provided in Chapter 29 of these rules.

H. If the Division determines that a licensee's administrative or accounting procedures or its internal controls do not comply with the requirements of this Section, the Division shall so notify the licensee in writing. Within thirty (30) days after receiving the notification, the licensee shall amend its procedures and written system accordingly, and shall submit a copy of the internal controls as amended and a description of any other remedial measures taken.

I. The Division can observe unannounced the transportation and count of each of the following: electronic gaming device drop, all table game drops, tip box and slot drops, slot fills, fills and credits for table games, as well as any other internal control procedure(s) implemented. For purposes of these procedures, *unannounced* means that no officers, directors or employees of the holder of the owner's license are given advance information, regarding the dates or times of such observations.

J. Except as otherwise provided in this Section, no licensee shall make any loan, or otherwise provide or allow to any person any credit or advance of anything of value or which represents value to enable any person to take part in gaming activity. The failure to deposit for collection a negotiable instrument by the second banking day following receipt shall be considered an extension of credit.

K. A licensee may extend credit to a patron only in the manner(s) provided in its internal control system approved by the Division.

L. The internal control system shall provide that:

1. each credit transaction is promptly and accurately recorded in appropriate credit records;

2. coupon redemption and other complimentary distribution program transactions are promptly and accurately recorded; and

3. credit may be extended only in a commercially reasonable manner considering the assets, liabilities, prior payment history and income of the patron.

M. No credit shall be extended beyond thirty (30) days. In the event that a patron has not paid a debt created under this Section within thirty (30) days, a holder of an owner's license shall not further extend credit to the patron while such debt is outstanding.

N. A licensee shall be liable as an insurer for all collection activities on the debt of a patron whether such activities occur in the name of the owner or a third party.

O. The licensee shall provide to the Division a quarterly report detailing all credit outstanding from whatever source, including nonsufficient funds checks, collection activities taken and settlements, of all disputed markers, checks and disputed credit card charges pertaining to gaming. The report required under this Part shall be submitted to the Division within fifteen (15) days of the end of each quarter.

P. Each licensee shall submit to the Division, on a quarterly basis, a listing of all vendors who have provided goods and/or services to the licensee. This list shall include vendor name, address, type of goods/services provided, permit number (if applicable) and federal tax identification number and aggregated cost from the previous four quarters to present. This report shall be received by the Division not later than the last day of the month following the quarter being reported. In addition, each licensee shall submit monthly aged invoices payable utilizing standard 30-60-90 day period. This monthly report shall be received by the Division not later than thirty (30) days following the end of the month being reported.

Q. The value of chips or tokens issued to a patron upon the extension of credit, the receipt of a check or other instrument or via a complimentary distribution program shall be included in the computation of net gaming proceeds.

R. The licensee shall have a continuing duty to review its internal controls to ensure the internal controls remain in compliance with the Act and the Division's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2716. Clothing Requirements

A. All authorized persons accessing any count room when unaudited funds are present shall wear clothing without any pockets or other compartments with the exception of Division Agents, Security, Internal Audit, and External Audit.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2717. Internal Controls; Table Games

A. Table Games Fill and Credit Slip Requirements (Computerized and Manual). Each licensee shall utilize fill/credit slips to document the transfer of chips and tokens to and from table games. All table game fill/credit slips shall be safeguarded in their distribution, use, and control as follows:

1. Fill/credit slips shall, at a minimum, be in triplicate form, in a continuous numerical series, pre-numbered by the computer in a form utilizing the alphabet and only in one series at a time. The alphabet need not be used if the numerical series is not repeated during the business year.

a. Each slip shall be clearly and correctly marked *Fill* or *Credit*, whichever applies, and shall contain the following:

- i. correct date and time;
- ii. shift;
- iii. table number;
- iv. game type;
- v. amount of fill/credit by denomination and in total;
- vi. sequential slip number (manual slips may be issued in sequential order by location); and
- vii. identification code of the requestor (pit supervisor), in stored data only.

b. All fill slips shall be distributed as follows.

i. One part shall be transported to the pit with the fill and, after the appropriate signatures are obtained, deposited in table drop box by the dealer/boxperson. The part that is placed in the drop box shall be of a different color for fills than that used for credits;

ii. One part shall be retained in the cage for reconciliation of the cashier bank;

iii. One part shall be forwarded to accounting or retained internally within the computer. This computer copy shall be known as the 'restricted copy' and shall not be accessible to cage or pit employees. The stored data shall not be susceptible to change or removal by cage or pit personnel after preparation of a fill, with the exception of voids. Accounting shall be given access to the restricted copies of the fill slips.

c. All credit slips shall be distributed as follows.

i. One part shall be retained in the cage for reconciliation of the cashier bank upon completion of the credit transaction;

ii. One part shall be transported to the pit by the security officer who brought the chips, tokens, markers or monetary equivalents from the pit to the cage, and after the appropriate signatures are obtained, deposited in the table drop box by the dealer/boxperson. The part that is placed in the drop box shall be of different color for credits than that used for fills.

iii. One part shall be forwarded to accounting or retained internally within the computer. This computer copy shall be known as the *restricted copy* and shall not be accessible to cage or pit employees. The stored data shall not be susceptible to change or removal by cage or pit personnel after preparation of a credit, with the exception of voids. Accounting shall be given access to the restricted copies of the credit slips.

2. Processed slips shall be signed by at least the following individuals to indicate that each has counted the amount of the fill/credit and the amount agrees with the slip:

- a. cashier who prepared the slip and issued the fill or received the items transferred from the pit;
- b. security officer who carried the chips, tokens, or monetary equivalents to or from the table;
- c. dealer/boxperson who received the fill or had custody of the credit prior to the transfer; and
- d. pit supervisor who supervised the fill/credit.

3. Fill/credit slips that are voided shall be clearly marked *Void* across the face of all copies. When applicable, the first and second copies shall have *Void* written across the

face and be accompanied by a miscellaneous notification (manual slips only) as to why the third copy cannot be voided. The cashier shall print his employee number and sign his name on the voided slip. A brief statement of why the void was necessary shall be written on the face of all copies. The pit or cage supervisor who approves the void shall print his employee number and sign his name and shall print or stamp the date and time the void is approved. All copies shall be forwarded to accounting for accountability and retention on a daily basis.

4. Access to slips and slip processing areas shall be restricted to authorized personnel.

a. All unissued fill/credit slips shall be securely stored under the control of the accounting or security department.

b. All unissued fill/credit slips shall be controlled by a log which the accounting department shall agree to fill or credit slips purchase documents monthly.

5. The accounting department shall account for all slips daily and investigate all missing slips within ten (10) days. The investigation shall be documented and the documentation retained for a minimum of five (5) years.

6. Processed slips shall be collected by accounting/auditing directly from the pit or cage.

B. Computerized Table Game Fill Procedures. Computerized Table Fill transactions shall be:

1. initiated by a pit supervisor and the order acknowledged by a cage cashier prior to the issuance of a fill slip and transportation of the chips, tokens, and monetary equivalents. The pit supervisor or pit clerk shall process the order for fill by entering the following information into the computer:

- a. correct date and time (computer may automatically generate);
- b. shift;
- c. table number;
- d. game type;
- e. amount of fill by denomination and in total; and
- f. identification code of preparer (pit supervisor), in stored data only;

2. transported and deposited on the table only when accompanied by a legitimately executed fill slip;

3. physically transported from the cage by an individual from the security department;

4. broken down or verified by the dealer/boxperson in public view before the dealer/boxperson places the fill in the tray;

5. acknowledged by the pit clerk or cage personnel via computer upon completion of the fill. Upon acknowledgment, the cage printer shall print a one-part Acknowledgment Slip which shall contain the following:

- a. document number;
- b. correct date and time;
- c. game type;
- d. table number;
- e. shift;
- f. total amount of fill; and
- g. location for cage cashier's signature;

6. finalized by the cage cashier who shall complete the transaction via computer entry, sign the Acknowledgment Slip once printed, and attach the fill Acknowledgment Slip to the cage copy of the fill slip.

C. Cross-fills. Cross-fills between tables shall not be permitted.

D. Computerized Table Game Credit Procedures. Computerized Table Credit transactions shall be:

1. initiated by a pit supervisor and the order acknowledged by a cage cashier prior to the issuance of a credit slip and transportation of the chips, tokens, and monetary equivalents. The pit supervisor or pit clerk shall process the order for credit by entering the following information into the computer:

- a. correct date and time (computer may automatically generate);
- b. shift;
- c. table number;
- d. game type;
- e. amount of credit by denomination and in total; and
- f. identification code of preparer (pit supervisor), in stored data only;

2. broken down or verified by the dealer/boxperson in public view before the dealer/boxperson places the credit in racks for transfer to the cage;

3. transacted and transferred from the table to the cage only when accompanied by a legitimately executed credit slip;

4. physically transported from the table by an individual from the security department;

5. acknowledged by the pit clerk or cage personnel via computer upon completion of the credit. Upon acknowledgment, the cage printer shall print a one-part Acknowledgment Slip which shall contain the following:

- a. document number;
- b. correct date and time;
- c. game type;
- d. table number;
- e. shift;
- f. total amount of credit; and
- g. location for cage cashier's signature;

6. finalized by the pit clerk or cage cashier who shall complete the transaction via computer entry, sign the Acknowledgment Slip once printed, and attach the credit Acknowledgment Slip to the cage copy of the credit slip.

E. Alternate Internal Control Procedures for Non-Computerized Table Games Transactions. For any non-computerized table games systems, alternate documentation and/or procedures which provide at least the level of control required by the above standards for fills and credits will be acceptable. Such procedures must be enumerated in the licensee's internal controls and approved by the Division.

F. Table Games Inventory Procedures. All table games shall be counted each gaming day simultaneously by a dealer/boxperson and a pit supervisor, or two pit supervisors. The count shall be conducted at the end of the gaming day except for tables which are counted and closed before the end of the gaming day. These tables do not have to be recounted at the end of the gaming day if they remained closed. At the beginning and end of each gaming day, each table's chip,

token, and coin inventory shall be counted and recorded on a table inventory form.

1. Table inventory forms shall be prepared, verified and signed by the dealer/boxperson and a pit supervisor, or two pit supervisors.

2. If the table banks are maintained on an imprest basis, a final fill or credit shall be made to bring the bank back to par.

3. If final fills are not made, beginning and ending inventories shall be recorded on the master game sheet for win calculation purposes.

4. Table inventory forms shall be placed in the drop box by someone other than a pit supervisor.

G. Credit Procedures in the Pit

1. Prior to the issuance of gaming credit to a player, the employee extending the credit shall determine if credit is available by entering the patron's name or account number into the computer. A password shall be used to access such information. Once availability is established, credit shall be extended only on the remaining balance authorized.

2. ...

3. Amount of credit extended in the pit shall be communicated to the cage or another independent source with the amount documented to update the manual and/or computerized system within a reasonable time subsequent to each issuance.

4. The following information shall be maintained either manually or in the computer system:

- a. the signature or initials of the individual(s) approving the extension of credit (unless such information is contained elsewhere for each issuance);
- b. the name of the individual receiving the credit;
- c. the date and shift granting the credit;
- d. the table on which the credit was extended;
- e. the amount of credit issued;
- f. the marker number;
- g. the amount of credit remaining after each issuance or the total credit available for all issuances;
- h. the amount of payment received and nature of settlement (e.g., credit slip number, cash, chips, etc.); and
- i. the signature or initials of the individual receiving payment/settlement.

5. Marker preparation shall be initiated and other records updated within approximately one hand of play following the initial issuance of credit to the player.

6. All credit extensions shall be initially evidenced by marker buttons which shall be displayed on the table in public view and placed there by supervisory personnel.

7. Marker buttons shall be removed only by the dealer or boxperson employed at the table upon completion of a marker transaction.

8. The marker slip shall, at a minimum, be in triplicate form, pre-numbered by the printer, and utilized in numerical sequence whether marker forms are manual or computer-generated. Manual markers may be issued in numerical sequence by location. The three parts shall be utilized as follows:

- a. original, maintained in the pit until settled or transferred to the cage;

b. payment slip, sent immediately to the cage; accompanied by the original and a transfer slip; or maintained in the pit until:

i. the marker is paid, including partial payments; at which time it shall be placed in the drop box.

ii. by the end of gaming day; at which time it shall be sent immediately to the cage; accompanied by the original and a transfer slip.

c. issue slip, inserted into the appropriate table drop box when credit is extended or when the player has signed the original.

9. The original marker shall contain at least the following information:

a. preprinted number;

b. player's name and signature;

c. date; and

d. amount of credit issued.

10. The issue slip or stub shall include the same preprinted number as the original, the table number, date and time of issuance, and amount of credit issued. The issue slip or stub also shall include the signature of the individual extending the credit, and the signature or initials of the dealer at the applicable table, unless this information is included on another document verifying the issued marker.

11. The payment slip shall include the same preprinted number as the original. When the marker is paid in full in the pit, it shall also include the table number where paid, date and time of payment, nature of settlement (cash, chips, etc.) and amount of payment. The payment slip shall also include the signature of a pit supervisor acknowledging payment, and the signature or initials of dealer/boxperson receiving payment, unless this information is included on another document verifying the payment of the marker.

12. The pit shall notify the cage via computer when the transaction is completed.

13. Markers (computer-generated and manual) that are voided shall be clearly marked *Void* across the face of all copies. The supervisor who approves the void shall print his employee number and sign his name, print or stamp the date and time the void is approved, and print the reason for the void. All copies of the voided marker shall then be forwarded to accounting for accountability and retention for a minimum of five (5) years.

14. Marker documentation shall be inserted in the drop box by the dealer/box person at the table.

15. When partial payments are made in the pit, a new marker shall be completed reflecting the remaining balance and the marker number of the marker originally issued.

16. When partial payments are made in the pit, the payment slip of the marker which was originally issued shall be properly cross-referenced to the new marker number and inserted into the drop box.

17. The cashier's cage or another independent source shall be notified when payments (full or partial) are made in the pit so that cage records can be updated for such transactions. Notification shall be made no later than when the patron's play is completed or at shift end, whichever is earlier.

18. All portions of markers, both issued and unissued, shall be safeguarded and procedures shall be employed to control the distribution, use and access to the forms.

19. An investigation shall be performed, by the accounting department, immediately following its notice of missing forms or any part thereof, to determine the cause and responsibility for loss whenever marker credit slips, or any part thereof, are missing, and the result of the investigation shall be documented, by the accounting department. The Division shall be notified in writing of the loss, disappearance or failure to account for marker forms within ten (10) days of such occurrence.

20. When markers are transferred to the cage, marker transfer slips shall be utilized and such documents shall include, at a minimum, the date, time, shift, marker number(s), table number(s), amount of each marker, the total amount transferred, signature of pit supervisor releasing instruments from pit, and instruments at the cage.

21. Markers shall be transported to the cashier's cage by an individual who is independent of the marker issuance and payment functions (pit clerks may perform this function).

22. Marker log documentation shall be maintained by numerical sequence, indicating marker number, name of patron, date marker issued, date paid, method of payment (if combination, i.e. chips/cash, amount paid by each method), and amount of credit remaining. This marker log documentation shall also be maintained by patron name in order to determine that credit was not extended beyond thirty (30) days.

H. Nonmarker Credit Play

1. - 8. ...

9. Nonmarker credit extensions shall be settled at the end of each hand of play by the preparation of a marker, repayment of credit extended, or payoff of the wager.

I. Call Bets. Call bets shall be prohibited. A call bet is a wager made without chips, tokens, or cash.

J. Table Games Drop Procedures. The drop process shall be conducted at least once each gaming day according to a schedule submitted to the Division setting forth the specific times for such drops. Each licensee shall notify the Division of any changes to such schedules prior to the implementation of the change. Emergency drops which require removal of the table drop box require written notification to the Division within 24 hours. Notification shall include date, time, table number, reason, printed names, employee numbers, titles, and signatures of each employee involved in the emergency drop. The drop process shall be conducted as follows.

1. All locked drop boxes shall be removed from the tables by an individual independent of the pit shift being dropped. Surveillance shall be notified when the drop process begins. The entire drop process shall be videotaped by surveillance. At least one surveillance employee shall monitor the drop process at all times. This employee shall record on the surveillance log the times that the drop process begins and ends, as well as any exceptions or variations to established procedures observed during the drop including each time the count room door is opened.

2. Upon removal from the tables, the drop boxes are to be placed in a drop box storage rack and locked therein for transportation directly to the count area or other secure place approved by the Division and locked in a secure manner until the count takes place. The transportation route from the gaming area to the count room shall be submitted to the Division prior to implementation.

3. The transporting of drop boxes shall be performed by a minimum of two individuals, at least one of whom is a security officer.

4. Access to all drop boxes regardless of type, full or empty, shall be restricted to authorized members of the drop and count teams.

K. Table Games Count Procedures. The counting of table game drop boxes shall be performed by a soft count team with a minimum of three persons. Count tables shall be transparent to enhance monitoring. Surveillance shall be notified when the count process begins and the count process shall be monitored in its entirety and video taped by surveillance. At least one surveillance employee shall monitor the count process at all times. This employee shall record any exceptions or variations to established procedures observed during the count. Surveillance shall notify count team members immediately if visibility of hands or other activity is obstructed in any manner. Testing and verification of the accuracy of the currency counter shall be conducted and documented quarterly. This test shall be witnessed by someone independent of the count team members.

1. Count team members shall be:

a. rotated on a routine basis. Rotation is such that the count team is not the same three individuals more than four days per week;

b. independent of transactions being reviewed and counted and the subsequent accountability of soft drop proceeds.

2. Soft count shall include:

a. a test count of the currency counter prior to the start of each count;

b. the emptying and counting of each drop box individually, daily;

c. the recordation of the contents of each drop box on the count sheet in ink or other permanent form prior to commingling the funds with funds from other boxes;

d. the display of empty drop boxes to another member of the count team or to surveillance;

e. the comparison of table numbers scheduled to be dropped to a listing of table numbers actually counted, as reflected on the Master Gaming Report, to ensure that all table game drop boxes are accounted for during each drop period;

f. the correction of information originally recorded by the count team on soft count documentation by crossing out the error, entering the correct figure, and then obtaining the initials of at least two count team members who verified the change;

g. the signature of all members of the soft count team on the Master Gaming Report attesting to the accuracy of table games drop after the Master Gaming Report has been reconciled to the currency;

h. the transfer of all monies and monetary equivalents that were counted to the cage cashier who is independent of the count team or to an individual independent of the revenue generation and the count process for verification. This individual certifies by signature as to the accuracy of the monies delivered and received from the soft count team; if a pass-through window between the count room and the vault is not utilized, transfer of monies shall be accomplished in a locked transport cart;

i. the delivery of the Master Gaming Report, with all supporting documents, promptly to the accounting department by a count team member. Alternatively, it may be adequately secured (e.g., locked in a container to which only accounting personnel can gain access) until retrieved by the accounting department;

j. access to drop boxes, full or empty, shall be restricted to authorized members of the drop and count teams;

k. access to the count room during the count shall be restricted to members of the drop and count teams, agents of the Division, authorized observers as approved by the Division and supervisors for resolution of problems. Authorized maintenance personnel shall enter only when accompanied by security. A log shall be maintained in the count room and shall contain the following information:

i. name of each person entering the count room;

ii. reason each person entered the count room;

iii. date and time each person enters and exits the count room;

iv. date, time and type of any equipment malfunction in the count room; and

v. a description of any unusual events occurring in the count room;

3. Accounting/Auditing shall perform the following functions:

a. match the original and first copy of the fill/credit slips;

b. match orders for fills/credits to the fill/credit slips;

c. examine fill and credit slips for correctness and recordation on the Master Gaming Report;

d. trace or record pit marker issue and payment slips to the Master Gaming Report by the count team, unless other procedures are in effect which assure that issue and payment slips were placed into the drop box in the pit;

e. examine and trace or record the opening/closing table and marker inventory forms to the Master Gaming Report;

f. review accounting exception reports for the computerized table games on a daily basis for propriety of transactions and unusual occurrences. Documentation of the review and its results shall be retained for five (5) years.

L. Table Games Key Control Procedures. The keys used for table game drop boxes and soft count keys shall be controlled as follows.

1. Drop box release keys shall be maintained by a department independent of the pit department. Only the person authorized to remove drop boxes from the tables shall be allowed access to the release keys. Count team members may have access to the release keys during the soft count in

order to reset the drop boxes. Persons authorized to remove the table game drop boxes are precluded from having access to drop box contents keys. The physical custody of the keys needed for accessing full drop box contents requires involvement of persons from three separate departments. The involvement of at least two individuals independent of the cage department is required to access empty drop boxes.

2. Drop box storage rack keys shall be maintained by department independent of the pit department. Someone independent of the pit department shall be required to accompany such keys and observe each time drop boxes are removed from or placed in storage racks. Persons authorized to obtain drop box storage rack keys shall be precluded from having access to drop box contents keys with the exception of the count team.

3. Drop box contents keys shall be maintained by a department independent of the pit department. Only count team members are allowed access to the drop box contents keys. This control is not applicable to emergency situations which require drop box access at other than scheduled count times. At least three persons from separate departments, including management, must participate in these situations. The reason for access must be documented with the signatures of all participants and observers.

4. The issuance of soft count room keys and other count keys shall be witnessed by two gaming employees, who shall be from different departments. Neither of these two employees shall be members of the soft count team.

5. All duplicate keys shall be maintained and issued in a manner which provides the same degree of control over drop boxes as is required for the original keys.

6. Sensitive keys shall not be removed from the vessel unless to an extension of the vessel as previously approved by the Division. Access to the keys addressed in this Section shall be documented on key access log forms.

a. The logs shall contain the date and time of issuance, the key or ring of keys issued, the printed name, signature and employee number of the person to whom the key is issued, the printed name, signature and employee number of the person issuing the key the date and time of the key return, and reason for access to the secure area. If key rings are used, there shall be a listing with the key log specifying each key on each ring. Accountability is required.

b. Keys shall be logged out and logged in on a per shift basis. The employee who logs out the key shall be the employee who logs in the key. If a different employee logs in the key, surveillance shall be notified and surveillance shall monitor the entire log-in process including the return of the key to the key box. The videotape of the log-in process shall be retained for thirty (30) days.

M. Security of Cards and Dice. Playing cards and dice, not yet issued to the pit, shall be maintained in a secure location to prevent unauthorized access and reduce the possibility of tampering. Perpetual inventory records of the card and dice inventory are to be maintained according to parameters established by §4321 and §4325.

N. Supervisory Controls. Pit supervisory personnel with authority equal to or greater than those being supervised shall provide supervision of all table games.

O. Table Games Records. Each licensee shall maintain records and reports reflecting drop, win and drop hold percentage by table and type of game by day, cumulative month-to-date, and cumulative year-to-date. The reports shall be presented to and reviewed by management independent of the pit department on at least a monthly basis. The independent management shall investigate any unusual statistical fluctuations with pit supervisory personnel. At a minimum, investigations are performed for all statistical percentage fluctuations from the base level for a month in excess of plus or minus three percentage points. The *base level* is defined as the licensee's statistical win to statistical drop percentage for the previous business year. The results of such investigations are documented in writing and maintained for at least five (5) years by the licensee.

P. Accounting and MIS Functions. Accounting and MIS personnel who perform table game computer functions shall be trained and certified by the manufacturer or its representative.

1. Backup and Recovery

a. MIS shall perform tape backup of system data daily. Backup and recovery procedures shall be written and distributed to all applicable personnel. These policies shall include information and procedures (e.g., a description of the system, systems manual, etc.) that ensure the timely restoration of data in order to resume operations after a hardware or software failure.

b. MIS shall maintain either hard or disk copies of system-generated edit reports, exception reports, or transaction logs.

2. Access to Software/Hardware

a. MIS shall establish Security Groups based on each employee's job requirements. These Groups will determine the access level of the employee. This information shall be maintained on a list (by MIS) which includes the employee's name, position, identification number, and the date authorization is granted. These files shall be updated as employees or the functions they perform change.

b. MIS shall print and review the computer security access report at the end of each shift. Discrepancies shall be investigated, documented, and maintained for five (5) years.

c. Only authorized personnel shall have physical access to the computer software/hardware.

d. All changes to the system and the name of the individual who made the change shall be documented on a log.

e. Reports and other output generated by the system shall only be available and distributed to authorized personnel.

3. Computer Control

a. The pit credit system shall be secured, such that only authorized users can access it.

b. All information pertaining to a patron (e.g., Patron Activity Inquiry) shall be used for information purposes only. A user cannot enter or change any of this information.

c. The delete option within an individual program shall be secured, such that only authorized users can execute it, i.e., delete a record.

d. The licensee shall change passwords periodically, as specified in the licensee's internal controls, to ensure security against false entry by unauthorized personnel.

e. The *secured copies* and the necessary documents shall be retained for five (5) years.

f. The Division shall have access to all information pertaining to table games (e.g., restricted copies of slips so accuracy can be verified).

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2719. Internal Controls; Handling of Cash

A. Each gaming employee, owner, or licensee who receives currency of the United States from a patron in the gaming area of a gaming establishment shall promptly place the currency in the lock box in the table or, in the case of a cashier, in the appropriate place in the cashiers' cage, or on those games which do not have a lock box or on poker tables, in an appropriate place on the table, in the cash register, or other repository approved by the Division.

B. No cash wagers shall be allowed to be placed at any gaming table. Such cash shall be converted to chips or tokens prior to acceptance of a wager. All wagers other than those made with the licensee's approved chips and tokens are expressly prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2721. Internal Controls; Tips or Gratuities

A. - C.1. ...

2. accounted for by a recorded count conducted by randomly selected dealer and a randomly selected employee who is independent of the table games and slot departments;

3. placed in a pool for pro rata distribution among the dealers on a basis that coincides with the normal pay period, with a distribution approved by the Division. Tips or gratuities from this pool shall be deposited into the licensee's payroll account. Distributions to dealers from this pool shall be made following the licensee's payroll accounting practices and shall be subject to all applicable state and federal withholding taxes; and

4. ...

a. Each dealer shall have a locked transparent box that has been marked with their name or otherwise coded for identification. Keys to these boxes shall be maintained by the cage department. When not in use, these boxes shall be stored in a locked storage cabinet or other approved lockable storage medium in the poker room itself. Keys to the storage cabinet shall be maintained by a poker room supervisor, hereinafter referred to as the keyholder.

f. The licensee shall maintain a minimum level of supervision over the poker room tables. There shall be at least one supervisor present per two tables open or part thereof. Surveillance shall be required to continuously monitor and record open poker tables.

D. Upon receipt from a patron of a tip or gratuity, a dealer assigned to the gaming table shall extend his arm in an overt motion, and deposit such tip or gratuity in the transparent locked box reserved for such purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:1503 (August 1998), LR:

§2723. Internal Controls; Slots

A. Any reference to slot machines or slots in this Section includes all Electronic Gaming Devices.

B. Whenever a patron wins a jackpot that is not totally and automatically paid directly from the electronic gaming device, a slot attendant shall prepare and process according to the licensee's internal controls, a request for jackpot payout form. A request for jackpot payout form is not required if all of the following conditions are met:

1. a slot representative manually inputs the jackpot information into the computer;

2. a jackpot slip is generated through the computer system; and

3. the cashier uses this information to pay the jackpot.

C. The request for jackpot payout form (if required) shall contain, at a minimum, the following information:

1. date and time the jackpot occurred;

2. the electronic gaming device machine number and location number;

3. the denomination of the electronic gaming device;

4. number of coins/tokens played;

5. combination of reel characteristics;

6. on short pays, amount the machine paid; and

7. amount of hand-paid jackpot.

D. Each licensee shall use multi-part jackpot payout slips as approved by the Division to document any jackpot payouts or short pays. The jackpot slips shall be in a continuous numerical series, pre-numbered by the printer in a form utilizing the alphabet, and only in one series at a time. The alphabet need not be used if the numerical series is not repeated during the business year. Manual jackpot slips may be utilized in numerical sequence by location.

1. A three-part jackpot payout slip which is clearly marked *jackpot* shall be utilized. The third copy may be the secured copy retained in the computer or whiz machine. Each jackpot slip shall include the following information:

a. date and time during which the jackpot occurred;

b. denomination;

c. machine and location number of the electronic gaming device on which the jackpot was registered;

d. number of coins/tokens played;

- e. dollar amount of payout in both alpha and numeric. Alpha is optional if another unalterable method is used for evidencing the amount of the jackpot or fill;
- f. game outcome including reel symbols, card values and suits, etc. for jackpot payouts;
- g. pre-printed or concurrently-printed sequential numbers;
- h. signature of the cashier;
- i. signature of two slot attendants verifying and witnessing the payout if the jackpot is less than \$1200; Signature of one slot attendant and security officer verifying and witnessing the payout if the jackpot is \$1200 or greater, or if the jackpot is a manual or an override.

2. Jackpot slips that are voided shall be clearly marked Void across the face of all copies. When applicable, the first and second copies shall have Void written across the face. Voided jackpot slips which are manual slips shall be accompanied by a miscellaneous notification as to why the third copy cannot be voided. The cashier and slot or cage supervisor shall print their employee numbers and sign their names on the voided slip. The supervisor who approves the void shall print or stamp the date and time the void is approved. A brief statement of why the void was necessary shall be written on the face of all copies. All copies shall be forwarded to accounting for accountability and retention on a daily basis.

3. Computerized jackpot/payout systems shall be restricted so as to prevent unauthorized access and fraudulent payouts by an individual.

4. Jackpot payout forms shall be controlled and routed in a manner that precludes any one individual from producing a fraudulent payout by forging signatures, or by altering the amount paid subsequent to the payout, and misappropriating the funds. One copy of the jackpot payout slip shall be retained in a locked box located outside the change booth/cage where jackpot payout slips are executed.

5. Jackpot overrides shall have the notation *override* printed on all copies. Jackpot override reports shall be run on a daily basis.

6. Jackpot payout slips shall be used in sequential order.

E. If a jackpot is \$1,200 or greater in value, the following information shall be obtained by the slot attendant prior to payout and for preparation of a form W-2G:

- 1. valid photo ID;
- 2. name, address, and social security number (if applicable) of the patron;
- 3. amount of the jackpot; and
- 4. any other information required for completion of the form W-2G.

F. If the jackpot is over \$5,000, a surveillance photograph shall be taken of the winner and the payout form shall be signed by a slot supervisor or casino shift manager in addition to Subsection D and E.

G. If the jackpot is over \$10,000, the slot attendant shall notify a slot technician who shall remove the electronic board housing the EPROM's. A surveillance photograph of the Division seal covering the EPROM shall be taken before the jackpot is paid. This photograph shall be attached to the

jackpot payout form. This is in addition to requirements as stated in Subsection D, E and F.

H. If the jackpot is \$100,000 or more, the licensee shall notify the Division immediately. A Division agent shall be present prior to the opening of the electronic gaming device. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a Division Agent. Once a Division Agent is present, the electronic board housing the EPROM's shall be removed by a slot technician, the EPROM's shall be inspected and tested in a manner prescribed by the Division. There shall be conformance to procedures as mentioned in Subsection D, E, F, and G. The payout form shall also be signed by a slot manager.

I. Each licensee shall use multi-part slot fill slips as approved by the Division to document any fill made to a slot machine hopper. The fill slips shall be in a continuous numerical series, pre-numbered by the printer in a form utilizing the alphabet, and only in one series at a time. The alphabet need not be used if the numerical series is not repeated during the business year. Manual fill slips may be utilized in numerical sequence by location.

1. A three-part slot fill slip which is clearly marked *fill* shall be utilized. The third copy may be the secured copy retained in the computer or whiz machine. Each fill slip shall include the following information:

- a. date and time;
- b. machine and location number;
- c. dollar amount of slot fill in both alpha and numeric.

Alpha is optional if another unalterable method is used for evidencing the amount of the slot fill;

- d. signatures of at least two employees verifying and witnessing the slot fill; and
- e. pre-printed or concurrently-printed sequential number.

2. Computerized slot fill slips shall be restricted so as to prevent unauthorized access and fraudulent slot fills by one individual.

3. Hopper fill slips shall be controlled and routed in a manner that precludes any one individual from producing a fraudulent fill by forging signatures, or by altering the amount paid subsequent to the fill, and misappropriating the funds. One copy of the hopper fill slip shall be retained in a locked box located outside the change booth/cage where hopper fill slips are executed.

4. The initial slot fills shall be considered part of the coin inventory and shall be clearly designated as *slot loads* on the slot fill slip.

5. Slot fill slips that are voided shall be clearly marked *Void* across the face of all copies. When applicable, the first and second copies shall have *Void* written across the face. Voided slot fill slips which are manual slips shall be accompanied by a miscellaneous notification as to why the third copy cannot be voided. The cashier and slot or cage supervisor shall print their employee numbers and sign their names on the voided slip. The supervisor who approves the void shall print or stamp the date and time the void is approved. A brief statement of why the void was necessary

shall be written on the face of all copies. All copies shall be forwarded to accounting for accountability and retention on a daily basis.

6. Slot fill slips shall be used in sequential order.

J. Each licensee shall remove the slot drop from each machine according to a schedule, submitted to the Division, setting forth the specific times for such drops. All slot drop buckets, including empty slot drop buckets, shall be removed according to the schedule. Each licensee shall notify the Division at least five (5) days prior to implementing a change to this schedule, except in emergency situations. The Division reserves the right to deny a licensee's drop schedule with cause. Emergency drops, including those for maintenance and repairs which require removal of the slot drop bucket, require written notification to the Division within 24 hours. Notification shall include date, time, machine number, reason, printed names, employee numbers, titles, and signatures of each employee involved in the emergency drop. Prior to opening any slot machine, emptying or removing any slot drop bucket, the drop team shall notify security and surveillance that the drop is beginning.

1. The slot drop process shall be monitored in its entirety and video taped by surveillance including transportation to the count room or other secured area as approved by the Division. At least one surveillance employee shall monitor the drop process at all times. This employee shall record on the surveillance log the time that the drop process begins and ends, as well as any exceptions or variations to established procedures observed during the drop.

2. Each licensee shall submit its drop transportation route from the gaming area to the count room to the Division prior to implementing or changing the route. The drop team shall not deviate from the submitted route without prior notification to the Division.

3. A minimum of three employees shall be involved in the removal of the slot drop, at least one of whom is independent of the slot department.

4. Drop team shall collect each drop bucket and ensure that the correct tag or number is affixed to each bucket.

5. Security shall be provided over the slot buckets removed from the slot drop cabinets prior to being transported to the count area. Slot drop buckets must be secured in a locked slot drop cabinet/cart during transportation to the count area.

6. If more than one trip is required to remove the slot drop from all of the machines, the filled carts or coins shall be either locked in the count room or secured in another equivalent manner as approved by the Division.

7. At least once per year, in conjunction with the regularly scheduled drop, a complete *sweep* shall be made of hopper and drop bucket cabinets for loose tokens and coins. Such tokens/coins should be placed in respective hoppers and drop buckets and not commingled with other machines.

8. Once all drop buckets are collected, the drop team shall notify security and surveillance that the drop has ended.

9. On the last gaming day of each calendar month, the licensee's drop shall include both drop buckets and currency acceptor drop boxes of all slot machines.

K. The contents of the slot drop shall be counted in a hard count room according to a schedule, submitted to the Division, setting forth the specific times for such counts.

1. The issuance of the hard count room key, shall be witnessed by two gaming employees, who shall be from different departments. Neither of these two employees shall be members of the count team.

2. Access to the hard count room during the slot count shall be restricted unless three count team members are present. All persons exiting the count room, with the exception of Division Agents, shall be wanded by Security with a properly functioning hand-held metal detector (wand). A log shall be maintained in the count room and shall contain the following information:

- a. name of each person entering the count room;
- b. reason each person entered the count room;
- c. date and time each person enters and exits the count room;
- d. date, time and type of any equipment malfunction in the count room; and
- e. a description of any unusual events occurring in the count room.

3. The slot count process shall be monitored in its entirety and videotaped by surveillance including transportation to the count room or other secured area as approved by the Division. At least one surveillance employee shall monitor the count process at all times. This employee shall record on the surveillance log the times that the count process begins and ends, as well as any exceptions or variations to established procedures observed during the count, including each time the count room door is opened. If visibility of the count team's hands or other activity is obstructed at any time, surveillance shall immediately notify the count room employees.

4. Prior to each count, the count team shall perform a test of the weigh scale. The results shall be recorded and signed by at least two count team members. The initial weigh/count shall be performed by a minimum of three employees, who shall be rotated on a routine basis. The rotation shall be such that the count team shall not be the same three employees more than four days per week.

5. The slot count team shall be independent of the generation of slot revenue and the subsequent accountability of slot count proceeds. Slot department employees can be involved in the slot count and/or subsequent transfer of the wrap, if they perform in a capacity below the level of slot shift supervisor.

6. The following functions shall be performed in the counting of the slot drop.

a. The slot weigh and wrap process shall be controlled by a count team supervisor. The supervisor shall be precluded from performing the initial recording of the weigh/count unless a weigh scale with a printer is used.

b. Each drop bucket shall be emptied and counted individually. Drop buckets with zero drop shall be individually entered into the computerized slot monitoring system.

c. Empty drop buckets shall be displayed to another member of the count team or to surveillance.

d. Contents of each drop bucket shall be recorded on the count sheet in ink or other permanent form prior to commingling the funds with funds from other buckets. If a weigh scale interface is used, the slot drop figures are transferred via direct line to computer storage media.

e. The recorder and at least one other count team members shall sign the slot count document or weigh tape attesting to the accuracy of the initial weigh/count.

f. At least three employees who participate in the weigh/count and/or wrap process shall sign the slot count document.

g. The coins shall be wrapped and reconciled in a manner which precludes the commingling of slot drop coin with coin for each denomination from the next slot drop.

h. Transfers out of the count room during the slot count and wrap process are either strictly prohibited; or if transfers are permitted during the count and wrap, each transfer is recorded on a separate multi-part prenumbered form (used solely for slot count transfers) which is subsequently reconciled by the accounting department to ensure the accuracy of the reconciled wrapped slot drop. Transfers, as noted above, are counted and signed for by at least two members of the count team and by someone independent of the count team who is responsible for authorizing the transfer.

i. If the count room serves as a coin room and coin room inventory is not secured so as to preclude access by the count team, then the next two requirements shall be complied with.

i. At the commencement of the slot count;

(a). the coin room inventory shall be counted by at least two employees, one of whom shall be a member of the count team and the other shall be independent of the weigh/count and wrap procedures.

(b). the above count shall be recorded on an appropriate inventory form.

ii. Upon completion of the wrap of the slot drop:

(a). at least two members of the count team independent from each other, shall count the ending coin room inventory;

(b). the above counts shall be recorded on a summary report(s) which evidences the calculation of the final wrap by subtracting the beginning inventory from the sum of the ending inventory and transfers in and out of the coin room.;

(c). the same count team members who counted the ending coin room inventory shall compare the calculated wrap to the initial weigh/count, recording the comparison and noting any variances on the summary report;

(d). a member of the cage/vault department counts the ending coin room inventory by denomination. This count shall be reconciled to the beginning inventory, wrap, transfers and initial weigh/count on a timely basis by the cage/vault or other department independent of the slot department and the weigh/wrap procedures;

(e). at the conclusion of the reconciliation, at least two count/wrap team members and the verifying employee shall sign the summary report(s) attesting to its accuracy.

j. If the count room is segregated from the coin room, or if the coin room is used as a count room and the coin room inventory is secured to preclude access by the count team, upon completion of the wrap of the slot drop:

i. at least two members of the count/wrap team shall count the final wrapped slot drop independently from each other;

ii. the above counts shall be recorded on a summary report;

iii. the same count team members as discussed above (or the accounting department) shall compare the final wrap to the weigh/count recording the comparison and noting any variances on the summary report;

iv. a member of the cage/vault department shall count the wrapped slot drop by denomination and reconcile it to the weigh/count;

v. at the conclusion of the reconciliation, at least two count team members and the cage/vault employee shall sign the summary report attesting to its accuracy;

vi. the wrapped coins (exclusive of proper transfers) are transported to the cage, vault or coin vault after the reconciliation of the weigh/count to the wrap.

k. The count team shall compare the weigh/count to the wrap count daily. Variances of one percent (1%) or greater per denomination between the weigh/count and wrap shall be investigated by the accounting department on a daily basis. The results of such investigation shall be documented and maintained for five (5) years.

l. All slot count and wrap documentation, including any applicable computer storage media, is immediately delivered to the accounting department by other than the cashier's department. Alternatively, it may be adequately secured (e.g., locked container to which only accounting personnel can gain access) until retrieved by the accounting department.

m. Corrections on slot count documentation shall be made by crossing out the error, entering the correct figure, and then obtaining the initials of at least two count team employees. If a weigh scale interface is used, corrections to slot count data shall be made using either of the following:

i. crossing out the error on the slot document, entering the correct figure, and then obtaining the initials of at least two count team employees. If this procedure is used, an employee independent of the slot department and count team enters the correct figure into the computer system prior to the generation of a related slot report(s);

ii. during the count process, correct the error in the computer system and enter the passwords of at least two count team employees. If this procedure is used, an exception report is generated by the computer system identifying the slot machine number, the error, the correction and the count team employees testifying to the corrections.

n. At least three employees are present throughout the wrapping of the slot drop. If the slot count is conducted with

a continuous mechanical count meter which is not reset during the count and is verified in writing by at least three employees at the start and end of each denomination count, then this requirement is not applicable.

o. If the coins are not wrapped immediately after being weighed/counted, they are secured and not commingled with other coin. The term *wrapped slot drop* includes wrapped, bagged (with continuous metered verification), and racked coin/tokens.

p. If the coins are transported off the property, a second (alternative) count procedure must be performed before the coins leave the property, and any variances are documented.

L. Each hard count area shall be equipped with a weigh scale to weigh the contents of each slot drop bucket.

1. A weigh scale calibration module shall be secured so as to prevent unauthorized access and shall have the manufacturer's pre-numbered wire seal to preserve the integrity of the device. The manufacturer shall calibrate the weigh scale at a minimum of once per quarter. Someone independent of the cage, vault, slot and count team functions shall be required to be present whenever the calibration module is accessed. Such access shall be documented and maintained. The controller or his designee shall be the only persons with access to the weigh calibration keys.

2. If a weigh scale interface is used, it shall be adequately restricted so as to prevent unauthorized access.

3. If the weigh scale has a *zero adjustment mechanism*, it shall be either physically limited to minor adjustments or physically situated such that any unnecessary adjustments to it during the weigh process would be observed by other count team members.

4. The weigh scale and weigh scale interface shall be tested by the internal auditors or someone else who is independent of the cage, vault and slot departments and count team at least on a quarterly basis with the test results being documented.

5. During the slot count at least two employees shall verify the accuracy of the weigh scale with varying weights or with varying amounts of previously counted coin for each denomination to ensure the scale is properly calibrated.

6. The preceding weigh scale and weigh scale interface test results shall be documented and maintained.

7. If a mechanical coin counter is used (instead of a weigh scale), procedures equivalent to those described in §2723.L.4 and §2723.L.5 shall be utilized.

M. Each licensee shall maintain accurate and current records for each slot machine, including:

1. initial meter readings, both electronic and computerized, including coin in, coin out, drop, total jackpots paid, and games played for all machines. These readings shall be recorded prior to commencement of patron play for both new machines and machines changed in any manner other than changes in theoretical hold;

2. a report shall be produced at least monthly showing month-to-date and year-to-date actual hold percentage computations for individual machines and a comparison to each machine's theoretical hold percentage. If practicable, the report should include the actual hold percentage for the entire

time the machine has been in operation. Actual hold equals dollar amount of win divided by dollar amount of coin in;

a. on a quarterly basis, record the meters that indicate the total coins played and total number of plays;

b. on an annual basis, calculate the theoretical hold percentage based on the distribution of plays by wager type;

c. variances between theoretical hold and actual hold of greater than two percent (2%) shall be investigated, resolved and findings documented on an annual basis.

3. records for each machine which indicate the dates and type of changes made and the recalculation of theoretical hold as a result of the changes;

4. the date the machine was placed into service, the date the machine was removed from operation, the date the machine was placed back into operation, and any changes in machine numbers and designations;

5. system meter readings, recorded immediately prior to or subsequent to each slot drop. Electronic meter readings for coin-in, coin-out, drop and total jackpots paid shall be recorded at least once a month;

a. the employee who records the electronic meter reading shall be independent of the hard count team. Meter readings shall be randomly verified annually for all slot machines by someone other than the regular electronic meter reader;

b. upon receipt of the meter reading summary, the accounting department shall review all meter readings for reasonableness using pre-established parameters;

c. meter readings which do not appear reasonable shall be reviewed with slot department employees, and exceptions documented, so that meters can be repaired or clerical errors in the recording of meter readings can be corrected;

6. the statistical reports, which shall be reviewed by both slot department management and management employees independent of the slot department on a monthly basis;

7. theoretical hold worksheets, which shall be reviewed by both slot department management and management employees independent of the slot department semi-annually;

8. maintenance of the computerized slot monitoring system data files, which shall be performed by a department independent of the slot department. Alternatively, maintenance may be performed by slot supervisory employees if sufficient documentation is generated and it is randomly verified by employees independent of the slot department on a daily basis;

9. updates to the computerized slot monitoring systems to reflect additions, deletions or movements of slot machines, which shall be made immediately preceding the addition or deletion in conjunction with electronic meter readings and the weigh process.

N. When slot machines are removed from the floor, slot loads, including hopper fills, shall be dropped in the slot drop bucket and routed to the coin room for inclusion in the next hard count.

O. Keys to a slot machine's drop bucket cabinet shall be maintained by a department independent of the slot department. The issuance of slot machine drop bucket cabinet

keys shall be observed by security and a person independent of the slot drop team. Security shall accompany the key custodian and such keys and observe each time a slot machine drop cabinet is accessed unless surveillance is notified each time the keys are checked out and surveillance observes the person throughout the period the keys are checked out. Keys shall be logged out and logged in on a per shift basis. The employee who logs out the key shall be the employee who logs in the key. If a different employee logs in the key, surveillance shall be notified and surveillance shall monitor the entire log-in process including the return of the key to the key box. The video tape of the log-in process shall be retained for thirty (30) days.

P. Sensitive keys shall not be removed from the vessel unless to an extension of the vessel as previously approved by the Division. Access to the keys shall be documented on key access log forms.

1. The logs shall contain the date and time of issuance, the key or ring of keys issued, the printed name, signature and employee number of the person to whom the key is issued, the printed name, signature and employee number of the person issuing the key, the date and time of the key return and reason for access to the secure area. If key rings are used, there shall be a listing with the key log specifying each key on each ring. Accountability is required.

2. Keys shall be logged out and logged in per shift. The employee who logs out the key shall be the employee who logs in the key. If a different employee logs in the key, surveillance shall be notified and surveillance shall monitor the entire log-in process including the return of the key to the key box. The video tape of the log-in process shall be retained for thirty (30) days.

Q. Currency Acceptor Drop and Count Standards

1. Devices accepting U.S. currency for credit on, or change from, slot machines must provide a locked drop box whose contents are separately keyed from the drop bucket cabinet.

2. The currency acceptor drop box shall be removed by an employee independent of the slot department according to a schedule, submitted to the Division, setting forth the specific times for such drops. Emergency drops, including those for maintenance and repairs which require removal of the currency acceptor drop box, require written notification to the Division within 24 hours detailing date, time, machine number and reason. Prior to emptying or removing any currency acceptor drop box, the drop team shall notify security and surveillance that the drop is beginning.

3. The currency acceptor drop process shall be monitored in its entirety and videotaped by surveillance including transportation to the count room or other secured areas as approved by the Division. At least one surveillance employee shall monitor the drop process at all times. This employee shall record on the surveillance log the time that the drop begins and ends, as well as any exceptions or variations to established procedures observed during the drop, including each time the count room door is opened.

4. Each licensee shall submit its drop transportation route from the gaming area to the count room to the Division prior to implementing or changing the route. The drop team

shall not deviate from the submitted route without prior notification to the Division.

5. Drop team shall collect each currency acceptor drop box and ensure that the correct tag or number is affixed to each box.

6. Security shall be provided over the currency acceptor drop boxes removed from the electronic gaming devices prior to being transported to the count area.

7. Upon removal, the currency acceptor drop boxes shall be placed in a drop box storage rack and locked therein for transportation directly to the count area or other secure place approved by the Division and locked in a secure manner until the count takes place.

8. The transporting of currency acceptor drop boxes shall be performed by a minimum of two employees, at least one of whom shall be a security officer.

9. Once all currency acceptor drop boxes are collected, the drop team or security shall notify surveillance and other appropriate personnel that the drop has ended.

10. The currency acceptor count shall be performed in the soft count room. The currency acceptor count process shall be monitored at all times by at least one surveillance employee and shall be videotaped by surveillance. This employee shall record any exceptions or variations to established procedures observed during the count. If at any time visibility of count team's hands or other activity is obstructed, surveillance shall immediately notify count room employees.

11. The currency acceptor count shall be performed by a minimum of three employees consisting of a recorder, counter and verifier.

12. Currency acceptor count team members shall be rotated on a routine basis. Rotation shall be such that the count team shall not be the same three employees more than four days per week.

13. The currency acceptor count team shall be independent of transactions being reviewed and counted, and the subsequent accountability of currency drop proceeds.

14. Prior to each count, the count team shall verify the accuracy of the currency counter by performing a test count of at least one drop box. The test count shall be recorded and signed by at least two count team members.

15. The currency acceptor drop boxes shall be individually emptied and counted on the count room table.

16. As the contents of each box are counted and verified by the counting employees, the count shall be recorded on the count sheet in ink or other permanent form of recordation prior to commingling the funds with funds from other boxes.

17. Drop boxes, when empty, shall be shown to another member of the count team or to surveillance.

18. The count team shall compare a listing of currency acceptor drop boxes scheduled to be dropped to a listing of those drop boxes actually counted, to ensure that all drop boxes are accounted for during each drop period.

19. Corrections to information originally recorded by the count team on currency acceptor count documentation shall be made by crossing out the error, entering the correct figure, and then obtaining the initials of at least two count team members who verified the change.

20. After the count sheet has been reconciled to the currency, all members of the count team shall attest by signature to the accuracy of the currency acceptor drop count. Three verifying signatures on the count sheet shall be adequate if all additional count team employees sign a supplemental document evidencing their involvement in the count process.

21. All monies that were counted shall be turned over to the cage cashier (who shall be independent of the count team) or to an employee independent of the revenue generation and the count process for verification, who shall certify by signature as to the accuracy of the currency delivered and received.

22. Access to all drop boxes regardless of type, full or empty shall be restricted to authorized members of the drop and count teams.

23. Access to the soft count room and vault shall be restricted to members of the drop and count teams, agents of the Division, authorized observers as approved by the Division and supervisors for resolution of problems. Authorized maintenance personnel shall enter only when accompanied by security. A log shall be maintained in the soft count room and vault. The log shall contain the following information:

- a. name of each person entering the count room;
- b. reason each person entered the count room;
- c. date and time each person enters and exits the count room;
- d. date, time and type of any equipment malfunction in the count room; and
- e. a description of any unusual events occurring in the count room.

24. The count sheet, with all supporting documents, shall be promptly delivered to the accounting department by someone other than the cashiers department. Alternatively, it may be adequately secured (e.g., locked container to which only accounting personnel can gain access) until retrieved by the accounting department.

25. The physical custody of the keys needed for accessing full currency acceptor drop box contents shall be videotaped by surveillance at all times.

26. Currency acceptor drop box release keys are maintained by a department independent of the slot department. Only the employee authorized to remove drop boxes from the currency acceptor is allowed access to the release keys. (The count team members may have access to the release keys during the count in order to reset the drop boxes if necessary.) Employees authorized to drop the currency acceptor drop boxes are precluded from having access to drop box contents keys.

27. An employee independent of the slot department shall be required to accompany the currency acceptor drop box storage rack keys and observe each time drop boxes are removed from or placed in storage racks. Employees authorized to obtain drop box storage rack keys shall be precluded from having access to drop box contents keys (with the exception of the count team).

28. Only count team members shall be allowed access to drop box contents keys. This standard does not affect

emergency situations which require currency acceptor drop box access at other than scheduled count times. At least three employees from separate departments, including management, shall participate in these situations. The reason for access shall be documented with the signatures of all participants and observers.

29. The issuance of soft count room and other count keys, including but not limited to acceptor drop box contents keys, shall be witnessed by two gaming employees, who shall be from different departments. Neither of these two employees shall be members of the count team. Keys shall be logged out and logged in on a per shift basis. The employee who logs out the key shall be the employee who logs in the key. If a different employee logs in the key, surveillance shall be notified and surveillance shall monitor the entire log-in process including the return of the key to the key box. The videotape of the log-in process shall be retained for thirty (30) days.

30. Duplicate keys shall be maintained and issued in such a manner as to provide the same degree of control over drop boxes as is required for the original keys.

31. Sensitive keys shall not be removed from the vessel unless to an extension of the vessel as previously approved by the Division and access to the keys shall be documented on key access log forms.

a. The logs shall contain the date and time of issuance, the key or ring of keys issued, the printed name, signature and employee number of the person to whom the key is issued, the printed name, signature and employee number of the person issuing the key, the date and time of the key return and reason for access to the secure area. If key rings are used, there shall be a listing with the key log specifying each key on each ring. Accountability is required.

b. Keys shall be logged out and logged in on a per shift basis. The employee who logs out the key shall be the employee who logs in the key. If a different employee logs in the key, surveillance shall be notified and surveillance shall monitor the entire log-in process including the return of the key to the key box. The video tape of the log-in process shall be retained for thirty (30) days.

R. Computer Records. At a minimum, the licensee shall generate, review, date, initial, and maintain slot reports on a daily basis for the respective system(s) utilized in their operation as prescribed by the Division.

S. Management Information Systems (MIS) Functions

1. Backup and Recovery

a. MIS shall perform tape backup of system data daily. Backup and recovery procedures shall be written and distributed to all applicable personnel. These policies shall include information and procedures (e.g., a description of the system, systems manual, etc.) that ensure the timely restoration of data in order to resume operations after a hardware or software failure.

b. MIS shall maintain either hard or disk copies of system generated edit reports, exception reports and transaction logs.

2. Software/Hardware

a. MIS shall maintain a personnel access listing which includes, at a minimum the employee's name, position,

identification number, and a list of functions the employee is authorized to perform including the date authorization is granted. These files shall be updated as employees or the functions they perform change.

b. MIS shall print and review the computer security access report at the end of each shift. Discrepancies shall be investigated, documented and maintained for five (5) years.

c. Only authorized personnel shall have physical access to the computer software/hardware.

d. All changes to the system and the name of the individual who made the change shall be documented on a log.

e. Reports and other output generated by the system shall only be available and distributed to authorized personnel.

3. Application Controls

a. Application controls shall include procedures that prove assurance of the accuracy of the data input, the integrity of the processing performed, and the verification and distribution of the output generated by the system. Examples of these controls include:

i. proper authorization prior to data input (e.g. passwords);

ii. use of parameters or reasonableness checks; and

iii. use of control totals on reports and comparison of them to amounts input.

b. Documents created from the above procedures shall be maintained for five (5) years.

T. The accounting department shall perform the following audit procedures relative to slot operations:

1. collect jackpot and hopper fill slips (computerized and manual) daily from the locked Accounting box and the cashier cage;

2. review jackpot/fill slips daily for continuous sequence. Ensure that proper procedures were used to void slips. Investigate all missing slips and errors within ten (10) days. Document the investigation and retain the results for a minimum of five (5) years;

3. manually add, on a daily basis, all jackpot/fill slips and trace the totals from the slips to the system generated totals. Document all variances and retain documentation for five (5) years;

4. collect the hard count and currency acceptor count results from the count teams and compare the actual count to the system-generated meter reports on a daily basis;

5. prepare reports of their daily comparisons by device, by denomination and in total of the actual count for hard and soft count to system-generated totals. Report variance(s) to the slot department for investigation. Maintain a copy of these reports five (5) years;

6. compare a listing of slot machine numbers scheduled to be dropped to a listing of slot machine numbers actually counted to ensure that all drop buckets and currency acceptors are accounted for during each drop period;

7. investigate any variance of one percent (1%) or more per denomination between the weigh/count and wrap immediately. Document and maintain the results of such investigation for five (5) years;

8. compare ten percent (10%) of jackpot/hopper fill slips to signature cards for proper signatures one day each month;

9. compare the weigh tape to the system-generated weigh, as recorded in the slot statistical report, in total for at least one drop period per month. Resolve discrepancies prior to generation/distribution of slot reports to management;

10. review the weigh scale tape of one gaming day per quarter to ensure that:

a. all electronic gaming device numbers were properly included;

b. only valid identification numbers were accepted;

c. all errors were followed up and properly documented (if applicable);

d. the weigh scale correctly calculated the dollar value of coins; and

e. all discrepancies are documented and maintained for a minimum of five (5) years;

11. verify the continuing accuracy of the coin-in meter readings as recorded in the slot statistical report at least monthly;

12. compare the *bill-in* meter reading to the currency acceptor drop amount at least monthly. Discrepancies shall be resolved prior to generation/distribution of slot statistical reports to management;

13. maintain a personnel access listing for all computerized slot systems which includes at a minimum:

a. employee name;

b. employee identification number (or equivalent); and

c. listing of functions employee can perform or equivalent means of identifying same;

14. review Sensitive Key Logs. Investigate and document any omissions and any instances in which these keys are not signed out and signed in by the same individual, on a monthly basis;

15. review exceptions, jackpot overrides, and verification reports for all computerized slot systems, including tokens, coins and currency acceptors, on a daily basis for propriety of transactions and unusual occurrences. These exception reports shall include the following:

a. cash variance which compares actual cash to metered cash by machine, by denomination and in total;

b. drop comparison which compares the drop meter to weigh scale by machine, by denomination and in total;

c. Variance Reports listing differences between manual soft meter readings and system-generated meter readings. Variances should be calculated by machine, by denomination and in total. Totals must be reported for the Coin-in, Coin-out, Coin-Drop and Jackpot meters. All significant (greater than 1%) variances shall be communicated to the slot department for investigation. The investigation shall be documented and retained for five (5) years. Variance reports shall include, at a minimum, the following:

i. the date of the meter reading;

ii. the date the report was filed;

iii. the machine number;

iv. items of comparison;

- v. the amount of the variance, by denomination;
- vi. an indication as to the cause of the variance; and
- vii. the signature and permit number of the preparer.

U. Slot Department Requirements

1. The slot booths, change banks, and change banks incorporated in beverage bars (bar banks) shall be counted down and reconciled each shift utilizing appropriate accountability documentation.

2. The wrapping of loose slot booth and cashier cage coin shall be performed at a time or location that does not interfere with the hard count/wrap process or the accountability of that process.

3. A record shall be maintained evidencing the transfers of unwrapped coin.

4. Slot booth, change bank, and bar bank token and chip storage cabinets/drawers shall be constructed to provide maximum security of the chips and tokens.

5. Each cabinet shall have a separate lock and shall be keyed differently.

6. Slot booth, change bank, and bar bank cabinet/drawer keys shall be maintained by the supervisor and issued to the Change employee assigned to sell chips and tokens. Issuance of these keys shall be evidenced by a key log, which shall be signed by the Change employee to whom the key is issued. All slot booth, change bank, and bar bank keys shall be returned to the supervisor at the end of each shift. The return of these keys shall be evidenced on the key log, which shall be signed by the Change employee to whom the key was previously issued. The key log shall include:

- a. the Change employee's employee number and signature;
- b. the date and time the key is signed out; and
- c. the date and time the key is returned.

7. At the end of each shift, the outgoing and incoming Change employee shall count the bank. The outgoing employee shall fill out a Count Sheet, which shall include opening and closing inventories listing all currency, coin, tokens, chips and other supporting documentation. The Count Sheet shall be signed by both employees once total closing inventory is agreed to the total opening inventory.

8. In the event there is no incoming Change employee, the supervisor shall count and verify the closing inventory of the slot booth/change bank/bar bank.

9. Increases and decreases to the Slot booths, change banks, and bar banks shall be supported by written documentation signed by the cage cashier and the slot booth/change bank/bar bank employee.

10. The Slot Department shall maintain a log of system related problems (i.e. system failures, extreme values for no apparent reason, problem with data collection units, etc.) and note follow-up procedures performed. The log shall include at a minimum:

- a. date the problem was identified;
- b. description of the problem;
- c. name and position of person who identified the problem;
- d. name and position of person(s) performing the follow up;

- e. date the problem was corrected; and
- f. how the problem was corrected.

11. The Slot Department shall investigate all meter variances received from Accounting. Copies of these results shall be retained by both departments.

V. Progressive Slot Machines

1. Individual Progressive Slot Machine Controls.

a. Individual slot machines shall have seven meters, including a Coin-in meter, drop meter, jackpot meter, win meter, manual jackpot meter, progressive manual jackpot meter and a progressive meter.

2. Link Progressive Slot Machine Controls

a. Each machine in the link group shall be the same denomination and have the same probability of hitting the combination that will award the progressive jackpot as every other machine in the group.

b. Each machine shall require the same number of tokens be inserted to entitle the player to a chance at winning the progressive jackpot and every token shall increment the meter by the same rate of progression as every other machine in the group.

c. When a progressive jackpot is hit on a machine in the group, all other machines shall be locked out, except if an individual progressive meter unit is visible from the front of the machine. In that case, the progressive control unit shall lock out only the machine in the progressive link that hit the jackpot. All other progressive meters shall show the current *current progressive jackpot amount*.

3. Each licensee shall submit to the Division detailed internal control procedures relative to progressive slot machines that incorporate the following, at a minimum:

a. defined jackpots that are to be paid by the casino and those paid from contributions to the multi-link vendor;

b. a schedule for the remittance of location contributions to the multi-link vendor;

c. a defined time period for receipt of contribution reports from the multi-link vendor;

d. contribution reports shall specifically identify the total amount of the licensee's contributions that can be deducted from the gross drop reported to the Division for progressive jackpot(s) that are hit during the reporting period. The licensee's contributions shall not be reported to the Division upon payout. Licensee's shall take their deductions, which are specified on the primary and secondary contribution reports from the manufacturer, on the fifteenth (15th) of every month for the previous month's jackpots;

e. detailed jackpot payout procedures for all types of jackpots;

f. service and maintenance parameters as set forth in contractual agreements between the licensee and the multi-link vendor.

W. Training

1. All personnel responsible for slot machine operation and related computer functions shall be adequately trained by the manufacturer or its representative before they shall be allowed to perform maintenance or computerized functions.

2. The training shall be documented by requiring personnel to sign a roster provided by the manufacturer or its representative during the training session(s).

3. Each licensee shall have a designated instructor responsible for training additional personnel during the interim period between training by the manufacturer. The designated instructor shall meet the following requirements:

- a. shall be a full-time employee of the licensee; and
- b. shall be certified as an instructor by the manufacturer and/or its representative.

4. The licensee shall have a continuing obligation to secure additional training whenever necessary to ensure that all new employees receive adequate training before they are allowed to conduct maintenance or computerized functions.

5. The licensee shall secure a minimum of one training session every six (6) months for each employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2725. Internal Controls; Poker

A. Supervision shall be provided during all poker games by personnel with authority equal to or greater than those employees conducting the games.

B. Poker area transfers between table banks and the poker bank or casino cage must be authorized by a gaming supervisor and evidenced by the use of a lammer button or other means approved by the Division. Such transfers shall be verified by the poker area dealer and the runner. A lammer is not required if the exchange of chips, tokens, and/or currency takes place at the table.

C. The amount of the main poker area bank shall be counted, recorded and reconciled on a shift basis by two gaming supervisors, who shall attest to the amount counted by signing the check-out form.

D. At least once per gaming day the table banks shall be counted by a dealer and a gaming supervisor or two gaming supervisors and shall be attested to by signatures of those two employees on the check-out form. The count shall be recorded and reconciled at least once per day.

E. The procedure for the collection of poker drop boxes and the count of the contents thereof shall comply with the internal control standards applicable to the table game drop boxes.

F. Playing cards, both used and unused, shall be maintained in a secure location to prevent unauthorized access and reduce the possibility of tampering.

G. Any computer application(s) that provide internal controls comparable to that contained in this Section may be acceptable upon Division approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2727. Race Book

A. - NN. ...

OO. The book's computerized summary of events/results report shall be traced to an independent source for five (5)

percent of all races to verify the accuracy of starting times (if available from an independent source) and final results.

PP. - UU. ...

VV. The results of such investigations shall be documented in writing and maintained for at least five (5) years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2729. Internal Controls; Cage, Vault and Credit

A. Each licensee shall have a main bank which will serve as the financial consolidation of transactions relating to all gaming activity. Individuals accessing casino cages who are not employees assigned to cage areas shall sign a log maintained in each of these areas:

1. name of each person entering the cage;
2. reason each person entered the cage;
3. date and time each person enters and exits the cage;
4. date, time and type of any equipment malfunction in the cage; and
5. a description of any unusual events occurring in the cage.

B. All transactions that flow through the casino cage shall be summarized on a cage accountability form on a per shift basis and signed by the off-going and on-coming cashier. All variances, if any, shall be investigated and the results maintained for five (5) years.

C. ...

D. The cage, cage windows and vault including the coin room inventories shall be counted by outgoing and incoming cashiers and recorded at the end of each shift during which any activity took place, or at least once per gaming day. This documentation shall be signed by each person who counted the inventory. In the event there is a variance which cannot be resolved, a supervisor shall verify/sign the documentation.

E. All vaults shall be equipped with an alarm mechanism that alerts either security or surveillance any time the vault door is opened. This alarm shall be approved by the Division.

F. All net changes in outstanding casino receivables shall be summarized on a cage accountability form or similar document on a daily basis.

G. Such information shall be summarized and posted to the accounting records at least monthly.

H. All cage paperwork shall be transported to accounting by an employee independent of the cage.

I. All cashier tips shall be placed in a transparent locked box located inside the cage and shall not be commingled with cage inventory.

J. A licensee shall be permitted to issue credit in its gaming operation.

K. Prior to the issuance of gaming credit to a player, the employee extending the credit shall determine if credit is available by entering the patron's name or account number into the computer. A password shall be used to access such information. Once availability is established, credit shall be extended only to the balance. If a manual system is used, the

employee extending the credit shall, prior to the issuance of gaming credit to a player, contact the cashier or other independent source to determine if the player's credit limit has been properly established and remaining credit available is sufficient for the advance.

L. Proper authorization of credit extension in excess of the previously established limit shall be documented.

M. Each licensee shall document, prior to extending credit, that it:

1. received information from a bona fide credit-reporting agency that the patron has an established credit history that is not entirely derogatory; or

2. received information from a legal business that has extended credit to the patron that the patron has an established credit history that is not entirely derogatory; or

3. received information from a financial institution at which the patron maintains an account that the patron has an established credit history that is not entirely derogatory; or

4. examined records of its previous credit transactions with the patron showing that the patron has paid substantially all of his credit instruments and otherwise documents that it has a reasonable basis for placing the amount or sum placed at the patron's disposal; or

5. informed by another licensee that extended gaming credit to the patron that the patron has previously paid substantially all of the debt to the other licensee and the licensee otherwise documents that it has a reasonable basis for placing the amount or sum placed at the patron's disposal; or

6. if no credit information is available from any of the sources listed in Paragraphs 1-5 for a patron who is not a resident of the United States, the licensee shall receive in writing, information from an agent or employee of the licensee who has personal knowledge of the patron's credit reputation or financial resources that there is a reasonable basis for extending credit in the amount or sum placed at the patron's disposal;

7. In the case of personal checks, examine and record the patron's valid driver's license or, if a driver's license cannot be obtained, some other document normally acceptable as a means of identification when cashing checks, and record a bank check guarantee card number or credit card number or document one of the credit checks set forth in Paragraphs 1-6.

N. In the case of third party checks for which cash, chips, or tokens have been issued to the patron or which were accepted in payment of another credit instrument, the licensee shall examine and record the patron's valid driver's license, or if a driver's license cannot be obtained, some other document normally acceptable as a means of identification when cashing checks and, for the check's maker or drawer, perform and document one of the credit procedures set forth in Subsection M.

O. The following information shall be recorded for patrons who will have credit limits or are issued credit in an amount greater than \$1,000 excluding, cashier's checks and traveler's checks:

1. patron's name, current address, and signature;
2. identification verifications, including social security number or passport number if patron is a nonresident alien;
3. authorized credit limit;

4. documentation of authorization by an individual designated by management to approve credit limits;

5. credit issuances and payments.

P. Prior to extending credit, the patron's credit application, and/or other documentation shall be examined to determine the following:

1. properly authorized credit limit;

2. whether remaining credit is sufficient to cover the advance;

3. identity of the patron;

4. credit extensions over a specified dollar amount shall be authorized by personnel designated by management;

5. proper authorization of credit extension over ten (10%) percent of the previously established limit or \$1,000, whichever is greater shall be documented;

6. if cage credit is extended to a single patron in an amount exceeding \$2,500, applicable gaming personnel shall be notified on a timely basis of the patrons playing on cage credit, the applicable amount of credit issued, and the available balance.

Q. The following information shall be maintained either manually or in the computer system for cage-issued markers:

1. the signature or initials of the individual(s) approving the extension of credit (unless such information is contained elsewhere for each issuance);

2. the name of the individual receiving the credit;

3. the date and shift granting the credit;

4. the amount of credit issued;

5. the marker number;

6. the amount of credit remaining after each issuance or the total credit available for all issuances;

7. the amount of payment received and nature of settlement (e.g., credit slip number, cash, chips, etc.); and

8. the signature or initials of the individual receiving payment/settlement.

R. The marker slip shall, at a minimum, be in triplicate form, pre-numbered by the printer, and utilized in numerical sequence whether marker forms are manual or computer-generated. Manual markers may be issued in numerical sequence by location. The three parts shall be utilized as follows:

1. original—maintained in the cage until settled;

2. payment slip—maintained until the marker is paid;

3. issue slip—maintained in the cage, until forwarded to accounting.

S. The original marker shall contain at least the following information:

1. patron's name and signature;

2. preprinted number;

3. date of issuance;

4. amount of credit issued; and

5. signature or initials of the individual approving the credit extension.

T. The issue slip or stub shall include the same preprinted number as the original, date and time of issuance, and amount of credit issued. The issue slip or stub also shall include the signature of the individual extending the credit, unless this information is included on another document verifying the issued marker.

U. The payment slip shall include the same preprinted number as the original. When the marker is paid in full, it shall also include, date and time of payment, nature of settlement (cash, chips, etc.) and amount of payment. The payment slip shall also include the signature of the cashier receiving the payment, unless this information is included on another document verifying the payment of the marker.

V. Marker log documentation shall be maintained by numerical sequence, indicating marker number, name of patron, date marker issued, date paid, method of payment (if combination, i.e. chips/cash, amount paid by each method), and amount of credit remaining. This marker log documentation shall also be maintained by patron name in alphabetic sequence in order to determine that credit was not extended beyond thirty (30) days.

W. Markers (computer-generated and manual) that are voided shall be clearly marked *Void* across the face of all copies. The cashier and supervisor shall print their employee numbers and sign their names on the voided marker. The supervisor who approves the void shall print or stamp the date and time the void is approved. A brief statement of why the void was necessary shall be written on the face of all copies. All copies of the voided marker shall be forwarded to accounting for accountability and retention on a daily basis.

X. All portions of markers, both issued and unissued, shall be safeguarded and procedures shall be employed to control the distribution, use and access to the forms.

Y. An investigation shall be performed, by the accounting department, immediately following its notice of missing forms or any part thereof, to determine the cause and responsibility for loss whenever marker credit slips, or any part thereof, are missing, and the result of the investigation shall be documented, by the accounting department. The Division shall be notified in writing of the loss, disappearance or failure to account for marker forms within ten (10) days of such occurrence.

Z. All payments received on outstanding credit instruments shall be permanently recorded on the licensee's records.

AA. When partial payments are made on a marker, a new marker shall be completed reflecting the original date, remaining balance, and number of the originally issued marker.

BB. Personal checks or cashier's checks shall be cashed at the cage cashier and subjected to the following procedures:

1. examine and record at least one item of patron identification such as a driver's license, etc;
2. record a social security number on all check transactions including third party checks, and cashier's checks.

CC. When travelers checks are presented:

1. the cashier must comply with examination and documentation procedures as required by the issuer;
2. checks in excess of \$100 shall not be cashed unless the requirements of §2729.BB are met.

DD. The routing procedures for payments by mail require that they shall be received by a department independent of credit instrument custody and collection.

EE. Receipts by mail shall be documented on a listing indicating the following:

1. customer's name;
2. amount of payment;
3. type of payment if other than a check;
4. date payment received; and
5. the total amount of the listing of mail receipts shall be reconciled with the total mail receipts recorded on the appropriate accountability by the accounting department on a random basis for at least three days per month.

FF. Access to the credit information shall be restricted to those positions which require access and are so authorized by management. This access shall be noted in the appropriate job descriptions pursuant to §2715.B.2.

GG. Access to outstanding credit instruments shall be restricted to persons authorized by management and shall be noted in the appropriate job descriptions pursuant to §2715.B.2.

HH. Access to written-off credit instruments shall further be restricted to individuals specified by management and shall be noted in the appropriate job descriptions pursuant to §2715.B.2.

II. All extensions of pit credit transferred to the cage and subsequent payments shall be documented on a credit instrument control form.

JJ. Records of all correspondence, transfers to and from outside agencies, and other documents related to issued credit instruments shall be maintained.

KK. Written-off credit instruments shall be authorized in writing. Such authorizations are made by at least two management officials which must be from a department independent of the credit transaction.

LL. If outstanding credit instruments are transferred to outside offices, collection agencies or other collection representatives, a copy of the credit instrument and a receipt from the collection representative shall be obtained and maintained until such time as the credit instrument is returned or payment is received. A detailed listing shall be maintained to document all outstanding credit instruments which have been transferred to other offices. The listing shall be prepared or reviewed by an individual independent of credit transactions and collections thereon.

MM. The receipt or disbursement of front money or a customer cash deposit shall be evidenced by at least a two-part document with one copy going to the customer and one copy remaining in the cage file.

1. The multi-part form shall contain the following information:
 - a. same preprinted number on all copies;
 - b. customer's name and signature;
 - c. date of receipt and disbursement;
 - d. dollar amount of deposit;
 - e. type of deposit (cash, check, chips).
2. Procedures shall be established to:
 - a. maintain a detailed record by patron name and date of all funds on deposit;
 - b. maintain a current balance of all customer cash deposits which are in the cage/vault inventory or accountability;
 - c. reconcile this current balance with the deposits and withdrawals at least daily.

NN. The trial balance of casino accounts receivable shall be reconciled to the general ledger at least quarterly.

OO. An employee independent of the cage, credit, and collection functions shall perform all of the following at least three (3) times per year:

1. ascertain compliance with credit limits and other established credit issuance procedures;
2. randomly reconcile outstanding balances of both active and inactive accounts on the listing to individual credit records and physical instruments;
3. examine credit records to determine that appropriate collection efforts are being made and payments are being properly recorded;
4. for a minimum of five (5) days per month partial payment receipts shall be subsequently reconciled to the total payments recorded by the cage for the day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2730. Exchange of Tokens and Chips

A. A licensee may exchange a patron's tokens and chips issued by another licensee only for its own tokens and chips. A licensee shall not exchange tokens and chips issued by another licensee for cash. A licensee shall document the exchange in a manner approved by the Division.

B. The exchange shall occur at a single casino cage designated by the licensee in its internal controls and approved by the Division.

C. ...

D. All tokens and chips received by a licensee as a result of an exchange authorized by this Section shall be returned to the issuing licensee for redemption within thirty (30) days of the date the tokens or chips were received as part of an exchange unless the Division approves otherwise in writing. Both licensees shall document the redemption in a manner approved by the Division.

E. A licensee shall not accept tokens or chips issued by another licensee in any manner other than authorized in this Section. A licensee shall not knowingly accept as a wager any token or chip issued by another licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2731. Currency Transaction Reporting

A. - D. ...

E. For each required Currency Transaction Report, a clear surveillance photograph of the patron shall be taken and attached to the licensee's copy of the Currency Transaction Report. The employee consummating the transaction shall be responsible for contacting the surveillance department employee. If a clear photograph cannot be taken at the time of the transaction, a file photograph of the patron may be used to supplement the required photograph taken. The licensee shall

maintain and make available for inspection all copies of Currency Transaction Reports, with the attached photographs, for a period of five (5) years.

F. One (1) legible copy of all Currency Transaction Reports for Casinos filed with the Internal Revenue Service shall be forwarded to the Division's Audit Section by the fifteenth (15th) day after the date of the transaction.

G. ...

H. The information required to be gathered by this Section shall be obtained from the individual on whose behalf the transaction is conducted, if other than the patron.

I. If a patron is unable or unwilling to provide any of the information required for currency transaction reporting, the transaction shall be terminated until such time that the required information is provided.

J. A transaction shall not be completed if it is known that the patron is seeking to avoid compliance with currency transaction requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2735. Net Gaming Proceeds Computations

A. ...

B. For each slot machine, net gaming proceeds shall equal drops less fills to the machine and jackpot payouts, plus or minus the token float adjustment. The first step in the calculation of the token float adjustment shall be the daily token float calculation which shall be the total tokens received to date (i.e., the initial tokens received from vendors plus all subsequent shipments of tokens received) less the total day's token count (i.e., tokens in the hard count room plus tokens in the vault, cage drawers, change lockers, tokens in other locations and initial tokens in hoppers). The daily ending inventory token count shall at no time exceed the total amount of tokens in the total casino token accountability. Foreign tokens and slugs do not constitute a part of token inventory. If at any time the calculated daily token float is less than zero, the licensee shall adjust to reflect a zero current day token float. The initial hopper load is not a fill and does not affect gross revenue. Since actual hopper token counts from all machines are not feasible, estimates of the token float adjustment shall be done daily based on the assumption that the hoppers will maintain the same balance as the initial hopper fill. Once a year, a statistical sample of the hoppers will be inventoried for the purpose of calculating the token float. This should be performed during the annual audit so that the external auditors can observe the test performance results. Therefore, once per year, the token float adjustment shall be based upon a physical count of tokens.

C. ...

D. If in any day the amount of net gaming proceeds is less than zero, the licensee may deduct the excess in the succeeding days, until the loss is fully offset against net gaming proceeds.

E. Slot machine meter readings from the drop process shall not be utilized to calculate net gaming proceeds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2736. Treatment of Credit for Computing Net Gaming Proceeds

A. Net gaming proceeds shall not include credit extended or collected by the licensee for purposes other than gaming. Net gaming proceeds shall include the amount of gaming credit extended to a patron when wagered.

B. Each licensee shall include in net gaming proceeds all or any portion of an unpaid balance on any credit instrument if the original credit instrument or a substituted credit instrument is not available to support the outstanding balance.

C. A licensee shall include in net gaming proceeds the unpaid balance of a credit instrument even if the licensee eventually settles the debt for less than its full amount. The settlement shall be authorized by a person designated to do so in the licensee's system of internal control, and a settlement agreement shall be prepared within ten (10) days of the settlement and the agreement shall include:

1. the patron's name;
2. the original amount of the credit instrument;
3. the amount of the settlement stated in words;
4. the date of the agreement;
5. the reason for the settlement;
6. the signatures of the licensee's employees who authorized the settlement; and
7. the patron's signature or in cases which the patron's signature is not on the settlement agreement, documentation which supports the licensee's attempt to obtain the patron's signature.

D. A licensee shall include in net gaming proceeds all money, and the net fair market value of property or services received by the licensee in payment of credit instruments unless the full dollar amount of the credit instrument was previously included in the calculation of net gaming proceeds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2737. Reserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2739. Extension of Time for Reporting

A. The Division in its sole and absolute discretion, may extend the time for filing any report or document required by this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2741. Petitions for Redetermination; Procedures

A. A licensee filing a petition for redetermination with the Board shall serve a copy of the petition on the Division.

B. A licensee shall, within thirty (30) days after the petition is filed:

1. pay all fees, penalties, or interest not disputed in the petition and submit a schedule to the Division that contains its calculation of the interest due on non-disputed assessments;
2. file with the Board a memorandum of points and authorities in support of a redetermination, and serve a copy of the memorandum on the Division;
3. file with the Board a certification that it has complied with the requirements of Paragraphs 1 and 2.

C. The Division shall, within thirty (30) days after service of the licensee's memorandum, file a memorandum of points and authorities in opposition to the licensee's petition and shall serve a copy on the licensee. The licensee may, within fifteen (15) days after service of the Division's memorandum, file a reply memorandum.

D. The Division and the licensee may stipulate to extend the time periods specified in this Section if their stipulation to that effect is filed with the Board before the expiration of the pertinent time period. The Board chairman may extend the time periods specified in this Section upon motion and for good cause shown.

E. The Board may, at its discretion, deny a petition for determination if the licensee fails to comply with the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2743. Claims for Refunds; Procedures

A. A licensee filing a claim for refund with the Board shall serve a copy of the claim on the Division.

B. A licensee shall, within thirty (30) days after the claim is filed, file with the Board a memorandum of points and authorities in support of the claim, setting forth the legal basis and the licensee's calculations of the amount of the refund and any interest due thereon, and serve a copy of the memorandum on the Division, and file with the Board a certification that it has complied with the requirements of this Subsection.

C. The Division shall, within thirty (30) days after service of the licensee's memorandum, file a memorandum of points and authorities in opposition to the licensee's claim and shall serve a copy on the licensee. The licensee may, within fifteen (15) days after service of the Division's memorandum, file a reply memorandum.

D. The Division and the licensee may stipulate to extend the time periods specified in this Section if their stipulation to that effect is filed with the Board before the expiration of the

pertinent time period. The Board chairman may extend the time periods specified in this Section upon motion and for good cause shown.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

- §2744. Reserved.
- §2745. Reserved.
- §2747. Reserved.

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone number (225) 342-2465, and may submit written comments relative to those proposed rules, through March 12, 1999 to 339 Florida Street, Suite 500, Baton Rouge, Louisiana 70801.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Accounting Regulations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs to state or local government units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There may be a very minor revenue effect on State Government if penalties are not levied.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There may be a very minor cost involved in response to the change of rule 2701 to the Louisiana Riverboat Licensees if late penalties are levied.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
9902#048

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Office of Alcohol and Tobacco Control**

Responsible Vendor Program—Vendors
(LAC 55:VII.505)

Under the authority of R.S. 26:933 et seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol

and Tobacco Control, proposes to amend LAC 55:VII.505 to increase the annual fee from \$35 to \$50 for each licensed establishment holding a Class A-General, Class A-Restaurant, or Class B-Retail alcoholic beverage permit issued under R.S. 26:71 or R.S. 26:271.

Act 1054 of the 1997 Regular Session of the Louisiana Legislature enacted R.S. 26:931 et seq., to establish the Responsible Vendor Program to educate vendors, their employees and customers about selling, serving, and consuming alcoholic beverages in a responsible manner. LAC 55:VII.501, adopted April 1998, implemented assessment of an annual \$35 fee for all new and renewal permits for licensed establishments holding Class "A" General, Class "A" Restaurant, or a Class "B" Retail Alcoholic Beverage Control Permits issued under R.S. 26:71 or R.S. 26:271 to fund administration of the Responsible Vendor Program. LAC 55:VII.501 was amended in October 1998 to include additional sections and moved the annual fee to LAC 55:VII.505.A.4.

Section 936 of Title 26 provides for a fee, not to exceed \$50 per licensed establishment, to fund the costs of developing and administering the Responsible Vendor Program. The purpose of this amendment is to increase the fee currently set at \$35 to \$50. This increase will fund the development of a telecommunication system, which will enable beverage alcohol retailers to phone in to the Office of Alcohol and Tobacco Control and conduct a license check for certified servers and sellers of alcohol products. This system will need to be installed, training conducted, an awareness campaign initiated, and policies designed for Responsible Vendor personnel. This fee increase will also help to broaden awareness of the Responsible Vendor Program via our Internet website.

**Title 55
PUBLIC SAFETY**

**Part VII. Alcohol and Tobacco Control
Chapter 5. Responsible Vendor Program
§505. Vendors**

A. Certification and Enrollment as a Responsible Vendor
* * *

4. The vendor shall pay an annual fee of \$50 per licensed establishment holding a Class A-General, Class A-Restaurant, or Class B retail permit for the purpose of funding development and administration of the Responsible Vendor Program.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1949 (October 1998), amended LR 25:

Interested persons may submit data, views, or arguments, in writing to Murphy J. Painter, Commissioner of the Office of Alcohol and Tobacco Control, Department of Revenue, P.O. Box 66404, Baton Rouge, LA 70896 or by fax to (225) 925-3975. All comments must be submitted by 4:30 p.m., Monday, March 29, 1999. A public hearing will be held on Tuesday, March 30, 1999, at 1:00 p.m. in the 6th Floor Conference Room, 1885 Wooddale Boulevard, Baton Rouge, Louisiana.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Responsible Vendor Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The \$35 annual fee paid by licensed establishments holding Class A-General, Class A-Restaurant, or Class B-Retail Alcoholic Beverage Control Permits issued under R.S. 26:71 or R.S. 26:271 was originally imposed under LAC 55:VII.501 adopted April 1998. In October 1998 the regulation was amended and Section 501 was renumbered as Section 505.

This proposal, which amends Section 505, increases the yearly \$35 fee to \$50. This increase is needed to fund costs for the development of an automated telecommunication system, which will enable beverage alcohol retailers to phone the Office of Alcohol and Tobacco Control and check licenses for certified servers and sellers of alcohol products. The additional funds will also be used to broaden awareness of the Responsible Vendor Program via the Internet website.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of this amendment will increase the Office of Alcohol and Tobacco Control's funds by \$195,000 annually. This estimate is based on 13,000 licensed establishments holding Class A-General, Class A-Restaurant, or Class B-Retail alcoholic beverage permits paying an additional \$15 annually.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Adoption of this amendment will require the estimated 13,000 licensed established holding Class A-General, Class A-Restaurant, or Class B-Retail Alcoholic Beverage Control Permits issued under R.S. 26:71 or R.S. 26:271 to pay an additional \$15 annually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption of this amendment should have no impact on competition or employment.

Murphy J. Painter
Commissioner
9902#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Corporation Income and Franchise Taxes Division**

Employer Tax Credits (LAC 61:I.1901)

Under the authority of R.S. 47:6012 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., The Department of Revenue, Corporation Income and Franchise Taxes Division, in consultation with the Department of Labor, proposes to adopt LAC 61:I.1901, to provide for administration of the employer tax credits for donating certain materials, equipment, or instructors to certain training programs or schools.

Act 30 of the 1998 Regular Session of the Louisiana Legislature enacted R.S. 47:6012 to provide for employer tax credits for donations of materials, equipment, or instructors to certain public training programs, vocational-technical schools,

apprenticeship programs, or community colleges to assist in the development of training programs designed to meet industry needs. Revised Statute 47:6012(C) requires the Department of Revenue, in consultation with the Department of Labor, to adopt regulations to define terms and establish criteria for determining eligible public training providers and specify the maximum allowable tax credit.

Title 61

REVENUE AND TAXATION

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

Chapter 19. Miscellaneous Tax Exemptions

**§1901. Employer Tax Credits for Donations of
Materials, Equipment, or Instructors to Certain
Training Programs or Schools**

A. Definitions

Department—the Department of Revenue.

Employer—an entity authorized to do business in the State of Louisiana that employs one or more individuals performing services on its behalf.

Instructor—an individual qualified, as determined by the training institution, to provide educational or instructional services designed to furnish technical knowledge to persons enrolled in a training program when the instructor's time or salary are donated by an employer.

a. The donation of an instructor's time is when the instructor, while on the payroll of the donating employer, is allowed to spend a portion or all of a work day providing instructional services either on the premises of the training institution or on the employer's premises, when approved by the training institution as part of the training curriculum.

b. The donation of an instructor's salary is when the funds for the salary of an instructor, who is an employee and on the payroll of the training institution, are provided by the donating employer.

Latest Technology Available in Materials and Equipment—machinery and equipment that:

a. has never been used except for normal testing by the manufacturer to ensure that the machinery or equipment is of proper quality and in good working order;

b. has been used by the retailer or wholesaler solely for the purpose of demonstrating the product to customers for sale;

c. is of the type currently manufactured for sale to customers; or

d. has been used by the donating employer for three years or less and was still used in production immediately prior to donation.

Training Institution—a public training provider, secondary or postsecondary vocational technical school, apprenticeship program registered with the Louisiana Department of Labor, or community college. The term does not include institutions or other entities organized for profit.

Value—the donor's actual cost for new machinery or equipment or the appraised worth of used materials and equipment and instructional services.

B. Tax Credit

1. A credit shall be allowed against the individual and corporate income tax and the corporate franchise tax for the

donation of the latest technology available in materials and equipment and the donation of instructors made to public training providers, secondary and postsecondary vocational-technical schools, apprenticeship programs registered with the Louisiana Department of Labor, or community colleges within the state.

2. The tax credit shall be an amount equal to one-half the value of the donated materials, equipment, or services rendered by the instructor at the time of donation.

a. When used materials or equipment or instructional services are donated, the institution accepting the donation shall obtain an appraisal to establish the value of the materials, equipment, or instructional services, which is to be provided to the donating employer.

b. When new materials or equipment are donated, the donating employer shall submit an invoice showing the actual price paid, which shall be considered the value of the donated property.

3. A donation shall not qualify for the tax credit unless it is accepted by the training institution.

a. The training institution accepting the donation shall furnish to the donating employer certification of the donation that includes the date of the donation and the value of the donated materials, equipment, or instructional services.

b. The donating employer shall attach this certification to the income or franchise tax return filed with the department for the year in which the credit is claimed.

4. The tax credit shall be a credit against the applicable tax or taxes for the tax period that the donation was made and when combined with all other applicable tax credits, shall not exceed 20 percent of the employer's tax liability for any taxable year. The tax credits may only be taken by the donating employer entity and may not be passed through to partners or shareholders when the donating entity is a partnership, Subchapter S corporation, or Limited Liability Company.

C. Maintenance or Service Agreement. If requested by the training institution receiving the donation, any employer donating material or equipment may agree to provide a minimum of three months maintenance or service to the institution in order to receive the tax credit. This agreement shall cover the cost of any maintenance required on the donated materials or equipment for the term of the agreement.

D. Orientation Agreement. Any employer donating materials or equipment to an eligible training institution shall agree to provide the training institution with materials or equipment operating instructions at no cost to the institution at a location specified in the agreement. Orientation instruction shall take place within two weeks after installation of the donated materials and equipment.

E. Eligible Donations. The tax credit shall be applicable to donations made after July 1, 1998 and before January 1, 2001.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6012.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Corporation Income and Franchise Taxes Division, in consultation with the Department of Labor, LR 25:

Interested persons may submit data, views, arguments, information, or comments on this proposed regulation in writing to Michael Pearson, Director, Corporation Income and

Franchise Taxes Division, Department of Revenue, P.O. Box 201, Baton Rouge, LA 70821 or by fax to (225) 925-3853. All written comments must be submitted by Thursday, March 25, 1999.

A public hearing will be held on Friday, March 26, 1999, at 1:00 p.m. in the Department of Revenue Secretary's Conference Room, 330 North Ardenwood, Baton Rouge, Louisiana.

John Neely Kennedy
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Employer Tax Credits**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Administering the tax exemption provided by R.S. 47:6012 will result in a minimal increase in the Department of Revenue's costs, which will be absorbed by the department's existing budget allocation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The employer tax credit for donations of materials, equipment, or instructors to certain public training programs, vocational-technical schools, apprenticeship programs, or community colleges to assist in the development of training programs designed to meet industry needs authorized by R.S. 47:6012, which was enacted by Act 30 of the 1998 Regular Legislative Session, should result in an indeterminable revenue loss.

The tax credit is for one-half of the donation's value and is limited to 20 percent of the taxpayer's tax liability. Currently, there are 42 vocational-technical schools, five community colleges, and 75 entities registered with the Department of Labor offering 140 apprenticeship programs that would be eligible to receive donated materials, equipment, and instructors.

Based on the tax credits taken for donations of state of the art technology to educational institutions, allowed under R.S. 47:287.755, very few tax credits would be expected under this program. However, the types of donations and the qualified training programs eligible for tax credit have been significantly broadened under R.S. 47:6012, which could result in more donations. In addition, if the Department of Labor promotes this program as a part of a workforce development effort to encourage entities to make donations to schools and programs, state revenue collections will be further reduced.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The employer tax credit provided by R.S. 47:6012 will benefit the eligible public training programs, vocational-technical schools, apprenticeship programs, and community colleges that receive the donations of materials, equipment, and instructional services. The donating entities will benefit by the 20 percent tax credit for one-half of the donation's value. The state's industries will benefit by the training programs designed to meet industry needs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The purpose of the employer tax credit provided by R.S. 47:6012 is to ensure that students in qualifying institutions and

training programs receive state of the art training to better prepare them for employment in the state's various industries.

John Neely Kennedy
Secretary
9902#036

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

State Case Registry/Safeguarding Information
(LAC 67:III.2756)

The Department of Social Services, Office of Family Support, proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Public Law 104-193, the Personal Responsibility Work Opportunity Reconciliation Act, and subsequent amendments to the Codes of Federal Regulations and LRS 46:236.10, the Department will maintain a State Case Registry of child support orders which will contain case information on child support cases and all child support orders issued or modified. Case information will be forwarded to the Federal Case Registry and may be released to courts, other child support agencies, prosecutors, and sometimes the other parent of the child(ren), unless the information is safeguarded. If there is evidence of domestic violence, the information will not be released without a court order.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 27. Support Enforcement

Subchapter D. State Case Registry

§2756. Safeguarding Information

A. Support Enforcement Services shall maintain a State Case Registry which contains case names, Social Security numbers, dates of birth, address, and employer information on all cases receiving services and all child support orders issued or modified in the state. This information shall be transmitted to the Federal Case Registry which may be accessed by authorized agencies in other states. If a determination is made that SES has reasonable evidence of family violence, either domestic violence or child abuse, the State Case Registry shall include an indicator of family violence for the individual. The family violence indicator will prohibit release of information to any authorized person or agency, unless the authorized person or agency secures a court order to release the information. The court will make the ultimate decision regarding disclosure of that information to the requester.

B. Reasonable evidence of *family violence* is defined by any one of the following:

1. a protective order has been entered with respect to either party or the child;
2. DSS or medical records indicate violence or abuse;

3. corroborative evidence from at least two witnesses;
4. residence in a shelter for battered women;
5. good cause determination has been made by FITAP, Medicaid, or Foster Care.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, 45 CFR 303.15, 303.21 and 307.11, and LA R.S. 46:236.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

All interested persons may submit written comments through March 30, 1999 to: Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana 70804-9065.

A public hearing on the proposed rule will be held on March 29, 1999 at the Department of Social Services, Third Floor Conference Room, 755 Third Street, Room 323, Baton Rouge, Louisiana 70802, beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: State Case Registry/Safeguarding Information

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The immediate cost of implementation associated with the rule is the minimal cost of printing policy and form revisions and the cost of publishing the rulemaking. Programming of the Louisiana Automated Support Enforcement System (LASES) and other data processing adjustments to create and maintain the state case registry will be made at no additional cost to the state. There are no anticipated costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of a national registry could result in increased state collections; however, no estimate can be projected. There is no anticipated effect on revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The state and federal case registry systems are intended to assist in the matter of obtaining child support from the non-custodial parent.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9902#064

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Rehabilitation Services

Vocational Rehabilitation Policy Manual (LAC 67:VII.101 and 115)

In accordance with the provisions of R.S. 49:953(B), the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) is revising its Policy Manual, Sections: Individual's Participation in the Cost of Vocational Rehabilitation Services Policy and Misrepresentation, Fraud, Collusion or Criminal Conduct Policy.

The rule governing Louisiana Rehabilitation Services' Individual's Participation in the cost of Vocational Rehabilitation Services Policy provides a mechanism to provide equitable treatment to all individuals with disabilities who are in similar financial circumstances. It is being revised because existing policy disproportionately benefits individuals who may require more disability specific services.

The rule governing Louisiana Rehabilitation Services' Misrepresentation, Fraud, Collusion, or Criminal Conduct Policy addresses the agency's policy relative to individuals who have obtained vocational rehabilitation services through means of misrepresentation, fraud, collusion or criminal conduct. It is being added to preserve the agency's right to pursue repayment in full of funds which have been expended by the agency on the individual's behalf.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. Vocational Rehabilitation Policy Manual

§101. Agency Profile

* * *

R. Misrepresentation, Fraud, Collusion, or Criminal Conduct.

1. Individuals who obtain access to the services provided by Louisiana Rehabilitation Services through means of misrepresentation, fraud, collusion, or criminal conduct shall be held responsible for the return of funds expended by Louisiana Rehabilitation Services on the individual's behalf. Further, such actions shall result in the closure of the individual's Vocational Rehabilitation case record. Failure on the individual's part to make reparation of funds to the agency may result in legal action being taken by Louisiana Rehabilitation Services.

2. In cases in which LRS is in possession of clear evidence of misrepresentation, fraud, collusion, or criminal conduct on the part of the individual for the purpose of obtaining services for which the individual would not otherwise be eligible, the individual's case will be referred to the Department of Social Services, Bureau of General Counsel for consultation and/or investigation. If Department of Social Services, Bureau of General Counsel concurs or determines that the individual has obtained services through misrepresentation, fraud, collusion, or criminal conduct, a certified letter will be directed to the individual by the

Louisiana Rehabilitation Services Counselor demanding repayment in full of funds which have been expended by the agency on the individual's behalf. The failure of the individual to comply with the demand for reparation may result in legal action being taken on behalf of Louisiana Rehabilitation Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 25:

§115. Financial

A. - B.2.a.v. ...

vi. vocational or other training services when the training program is related to the achievement of a direct job placement outcome, including supported employment, on-site training, and on-the-job training;

vii. personal assistance services directly related to a direct job placement outcome and provided simultaneously with any of the above-listed vocational rehabilitation services. (Examples include attendant, reader, scribe, interpreter, and adjustment/orientation and mobility training services.)

* * *

B.3.a.xii. ...

xiii. adjustment/orientation and mobility, attendant, reader, scribe, and interpreter services not directly related to a direct job placement outcome;

xiv. vocational and other training services, such as college/university, vocational and proprietary school training, not related to a direct job placement outcome;

xv. post-employment services consisting of the services listed above.

B.3.b. ...

c. To preserve LRS' Continuity of Services provision in the Order of Selection, LRS will exempt those clients who have an IWRP/IPE (Individualized Plan for Employment) in effect prior to the adoption of this policy as a final rule; therefore, items xiii. and xiv. above will only apply to those individuals who have an IWRP/IPE developed after this policy is adopted as a final rule in accordance with Louisiana's Administrative Procedures Act.

B.4 - C.4.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 24:959 (May 1998), LR 25:

Interested persons may submit written comments for 40 days from the date of this publication to May Nelson, Director, Louisiana Rehabilitation Services, 8225 Florida Boulevard, Baton Rouge, LA 70806-4834. Ms. Nelson is responsible for responding to inquiries regarding the proposed rule.

Public Hearings will be conducted at 10:00 a.m. on Monday, March 29, 1999, as follows: Baton Rouge, UpLIFTD, 1979 Beaumont Drive; Alexandria, LRS Regional Office, 900 Murray Street; New Orleans, UNO Campus, TRAC Bldg., Room 101; Shreveport, LRS Regional Office, 1525 Fairfield Avenue.

Individuals with disabilities who require special services should contact Judy Trahan, Program Manager, Louisiana Rehabilitation Services, at least 14 working days prior to the hearing if special services are needed for their attendance. For information or assistance, call 225-924-4131 or 1-800-737-2958 or for voice and TDD, 1-800-543-2099.

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Policy Manual**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The \$1,028,434 savings is based on a five year trend that 29% of the consumers receiving College, Barber/Beauty School, Business School, Trade/Technical/Nursing School or Other Training meet the economic needs test and 36% of the total amount spent on consumers are for these services. the \$1,028,434 is only 1/4 of the savings because this change will only effect new consumers (\$219,056 State General Funds and \$809,378 Federal Rehabilitation Funds).
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no proposed increase or decrease in anticipated revenues.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Persons who will be directly affected are new eligible individuals who do not meet the Agency's financial needs test. The other individuals affected will be those who LRS discovers have obtained services through misrepresentation, fraud, collusion, or criminal conduct.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no projected impact on competition and employment in the public or private sectors.

May Nelson
Director
9902#063

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of the General Counsel**

Off-Premise Changeable Message Signs
(LAC 70:I.132)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Department of Transportation and Development intends to promulgate a rule entitled "Off-Premise Changeable Message Signs" in accordance with R.S. 48:461.

Title 70

TRANSPORTATION

Part I. Office of the General Counsel

Chapter 1. Outdoor Advertisement

§132. Off-Premise Changeable Message Signs

A. *Changeable Message Sign*—means any outdoor advertising sign which displays a series of advertisements, regardless of technology used, including, but not limited to, the following:

1. rotating slats;
2. changing placards;
3. rotating cubes;
4. changes in light configuration or light colors.

B. Qualifying Criteria

1. The minimum time between messages shall be seven (7) seconds or more.
2. The message change must be accomplished in such a manner that there is no appearance of movement of the message or copy during the change. This rule is not intended to prohibit movement of the structure in sequence in order to effect a change in message.
3. The sign may not contain flashing, intermittent or moving lights.
4. The use of such technology is limited to conforming signs only. Application of such technology to nonconforming signs is prohibited. (See LAC 70:I.137 for discussion of "non-conforming" outdoor advertising signs.)
5. Any such sign shall contain a default design that will freeze the sign in one position if a malfunction occurs.
6. Such signs shall not use animated, scrolling or full motion video displays.
7. A changeable message sign which meets these criteria shall be considered an outdoor advertising sign.

C. This rule is not applicable to "on-premise" outdoor advertising or business signs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR 25:

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this Notice of Intent to: Mitchell Lopez, Traffic Planning Supervisor, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, La. 70804-9245, Phone (225) 935-0128.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Off-Premise Changeable Message Signs**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs to state or local governmental units upon promulgation of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units upon implementation of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The outdoor advertising industry should benefit from the implementation of this rule, because the industry may be able to utilize "state-of-the-art" technology for its signs. This technology has been prohibited in the past. The amount of this benefit cannot be estimated at this time. The same fee schedule now enforced by the Department of Transportation and

Development for all outdoor advertising will apply to these signs; no additional fee will be charged for signs with movable parts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment within the outdoor advertising industry should be enhanced because of the now legal utilization of modern technology.

Kam K. Movassaghi, Ph.D., P.E.
Secretary
9902#038

Robert E. Hosse
Director
General Government Section
Legislative Fiscal Office

Committee Reports

COMMITTEE REPORT

House of Representatives Committee on Administration of Criminal Justice February 5, 1999

Building Permits and Plans, and Commercial
Building Energy Conservation Code
(LAC 55:V.301, 303 and Chapter 26)

In accordance with R.S. 49:953(B)(4)(a), the Committee on Administration of Criminal Justice met on February 3, 1999, in House Committee Room No. 6 at 10:00 a.m.

The purpose of the meeting was to conduct legislative oversight on emergency rules proposed and adopted by the Office of State Fire Marshall, Department of Public Safety and Corrections, which took effect on January 1, 1999.

The following members of the House were present:

Representative Stephen J. Windhorst, Chairman
Representative Audrey A. McCain, Vice Chairman
Representative Beverly G. Bruce
Representative Reggie Dupre
Representative Alexander Heaton
Representative Louis Jenkins
Representative Donald Kennard
Representative Robert Marioneaux
Representative Arthur Morrell
Representative Anthony Perkins
Representative Errol Romero

Pursuant to R.S. 49:968(B), the Office of State Fire Marshall, Department of Public Safety and Corrections, submitted a report to the Committee on Administration of Criminal Justice indicating that it was proposing the promulgation of Emergency Rules amending LAC Sections 301 and 303 of Chapter 3, Part V, of Title 55, and the adoption of Sections 2601-2613 as Chapter 26 of Part V of Title 55. These rules enact and amend provisions necessitated by the Commercial Building Energy Conservation Code (R.S. 40:1730.21, et seq.).

The Emergency Rules were found unacceptable by vote of the committee.

In accordance with R.S. 49:953(B)(4)(a) and 968(F)(b) the following determinations were made and are submitted for your review regarding the proposed rule changes.

1. R.S. 49:953(B)(1) provides that an agency may enact emergency rules only if there is "imminent peril to the public health, safety, or wealthy" which requires immediate action which can't wait for the ordinary promulgation and notice provisions. The agency failed to show the existence of such an emergency.

2. R.S. 49:953(B)(4) mandates that the legislative oversight committee must make a determination of whether the rules meet the above criteria to be considered an

emergency rule. The committee concluded that no such emergency exists.

Accordingly, the committee unanimously rejected the proposed emergency rules.

Stephen J. Windhorst
Chairman

9902#030

COMMITTEE REPORT

Senate Senate Committee on Labor and Industrial Relations January 13, 1999

Office of Workers' Compensation—Hearing Rules
(LAC 40:I.5525, 5703, 5813, 5819,
5953, 6001, 6101, 6203 and 6505)

(Editor's Note: This notice of intent was referenced in the October 20, 1998 issue of the Louisiana Register and may be viewed in its entirety at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.)

On January 13, 1999, pursuant to the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., the Senate Committee on Labor and Industrial Relations met for the purpose of determining acceptability of the Louisiana Department of Labor, Office of Workers' Compensation, rules providing for procedural guidelines for the workers' compensation court.

The Committee found the proposed rules unacceptable at this time.

I respectfully request that you allow the action of this Committee to stand.

Charles D. Jones
Chairman

9902#004

GOVERNOR'S RESPONSE TO COMMITTEE REPORT

January 15, 1999

Office of Workers' Compensation—Hearing Rules
(LAC 40:I.5525, 5703, 5813, 5819,
5953, 6001, 6101, 6203 and 6505)

(Editor's Note: This notice of intent was referenced in the October 20, 1998 issue of the Louisiana Register and may be viewed in its entirety at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.)

Dear Senator Jones:

On Friday, January 15, 1999, we received your letter dated

January 14 along with a Legislative Oversight Report by the Senate Committee on Labor and Industrial Relations. In your letter, you advised me that the Senate committee met on Wednesday, January 13, 1999, to review administrative rules proposed by the Office of Workers' Compensation of the Department of Labor. Your letter recites the concerns of some committee members and advises of the failure of the committee to find any of the rules acceptable. Initially, the letter requests that I support the findings of the committee and "withhold implementation of the proposed rules." Secondly, the letter states that "should [I] decide to implement the proposed rules, the Committee [urges me] to incorporate the amendments and proposed changes suggested by the House Committee on Labor and Industrial Relations, in addition to having Ad Hoc judges selected based on the same criteria used for selecting Ad Hoc judges in District Courts."

Following receipt of the committee report, I asked the department to carefully review all issues raised and suggestions made by both committees in an earnest attempt to honor all of them. After extensive review and many discussions, consistent with your suggestion that the issues

raised in the House committee should be accommodated, the department agreed to do so and thus I did not overturn the House committee action. Therefore, the rules found acceptable by the House Committee on Labor and Industrial Relations will be made final, but those specifically discussed in the House legislative oversight report as not acceptable will not go into effect. I refer you to the attached recommendations by the department to me on this point.

Thus, to reconcile the differences between the department and these legislative oversight committees over the core of the issues, I find that I have no choice under R.S. 49:968 but to disapprove the action of the Senate Committee on Labor and Industrial Relations.

The effect of my action is to allow the Department of Labor to make final without delay, the noncontroversial rules which comprise the great majority thereof, as I find this action clearly in the best interest of both employees and employers.

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

9902#009

Potpourri

POTPOURRI

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

Boll Weevil Eradication Hearing—1999 Assessment

The Boll Weevil Eradication Commission will hold an adjudicatory hearing beginning at 10:00 a.m., March 10, 1999 at the Louisiana Department of Agriculture and Forestry, Commissioner's Conference Room, located at 5825 Florida Boulevard, Baton Rouge, LA, relative to the setting of the assessments levied upon cotton producers for each acre of cotton planted for the 1999 crop year pursuant to R.S. 3:1613 and LAC 7:XV.321. Said assessment shall not exceed \$35 per acre of cotton planted for 1999 in the Red River Eradication Zone and \$15 per acre of cotton planted for 1999 in the Louisiana Eradication Zone. Calculations made to date indicate that the assessments should not, in actuality, exceed \$10 per acre for the Red River Eradication Zone and \$15 per acre for the Louisiana Eradication Zone.

All interested persons are invited to attend and will be afforded an opportunity to participate in the adjudicatory hearing. Written comments will be accepted if received prior to March 9, 1999, P.O. Box 3118, Baton Rouge, LA 70821-3118.

Dan P. Logan, Jr.
Chairman

9902#022

POTPOURRI

Department of Agriculture and Forestry Office of the Commissioner

Quarantine on Out of State Apiaries

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:2303 and R.S. 3:2304 the commissioner of Agriculture and Forestry hereby exercises the powers granted to him by R.S. 2303 and 2304 in declaring a quarantine on out of state apiaries to control the small hive beetle.

WHEREAS: LA R. S. 3:2303 provides that the commissioner of agriculture, or the state entomologist, as the commissioner's designee, shall administer and enforce the provisions of LA R. S. 3:2301-2311 regarding the regulation of Apiaries.

WHEREAS: LA R. S. 3:2304 grants to the commissioner full and plenary power to deal with all contagious and infectious diseases of bees and all other pests of bees and authorizes the state entomologist to do and perform such acts

as may be necessary to control, eradicate, or prevent the introduction, spread, or dissemination of any and all contagious and infectious diseases of bees and all other pests of bees.

WHEREAS: the small hive beetle, (SHB) of South Africa, (*Aethina tumida*-Murray), is a newly discovered pest of honey bee colonies in the United States. SHB is established in the states of Florida, Georgia, North Carolina and South Carolina. Although first discovered in South Carolina in 1996 it was not identified as a pest of honey bees until shortly after being discovered in Florida in June of 1998. Distribution in the United States is not yet known but it is expected that migratory movement of bee colonies and the sale of package bees will disperse this beetle to other states, including Louisiana.

WHEREAS: SHB adults and larvae cause much damage inside the hive. Feeding larvae consume pollen and honey and heavily damage wax comb, especially newly drawn comb. Honey leaks from damaged comb and is normally spoiled from beetle waste. The resulting fermented honey is useless to the bees. Combs are left with a slimy residue that is not acceptable for re-use by bees. Bees may abandon the affected combs and areas, including, on some occasions, abandonment of the hive itself. SHB larvae also feed on stored comb and supers of honey in honey houses, especially frames containing pollen and become a major problem when honey supers are allowed to remain for long periods prior to extraction. Wax cappings set aside following honey extraction may become beetle infested. Bee brood rearing stops when SHB infestation reaches high levels in a colony and reports indicate that a colony is not able to overcome the problem. Recent reports indicate that honey bee brood is preferred over pollen.

WHEREAS: the value of a production colony of honey bees has been estimated at \$100.00. Production colony losses in Florida are initially reported to be approximately 2% or a minimum of \$460,000.00. Louisiana apiary industry with 39,000 production colonies produces gross revenues of approximately \$3,900,000.00. Applying Florida's 2% loss ratio to Louisiana's 39,000 production colonies would place our first year loss at approximately \$78,000.00.

WHEREAS: the movement of this pest into Louisiana will significantly injure honey bees and commercial and hobby beekeeping in this state because Louisiana's apiary industry and the Louisiana agricultural economy cannot sustain, on a yearly basis, the adverse economic impact that the SHB would have on the industry.

THEREFORE: I, Bob Odom, Commissioner of Agriculture and Forestry of the State of Louisiana, by virtue of the authority provided for in R.S. 3:2304 and LAC 7:XXI.2515, hereby designate all of Louisiana as a commercial beekeeping area and establish a statewide quarantine to prevent the spread of the SHB into Louisiana. The terms and conditions of the quarantine and the penalties for violations of the quarantine are stated below.

1.0 Prohibition

No association, common or private carrier, corporation, firm, individual, legal entity or any other person or entity shall bring, move or transport into Louisiana any regulated materials originating from or coming from the states of Florida, Georgia, North Carolina, South Carolina or any other areas where the SHB is discovered, except as set out herein.

2.0 Definitions

Person—Any association, common or private carrier, corporation, firm, individual, legal entity or any other person or entity.

Quarantined Areas—The states of Florida, Georgia, North Carolina, South Carolina or any other state, U. S. territory, foreign country or geographical area where the SHB is discovered and is designated by the state entomologist as a quarantine area.

Regulated Materials—individual honey bees; honey bee colonies; package honey bees (including queen battery packs); bee hives; nuclei; comb or combless packages of bees; queens; used or second-hand beekeeping fixtures or equipment or any other thing that has been used in operating an apiary; and any other product, article, or means of conveyance, of any character whatsoever, when it is determined by an inspector that it presents a risk of spreading the SHB.

SHB—Small hive beetle, *Aethina tumida*-Murray; a predacious insect pest of the honey bee and related hive material.

3.0 Movement of Certain Regulated Material into Louisiana Under Permit

Honey bee queens and attendants in individual shipping cages will be allowed entry into Louisiana from quarantined areas when accompanied by a permit issued by an authorized agent from the state of origin that certifies the bees to be from an apiary free of the SHB. Each certificate shall be based upon an actual inspection of the bees to be shipped or moved into the state made within sixty days preceding the date of shipment. If any such bee is shipped into the state from a quarantined area but the state of origin is not a quarantined area then the bee must be shipped or moved in such a way as to preclude any possible contamination or infestation by movement through any quarantined area.

4.0 Amendment, Modification, Repeal of Quarantine

The commissioner or state entomologist may amend this quarantine to name other specific geographical regions subject to this quarantine; modify the provisions of this quarantine or terminate this quarantine at any time. Any such amendment, modification or repeal shall take effect at the time designated by the commissioner or state entomologist.

5.0 Notification and Publication

This quarantine as well as any amendment, modification or repeal of this quarantine shall, to the extent possible, be made known, by appropriate measures, to persons who may be affected by this quarantine or subsequent amendment, modification or repeal. This quarantine as well as an amendment, modification or repeal of this quarantine shall be published in the *Louisiana Register*, either in the month the action is taken or in the following month's issue, whichever issue is the first available issue for publication.

6.0 Penalties

A. If any honeybees, beekeeping equipment or other regulated material shipped from or moved through a quarantine area is found in this state in violation of this quarantine or is found to be infected with or exposed to SHB then the commissioner or the state entomologist may require the destruction, treatment, or disinfection of such infected or exposed bees, beekeeping equipment or other regulated material or immediate shipment of the bees, beekeeping equipment or other regulated material back to the point of origin.

B. Any person who violates this quarantine shall be subject to penalties provided in LA 3:2310 and LAC 7:XXI.2519 assessed by a ruling of the commissioner based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

7.0 Date of Quarantine

This quarantine is established and takes effect at 12:00 o'clock p. m. on February 1, 1999.

Bob Odom
Commissioner

9902#017

POTPOURRI

Department of Agriculture and Forestry Forestry Commission and Department of Revenue Tax Commission

Timber Stumpage Values

The Louisiana Department of Agriculture and Forestry, Office of Forestry is hereby giving notice of the stumpage values that were adopted at the joint meeting of the Forestry Commission and Tax Commission held on December 14, 1998. The following stumpage values were adopted for the purpose of determining timber severance tax for calendar year 1999.

The Louisiana Forestry Commission, and the Louisiana Tax Commission, as required by R.S. 47:633, determined the following timber stumpage values based on current average stumpage market values to be used for severance tax computations for 1999.

Trees & Timber	Price/Scale	Price/Ton
Pine Sawtimber	\$421.26/MBF	\$52.66/Ton
Hardwood Sawtimber	\$246.07/MBF	\$25.90/Ton
Pine Chip & Saw	\$104.82/CD	\$38.82/Ton
Pulpwood		
Pine Pulpwood	\$28.60/CD	\$10.59/Ton
Hardwood Pulpwood	\$19.84/CD	\$6.96/Ton

Bob Odom
Commissioner

9902#016

POTPOURRI

**Department of Agriculture and Forestry
Horticulture Commission**

Landscape Architect Registration Exam

The next landscape architect registration examination will be given June 14-16, 1999 beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows:

- New Candidates: February 26, 1999
- Re-Take Candidates: March 12, 1999
- Reciprocity Candidates: May 7, 1999

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone (225) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to February 26, 1999. Questions may be directed to (225) 925-7772.

Bob Odom
Commissioner

9902#020

POTPOURRI

**Department of Agriculture and Forestry
Horticulture Commission**

Retail Floristry Examination

The next retail floristry examinations will be given April 26-May 1, 1999, at 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is March 12, 1999. No applications will be accepted after March 12, 1999.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone (225) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to March 12, 1999. Questions may be directed to (225) 925-7772.

Bob Odom
Commissioner

9902#019

POTPOURRI

**Office of the Governor
Oil Spill Coordinator's Office**

Terrebonne Parish Lake Barre Oil Spill

The Louisiana Oil Spill Coordinator's Office (LOSCO), Louisiana Department of Environmental Quality (LDEQ), Louisiana Department of Natural Resources (LDNR), Louisiana Department of Wildlife and Fisheries (LDWF), the U.S. National Oceanic and Atmospheric Administration (NOAA), and the U.S. Department of the Interior (DOI), represented by the U.S. Fish and Wildlife Service (USFWS), have determined that the impacts of the May 16, 1997 discharge of crude oil by Texaco Pipeline Inc. warrants conducting a natural resource damage assessment, which will include restoration planning.

On May 16, 1997, the Texaco Pipeline Inc. Pipeline ruptured, discharging approximately 6,561 BBLs of crude oil into Lake Barre, Terrebonne Parish, Louisiana. Several thousand acres of Lake Barre surface waters, marsh and other habitats and the fauna inhabiting this area were exposed to crude oil as a result of this discharge. Texaco Pipeline Inc. has been named by the United States Coast Guard as the responsible party for this incident, pursuant to §2714 of the Oil Pollution Act of 1990, 33 U.S.C. §2700 et seq. (OPA).

Lake Barre is a shallow estuarine bay system characterized by soft organic sediment. Tidal amplitude is small, driven primarily by wind. It is bordered by extensive acreage of salt marsh, which is critical nursery habitat for numerous species and provides many other ecological services. The Lake Barre system also includes bayous, channels and small islands. Aquatic species present include, but are not limited to, estuarine and estuarine-dependent white and brown shrimp, blue crabs, oysters and finfish. Wildlife species that may be present in Lake Barre include, but are not limited to, resident and migratory birds, furbearers, marine mammals and sea turtles. Some of the species that may be present have threatened or endangered status. The area is used for fishing, hunting, boating, shrimping, oyster harvesting and other commercial and recreational activities.

The natural resource trustees for this incident are DOI, NOAA, LOSCO, LDEQ, LDNR, and LDWF. These trustees are designated pursuant to 33 U.S.C. §2706(e), Executive Order 12777, and the National Contingency Plan, 40 C.F.R. Part 300.600 and 300.605. Pursuant to R.S. 30:2460, the State of Louisiana Oil Spill Contingency Plan, September 1995, describes the state trust resources, which include the following: vegetated wetlands, surface waters, ground waters,

air, soil, wildlife, aquatic life, and the appropriate habitats on which they depend. DOI has been designated as trustee for the natural resources that it manages or controls. Examples of those resources as described within the National Contingency Plan, 40 C.F.R. §300.600(b)(2) and (3), include the following and their supporting ecosystems: migratory birds, anadromous fish, endangered species and marine mammals, federally owned minerals, certain federally managed water resources, and natural resources located on, over, or under land administered by the Department. In the case at hand, the trust resources of concern are migratory birds and those are managed by the USFWS, which represents DOI in this matter. NOAA's trust resources include, but are not limited to, commercial and recreational fish species, anadromous and catadromous fish species, marshes and other coastal habitats, marine mammals, and endangered and threatened marine species.

Following the notice of the discharge, the natural resource trustees made the following determinations required by 15 C.F.R. §990.41. The natural resource trustees have jurisdiction to pursue restoration pursuant to OPA. The trustees have determined that the release of approximately 6,561 BBLs of crude oil into the waters of Lake Barre on May 16, 1997 was an incident as defined in 15 C.F.R. §990.30. This incident is not permitted under state, federal or local law. Using information gathered since the beginning of the incident during the response and natural resource damage assessment initiation phases, the trustees have determined that natural resources under the trusteeship of the natural resource trustees listed above may have been injured as a result of the incident. The oil released contains components that are toxic to aquatic organisms, birds, wildlife and vegetation at sufficiently high exposure levels. Vegetation, birds, and aquatic organisms were observed to have been exposed to this oil from this discharge, and mortalities to some flora and fauna resulted from this incident.

Since the conditions of 15 C.F.R. §990.41(a) were met, as described above, the trustees made the further determination pursuant to 15 C.F.R. §990.41(b) to proceed with preassessment. Texaco, at the invitation of the trustees, agreed to participate in and to provide funding for the preassessment.

For the reasons discussed below, the natural resource trustees have made the determinations required by 15 C.F.R. §990.42(a), and are providing notice pursuant to 15 C.F.R. §990.44 that they intend to conduct restoration planning in order to develop restoration alternatives that will restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of this incident.

Injuries have resulted from this incident. The trustees base this determination upon data which was collected and analyzed pursuant to 15 C.F.R. 990.43 and which demonstrates that resources and services have been injured. Natural resources injured as a result of the spill and spill response may include, but are not limited to: benthic communities, water quality, vegetated wetlands, fish and

wildlife species and recreational use opportunity. At least 58 live birds were reported to be oiled, and two oil birds were found dead. Concentrations of polycyclic aromatic hydrocarbons were detected in water samples at levels known to be toxic to aquatic organisms in laboratory studies. It is estimated that over 4,300 acres of marsh were exposed to at least oil sheen, and the above-ground portion of some vegetation in limited areas was observed to have died as a result of the oiling and/or the response actions. An area of Lake Barre was effectively closed to recreation use during the early response phase of the incident.

Response actions have not adequately addressed the injuries resulting from the incident. Although response actions were initiated promptly and pursued with appropriate effort, the nature of the discharge and the sensitivity of the environment precluded prevention of injuries to natural resources. It is anticipated that injured natural resources will eventually return to baseline, but there is a potential for significant interim losses to have occurred, and to continue to occur until return to baseline is achieved.

Feasible primary and compensatory restoration actions exist to address injuries from this incident. Potential restoration actions include, but not limited to: replanting *Spartina alterniflora* in areas denuded by the spill; creation, enhancement or protection of marsh; creation of oyster reef habitat; and creation of rookery areas.

Potential assessment procedures are to be used to evaluate the injuries and define the appropriate type and scale of restoration for the injured natural resources are available. Among the available procedures are marsh injury assessment studies to be used in conjunction with Habitat Equivalency Analysis to determine compensation for injuries to marsh vegetation and marsh services. Models or other approaches are available for evaluating injuries to fauna. Where models and other techniques fail to reflect migratory bird and threatened/endangered species injury, estimates of appropriate levels of injury to birds will be made by the trustees based upon: observations by wildlife officials, professional experience, knowledge of the habitat utilization by birds, and other factors.

Pursuant to 15 C.F.R. §990.44(c), the Trustees seek public involvement in restoration planning for this petroleum discharge, through public review of and comment on the documents contained in the administrative record, which is maintained in the Louisiana Oil Spill Coordinator's Office, and in the Terrebonne Parish Consolidated Government Offices (contact Earl Eues, Department of Environmental Services, 504-873-6739), as well as on the Draft and Final Restoration Plans when they have been prepared.

For more information, please contact the Louisiana Oil Spill Coordinator's Office, 1885 Wooddale Blvd, 12th Floor, Baton Rouge, LA 70806; (225) 922-3230.

The Louisiana Oil Spill Coordinator, as the Lead Administrative Trustee, and on behalf of the natural resource trustees of the state of Louisiana, the DOI and NOAA, pursuant to the determinations made above and in accordance with 15 C.F.R. §990.44(d), hereby provides Texaco Pipeline

Inc. this Notice of Intent to Conduct Restoration Planning and invites their participation in the conduct of that restoration planning.

Roland J. Guidry
Louisiana Oil Spill Coordinator

9902#033

POTPOURRI

**Department of Health and Hospitals
Board of Embalmers and Funeral Directors**

Embalmer/Funeral Director Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Friday, March 26, 1999, at Delgado Community College, 615 City Park Ave., New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Executive Director

9902#008

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, La. R.S. 30:80 et seq., and as

such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well No.	Serial Number
Atlas Production Services	Lapeyrouse	6800 RD SUA; Bessie B Bourg et al	001	215979
Atlas Production Services	Lake Washington	BIG HA RA SUA; Price et al	001	141845
Atlas Production Services	Lake Washington	L 1 RA VUA; LLandE 1F	001	144930
Attaway Energy Group, Inc.	Bracky Branch	NAC RA SUA; Mahon	001	158808
Bauman and Lewis	Caddo Pine Island	Shreveport Pet Co	1-B	046783
Bradco Oil and Gas Company	Wildcat	Gulf States LDS and INDS Inc	001	090686

Bud's Pumping Service Inc.	Mean Lake	STUT A RA SUA; Catahula Co	001	201553
C. J. Brown	Caddo Pine Island	Muslow	B-7	020808
Caddo Oil Co., Inc.	Caddo Pine Island	Hobbs	001	024038
W. D. Chew	Caddo Pine Island	Caddo Levee Board	E-3	007309
Edgewater Oil Co. Inc.	Charenton	Paul LeBlanc	005	022410
W. C. Feazel	Bayou Perot	Feazel Int Et Al L Paillet et al	001	098376
Finn-House Co.	Tullos Urania	Price	001	990420
G. R. Goodwill	Greenwood-Waskom	Fullilove et al	010	094901
G. R. Goodwill	Greenwood-Waskom	Stringfellow A	001	136979
G. R. Goodwill	Greenwood-Waskom	Stringfellow B	001	137156
G. R. Goodwill	Monroe	Mutual Investment Co., Inc	001	081183
G. R. Goodwill	Caddo Pine Island	Sims	001	192888
G. R. Goodwill	Dixie	Adger B	001	191468
Great Yellowstone Corp.	Bayou Pigeon	E H Peterman et al	002	124753
A. R. Hancock	Caddo Pine Island	S C Helpman	001	020599
IMC Exploration Co.	Perry Point	CAM RA SUA; Gueno	005	140785
Marben Corporation	Bayou Bleu	Schwing et al	001	078089
Marben Corporation	Bayou Bleu	Schwing et al SWD	002	078927
Marben Corporation	Bayou Bleu	Schwing et al	01D	078998
Mid-National Resources Inc.	Utility	Bobcaw Fee	001	214913
Mid-National Resources Inc.	Utility	Peyton	001	214914
Mid-National Resources Inc.	Pool Lake	Catahoula	001	156247
Mid-National Resources Inc.	Pool Lake	Fisher B	001	156248

Mid-National Resources Inc.	Patton Church	Catahoula Bank	002	064608
Mid-National Resources Inc.	Patton Church	Hardie	B-1	143826
Mid-National Resources Inc.	Big Bayou	Louisiana Delta	001	097740
Mid-National Resources Inc.	Utility	Trunzler	001	193872
Mid-National Resources Inc.	Patton Church	Renfrow	001	208134
Mid-National Resources Inc.	North Willow Lake	Arnaud-Davis	001	102438
Mid-National Resources Inc.	Willow Lake	Arnaud-Davis SWD	002	103168
Mid-National Resources Inc.	Wallace Lake	Arnold-Macgruder SWD	002	150820
Mid-National Resources Inc.	Carr Lake	Trunzler SWD	001	107430
Mid-National Resources Inc.	Pool Lake	Fisher B SWD	003	159516
Mid-National Resources Inc.	Patton Church	W L Renfrow SWD	001	971280
Mid-National Resources Inc.	Lismore Landing	E-2 SUH; Fisher	001	199894
Mid-National Resources Inc.	Wallace Lake	Nolan WL	001	175948
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Mid-National Resources Inc.	Big Bayou	WX D RA SUG; Humble-Tensas Delta	20-2	143671
Mid-National Resources Inc.	Big Bayou	WX A RA SUJ; Humble-Tensas Delta	029-4-D	147132

Mid-National Resources Inc.	Big Bayou	WX D RA SUG; Humble-Tensas Delta	20-2	143671
Midhurst Oil Corporation	University	9300 SUA; Duplantier	C-6	033479
Midstates Oil Corporation	Lisbon	Oden et al	001	041986
Ken Moran	Fort Jessup	Ken Moran	001	172885
Natural Gas Systems, Inc.	Rodessa	Norton B	001	018634
Natural Gas Systems, Inc.	Rodessa	Norton	001	990091
Natural Gas Systems, Inc.	Rodessa	Rockefeller	001	018980
Natural Gas Systems, Inc.	Caddo Pine Island	Deborah Lynne	001	184127
Natural Gas Systems, Inc.	Caddo Pine Island	Henderson Estate SWD	001	972036
Ocean Drilling and Exp.	Wildcat	SL 3759	002	112821
Power Reserves, Inc.	Iota	VUA; Georgia McNeil et al	001	201957
Power Reserves, Inc.	Big Lake	L DISC RB SUA; Richard	001	058407
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POTPOURRI

**Department of Natural Resources
Office of Conservation**

Public Hearing—Nonhazardous Oilfield Waste

Pursuant to the provisions of the laws of the State of Louisiana and particularly Title 30 of the Louisiana revised Statutes of 1950 as amended, and the provisions of the Statewide Order Number 29-B, notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6:00 p.m., Tuesday, March 23, 1999, at the Plaquemines Parish Council Chambers, 18039 Hwy 15, Pointe a La Hache, Louisiana.

At such hearing, the Commissioner, or his designated representative, will hear testimony relative to the application of Premier Environmental, LLC, 629 Village Lane South, Mandeville, Louisiana 70471-2929. The applicant requests approval from the Injection and Mining Division to construct and operate a commercial facility to store, treat and dispose by means of deep well injection, nonhazardous oilfield (Exploration and Production) waste (NOW/E&P waste), some containing regulated levels of Naturally Occurring Radioactive Material (NORM). The proposed facility will be located in Section 1, Township 17 S, Range 15 E in Plaquemines Parish, south of Bohemia, Louisiana.

The application is available for inspection by contacting Mr. Pierre Catrou, Office of Conservation, Injection and Mining Division, Room 257 of the State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana, or by visiting the Plaquemines Parish Council Office in Pointe a La Hache, Louisiana, or the Parish Library in Buras, Louisiana. Verbal information may be received by calling Mr. Catrou at 504/342-5567.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., Wednesday, March 31, 1999, at the Baton Rouge Office. Comments should be directed to: Office of Conservation, Injection and Mining Division, P.O. Box 94275, Baton Rouge, Louisiana 70804; Re: Docket Number IMD 99-03, Commercial Facility, Plaquemines Parish.

Philip N. Asprodites
Commissioner

9902#088

Power Reserves, Inc.	Erath	Ceva Richard	002	161064
Power Reserves, Inc.	Erath	D C Broussard	001	208851
Power Reserves, Inc.	Erath	R Y Rose SWD	001	970655
Power Reserves, Inc.	Indian Village	King Corp A	001	154952
Power Reserves, Inc.	Indian Village	King Corp A SWD	002	154953
Power Reserves, Inc.	Indian Village	King Corp A	004	189803
The Texas Fuel Company	Rousseau	P J Theriot	001	216864
Thornton and Brooks, Inc.	Converse	DeSoto SWD	005	024393
Thornton and Brooks, Inc.	Converse	DeSoto Corporation	004	018165
Westar Oil and Minerals	Nolans Bayou	Broadhead	001	171353
Westar Oil and Minerals	North Big Island	Price SU97; Fuhrer	001	111880
Westar Oil and Minerals	Sandy Bayou	WX A RA SUK; La Delta Lumber A	001	103695
Westar Oil and Minerals	Nolans Bayou	Broadhead	002	175591
Westar Oil and Minerals	Nolans Bayou	VUB; Eota-Broadhead	002	192706
Westar Oil and Minerals	Nolans Bayou	VUA; Eota-Broadhead	001	188979
Westar Oil and Minerals	Nolans Bayou	VUC; Eota Broadhead	003	192707
John E. Yerger	Port Barre	Dezauche	004	047748

Philip N. Asprodites
Commissioner

9902#089

POTPOURRI

**Department of Natural Resources
Office of Conservation**

**Public Hearing—Nonhazardous Oilfield
Waste Treatment Facility**

Pursuant to the provisions of the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950 as amended, and the provisions of the Statewide Order No. 29-B, notice is hereby given that the Commissioner of Conservation will conduct a public hearing at 6:00 p.m., Thursday, March 25, 1999, at the St. Mary Parish Council Meeting Room, 500 Main St., Franklin, Louisiana.

At such hearing, the Commissioner, or his designated representative will hear testimony relative to the application of US Liquids of LA, Ltd., P.O. Box 1467, Jennings, Louisiana 70546. The applicant requests authorization to construct and operate three injection wells on their existing commercial nonhazardous oilfield (exploration and production) waste (NOW/E&P waste) land farm facility on Bateman Island. The proposed facility will be located in St. Mary Parish, in Section 16, Township 16 S, Range 12 E.

The application is available for inspection by contacting Mr. Pierre Catrou, Office of Conservation, Injection and Mining Division, Room 257 of the State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana, or by visiting the St. Mary Parish Council Office in Franklin, Louisiana, or by visiting the Morgan City branch of the St. Mary Public Library located at 220 Everett Street, Morgan City, Louisiana. Verbal information may be received by calling Mr. Catrou at 504/342-5567.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., Friday, April 2, 1999, at the Baton Rouge Office. Comments should be directed to: Office of Conservation, Injection and Mining Division, P.O. Box 94275, Baton Rouge, Louisiana 70804; Re: Docket Number IMD 99-02, Commercial Facility, St. Mary Parish.

Philip N. Asprodites
Commissioner

9902#082

POTPOURRI

**Department of Social Services
Office of Community Services**

Emergency Shelter Grants Program—1999

The Louisiana Department of Social Services (DSS) anticipates the availability of \$1,540,000 in grant funds for distribution to applicant units of local government under the 1999 State Emergency Shelter Grants Program (ESGP).

Program funds are allocated to the State by the U.S. Department of Housing and Urban Development (HUD) through authorization by the Stewart B. McKinney Homeless Assistance Act, as amended. Funding available under the Emergency Shelter Grants Program is dedicated for the rehabilitation, renovation or conversion of buildings for use as emergency shelters for the homeless, and for payment of certain operating costs and social services expenses in connection with emergency shelter for the homeless. The Program also allows use of funding in homeless prevention activities as an adjunct to other eligible activities. As specified under current State ESGP policies, eligible applicants are limited to units of general local government for all parish jurisdictions and those municipal or city governmental units for jurisdictions with a minimum population of 10,000 according to recent census figures. Recipient units of local government may make all or part of grant amounts available to private nonprofit organizations for use in eligible activities.

Application packages for the State ESG Program shall be issued by mail to the chief elected official of each qualifying unit of general local government. In order to be considered for funding, applications must be received by DSS/Office of Community Services by 4:00 p.m., Friday, April 23, 1999.

Nonprofit organizations in qualifying jurisdictions which are interested in developing a project proposal for inclusion in an ESGP funding application should contact their respective unit of local government to advise of their interest. To be eligible for funding participation, a private nonprofit organization as defined by ESGP regulations must be one which is exempt from taxation under subtitle A of the Internal Revenue Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance.

The State DSS will continue use of a geographic allocation formula in the distribution of the State's ESG funding to ensure that each region of the State is allotted a specified minimum of State ESG grant assistance for eligible ESGP projects. Regional allocations for the State's 1999 ESG Program have been formulated based on factors for low income populations in the parishes of each region according to U.S. Census Bureau data. Within each region, grant distribution shall be conducted through a competitive grant award process.

The following table lists the allocation factors and amounts for each region:

Region	Factor	Allocation
Region I New Orleans	.1572303	242,135
Region II Baton Rouge	.1120504	172,558
Region III Thibodaux	.0698830	107,620
Region IV Lafayette	.1522065	234,398
Region V Lake Charles	.0531706	81,883
Region VI Alexandria	.0764176	117,683
Region VII Shreveport	.1248105	192,208

Region VIII Monroe	.0985996	151,843
Region IX Northshore	.0746534	114,966
Region X Jefferson	.0809781	124,706

Regional funding amounts for which applications are not received shall be subject to statewide competitive award to applicants from other regions and/or shall be reallocated among other regions in accordance with formulations consistent with the above factors.

Grant awards shall be for a minimum of \$10,000. Applicable grant maximums are as follows.

Individual grant awards to applicant jurisdictions of less than 49,000 population shall not exceed \$50,000.

For a jurisdiction of over 49,000 population, the maximum grant award shall not exceed the ESGP allocation for that jurisdiction's respective region.

Grant specifications, minimum and maximum awards may be revised at DSS's discretion in consideration of individual applicant's needs, total Program funding requests, and available funding. DSS reserves the right to negotiate the final grant amounts, component projects, and local match with all applicants to ensure judicious use of Program funds.

Program applications must meet State ESGP requirements and must demonstrate the means to assure compliance if the proposal is selected for funding. If, in the determination of DSS, an application fails to meet Program purposes and standards, even if such application is the only eligible proposal submitted from a region or subregion, such application may be rejected in toto, or the proposed project(s) may be subject to alterations as deemed necessary by DSS to meet appropriate Program standards.

Proposals accepted for review will be rated on a comparative basis based on information provided in grant applications. Award of grant amounts between competing applicants and/or proposed projects will be based upon the following selection criteria:

- Nature and extent of unmet need for emergency shelter, transitional housing and supportive services in the applicant's jurisdiction 40 points
- The extent to which proposed activities will address needs for shelter and assistance and/or complete the development of a comprehensive system of services which will provide a continuum of care to assist homeless persons to achieve independent living 30 points
- The ability of the applicant to carry out the proposed activities 15 points
- Coordination of the proposed project(s) with available community resources, so as to be able to match the needs of homeless persons with appropriate supportive services and assistance 15 points

ESGP recipients are required to provide matching funds (including in-kind contributions) in an amount at least equal to its ESG Program funding unless a jurisdiction has been granted an exemption in accordance with Program provisions. The value of donated materials and buildings, voluntary activities and other in-kind contributions may be included with "hard cash" amounts in the calculation of matching funds. A local

government grantee may comply with this requirement by providing the matching funds itself, or through provision by nonprofit recipients.

A recipient local government may at its option elect to use up to 2.5325 percent of grant funding for costs directly related to administering grant assistance, or may allocate all grant amounts for eligible Program activities. Program rules do not allow the use of ESGP funds for administrative costs of nonprofit subgrantees.

Availability of ESGP funding is subject to HUD's approval of the State's FY 99 Consolidated Annual Action Plan for Housing and Community Development Programs. No expenditure authority or funding obligations shall be implied based on the information in this notice of funds availability.

Inquiries and comments regarding the 1999 Louisiana Emergency Shelter Grants Program may be submitted in writing to the Office of Community Services, Management and Finance Division, Box 3318, Baton Rouge, Louisiana, 70821, or telephone (225) 342-2277.

Madlyn B. Bagneris
Secretary

9902#087

POTPOURRI

**Department of Social Services
Office of Community Services**

1999-2000 Weatherization Assistance Program
Public Hearing

The Department of Social Services, Office of Community Services is submitting a State Plan to the U.S. Department of Energy (DOE) for funding of the 1999-2000 Weatherization Assistance Program. Pursuant to federal regulations (10 CFR 440), a public hearing is required prior to DOE's approval of the plan.

The Weatherization Assistance Program provides services to low-income households, and in particular, households in which elderly, handicapped and/or children reside. The purposes of weatherization activities are:

- a. to reduce home heating and cooling costs of low income households;
- b. to provide a more comfortable and safe home environment for low-income residents; and
- c. to help reduce the consumption of fossil fuels.

The public hearing is scheduled for Tuesday March 30, 1999, at 1:30 P. M. in Baton Rouge, LA, at 333 Laurel Street, Room 652 (sixth floor training room). Louisiana's grant for the 1999-2000 program year is \$1,015,662. Any additional Department of Energy funds which may become available during the 1999-2000 program year will be expended according to the approved State Plan.

Copies of the plan can be obtained prior to the hearing by contacting the Department of Social Services, Office of Community Services, Energy Assistance Section at (504) 342-2288 or by writing to P. O. Box 3318, Baton Rouge, LA 70821. Written comments will be accepted through April 9, 1999.

Madlyn B. Bagneris
Secretary

9902#080

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