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Executive Orders

EXECUTIVE ORDER MJF 97-45

Bond Allocation—Parish of Ascension

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

WHEREAS: the Parish of Ascension, State of Louisiana, has requested an allocation from the 1997 Ceiling to be used in connection with the acquisition, construction, and installation of a solid waste sewage disposal facility at the Geismar site plant complex of Allied Signal, Inc., located at 5525 Highway 3115, Carville, LA, in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

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

Amount of Allocation	Name of Issuer	Name of Project
\$2,000,000	Parish of Ascension State of Louisiana	Allied Signal, Inc.

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 23, 1997.

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

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the

requirements of Section 146 of the *Internal Revenue Code of 1986*, as amended.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 10th day of November, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9712#014

EXECUTIVE ORDER 97-46

Bond Allocation—Industrial Development Board of the Parish of Caddo, Inc.

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

WHEREAS: the Industrial Development Board of the Parish of Caddo, Inc. has requested an allocation from the 1997 Ceiling to be used in connection with financing the acquisition, construction, and installation of solid waste disposal and sewage treatment facilities at the Atlas refinery of Pennzoil Products Company located at 3333 Midway, Shreveport, LA, in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

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

Amount of Allocation	Name of Issuer	Name of Project
\$8,500,000	Industrial Development Board of the Parish of Caddo, Inc.	Atlas

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 23, 1997.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 10th day of November, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9712#015

EXECUTIVE ORDER MJF 97-47

Bond Allocation—Calcasieu Parish Public Trust Authority

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

WHEREAS: the Calcasieu Parish Public Trust Authority has requested an allocation from the 1997 Ceiling to be used in connection with the expansion, construction, installation, and equipping of a certain solid waste and waste water treatment system located at the ethylene plant of WPT Corporation on 1820 Paktank Road, Parish of Calcasieu, LA, in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

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

Amount of Allocation	Name of Issuer	Name of Project
\$10,889,475	Calcasieu Parish Public Trust Authority	WPT Corporation

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 23, 1997.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 10th day of November, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9712#016

EXECUTIVE ORDER 97-48

Bond Allocation—Parish of St. James

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume

EXECUTIVE ORDER MJF 97-49

Bond Allocation—Industrial Development Board of the Parish of Calcasieu, Inc.

limits for the calendar year of 1997 (hereafter "the 1997 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1997 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS: the Parish of St. James, State of Louisiana, has requested an allocation from the 1997 Ceiling to be used in connection with the acquisition, construction, and installation of solid waste disposal facilities at the direct reduced iron production facility of American Iron Reduction, L.L.C., located on the Mississippi River, Parish of St. James, in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

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

Amount of Allocation	Name of Issuer	Name of Project
\$8,000,000	Parish of St. James State of Louisiana	American Iron Reduction, L.L.C.

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 23, 1997.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 10th day of November, 1997.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9712#017

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

WHEREAS: the Industrial Development Board of the Parish of Calcasieu, Inc. has requested an allocation from the 1997 Ceiling to be used in connection with the acquisition, construction, and installation of wastewater treatment facilities at the refinery facilities of CITGO Petroleum Corporation, located at 4401 Highway 108, Lake Charles, LA, in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

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

Amount of Allocation	Name of Issuer	Name of Project
\$2,000,000	Industrial Development Board of the Parish of Calcasieu, Inc.	CITGO Petroleum Corporation

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 23, 1997.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 10th day of November, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9712#018

EXECUTIVE ORDER MJF 97-50

Bond Allocation—Parish of Ascension

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

WHEREAS: the Parish of Ascension, State of Louisiana has requested an allocation from the 1997 Ceiling to be used in connection with the acquisition, construction, and installation of a solid waste and sewage disposal facilities at the Geismar site plant complex of BASF Corporation, located at 8404 Highway 75, Geismar, LA in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

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

Amount of Allocation	Name of Issuer	Name of Project
\$7,000,000	Parish of Ascension State of Louisiana	BASF Corporation

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

Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 23, 1997.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 10th day of November, 1997.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9712#019

EXECUTIVE ORDER MJF 97-51

Bond Allocation—Parish of DeSoto

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

WHEREAS: the Parish of DeSoto, State of Louisiana has requested an allocation from the 1997 Ceiling to be used in connection with the acquisition, construction, and installation of sewage and solid waste disposal facilities at the Mansfield pulp and paper mill located approximately 17 miles east of Mansfield, Parish of DeSoto, Louisiana, approximately 4 miles west of Louisiana Highway 1, in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

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

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

Amount of Allocation	Name of Issuer	Name of Project
\$2,000,000	Parish of DeSoto State of Louisiana	International Paper Company

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 23, 1997.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 10th day of November, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9712#020

EXECUTIVE ORDER MJF 97-52

State Employees Group Benefit Program Study Commission

WHEREAS: Executive Order MJF 97-44, signed on October 24, 1997, created and established the State Employees Group Benefit Program Study Commission (hereafter "commission"), and ordered the commission to submit a comprehensive report to the governor by February 1, 1998;

WHEREAS: it is necessary to extend the time period in which the commission shall submit its report to the Governor;
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 MJF 97-44 is amended to provide as follows:

The commission shall submit a comprehensive report to the governor by March 1, 1998, which addresses the issues set forth in Section 2.

SECTION 2: All other sections and subsections of Executive Order MJF 97-44 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 21st day of November, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9712#005

EXECUTIVE ORDER MJF 97-53

Governor's Aviation Advisory Commission

WHEREAS: Senate Concurrent Resolution Number 78 of the 1997 Regular Legislative Session (hereafter "the resolution") created the Governor's Aviation Advisory Commission (hereafter "commission") within the Office of the Governor "to study and to make recommendations to the Governor relative to the interrelationships of the general airports, the administration of the airports, and to aviation development programs"; and

WHEREAS: the resolution mandates that the initial meeting of the commission shall be called by the Governor;

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: To facilitate the provisions of Senate Concurrent Resolution Number 78 of the 1997 Regular Legislative Session, the president of the Senate or his designee shall serve temporarily as chair of the Governor's Aviation Advisory Commission until the membership of the commission elects a chair.

SECTION 2: The temporary chair shall call the initial meeting of the commission and shall schedule the meeting to be held prior to December 15, 1997.

SECTION 3: The Department of Transportation and Development shall provide the support staff for the commission and the facilities for its initial meeting.

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

SECTION 5: 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 26th day of November, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9712#006

EXECUTIVE ORDER MJF 97-54

Latin American Business
Development Commission

WHEREAS: the Congress of the United States ratified the North American Free Trade Agreement (hereafter "NAFTA"), thereby signifying the desire of the United States to open the American business community to Latin American markets and to aggressively pursue the elimination of trade barriers in those markets to American goods and services;

WHEREAS: in recent years, Latin America has become the fourth largest and fastest growing market for American goods and services;

WHEREAS: the ratification of NAFTA, combined with an increase in trade agreements between Latin American governments and the United States, will open Latin American markets that formerly were unavailable to businesses operating in the state of Louisiana;

WHEREAS: the Louisiana International Trade Commission, created by Executive Order MJF 97-12, issued on February 21, 1997, was established to stimulate growth in, and attract international trade and investment to, Louisiana businesses;

WHEREAS: by Act Number 588 of the 1997 Regular Session of the Louisiana Legislature, the Louisiana International Trade Commission was replaced and legislatively superseded by the creation of the Louisiana International Trade Development Board, R.S. 51:1351-8 (hereafter "the board"); and

WHEREAS: it would be beneficial to the future economic development of the State of Louisiana to create a commission

which will focus specifically on Louisiana's trade with and investments in Latin America that will be charged with the duty of assisting Louisiana businesses in gaining a foothold and more aggressively competing in emerging Latin American markets;

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

SECTION 1: The Louisiana Latin American Business Development Commission (hereafter "commission") is created and established within the executive branch, Department of Economic Development.

SECTION 2: The duties and functions of the commission shall include, but are not limited to, the following:

A. the identification and development of business and trade opportunities in Latin America for Louisiana businesses and/or services;

B. the identification of trade agreements between the United States and Latin America that may be beneficial to Louisiana businesses and/or services;

C. the methods that will enable products grown, manufactured or produced in Louisiana, to compete more aggressively in existing and/or emerging Latin American markets; and

D. the means and techniques to attract Latin American trade to and/or investments in Louisiana markets, and Louisiana trade to and/or investments in Latin American markets.

SECTION 3: The commission shall submit on July 1 a comprehensive annual report to the board and the secretary of Department of Economic Development that addresses the issues set forth in Section 2.

SECTION 4: The advice and recommendations of the commission shall be consistent with the goals and objectives of both the board and the Louisiana Economic Development Council.

SECTION 5: The commission shall be comprised of 11 members who shall be appointed by and serve at the pleasure of the Governor. The membership of the commission shall be selected as follows:

A. the Governor, or the Governor's designee;

B. the secretary of the Department of Economic Development, or the secretary's designee;

C. the commissioner of Financial Institutions, or the commissioner's designee;

D. one member of the Louisiana International Trade Development Board;

E. one member of the Louisiana Economic Development Council; and

F. eight citizens of the state of Louisiana with at least five years of experience in one or more of the following fields: international trade, finance, economics, oil and gas services, maritime activities, agriculture, world health, and/or environmental protection.

SECTION 6: The Governor shall select the chair of the commission. The membership of the commission shall elect all other officers.

EXECUTIVE ORDER MJF 97-55

DWI/Vehicular Homicide Task Force

SECTION 7: The commission shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 8: Support staff for the commission and facilities for its meetings shall be provided by the Department of Economic Development.

SECTION 9: The members of the commission shall not receive compensation or a per diem. Nonetheless, contingent upon the availability of funds, members who are not an employee of the state of Louisiana or one of its political subdivisions, or an elected official, may receive reimbursement from the Office of the Governor for actual travel expenses incurred, in accordance with state guidelines and procedures, with the prior written approval of the commissioner of administration and the Office of the Governor.

SECTION 10: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the commission in implementing the provisions of this Order.

SECTION 11: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 3rd day of December 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9712#007

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

WHEREAS: it is necessary to expand the membership of that task force to include the state attorney general;

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 2 of Executive Order MJF 96-9, is amended to add Subsection O, which shall provide as follows:

O. The attorney general of the State of Louisiana, or the attorney general's designee.

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 3rd day of December, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9712#008

Emergency Rules

DECLARATION OF EMERGENCY

**Department of Agriculture and Forestry
Forestry Commission
and
Department of Revenue
Tax Commission**

1998 Timber Stumpage Values (LAC 7:XXXIX.101)

Editor's Note: All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

In accordance with the emergency provisions of the Administrative Procedure Act, RS. 49:953(B), the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission find that this emergency rule setting forth the determination by the two commissions of the current average stumpage market value of trees, timber and pulpwood for the purpose of predicating severance tax for the 1998 tax year is required so that timber severance tax computation and collection can be accomplished beginning in January, 1998. By law, these values are set annually in a meeting of the Forestry Commission and the Tax Commission on the second Monday in December. Failure to adopt the values on or before January 1, 1998 and the resultant noncollection of severance tax will cause imminent peril to public health, safety, and welfare in that the monies generated from the severance tax go to state and parish governmental entities for such uses as fire protection, police and road maintenance; and are necessary for maintaining essential governmental services.

The effective date of this emergency rule is January 1, 1998 and it shall be in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

PART XXXIX. Forestry

Chapter 1. Timber Stumpage

§101. Stumpage Values

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 1998.

Trees and Timber	Price/scale	Price/ton
1. Pine Sawtimber	\$392.40/MBF	\$49.05/ton
2. Hardwood Sawtimber	\$207.96/MBF	\$21.89/ton
3. Pine Chip and Saw	\$ 89.53/cord	\$33.16/ton
Pulpwood		
5. Pine Pulpwood	\$ 25.46/cord	\$ 9.43/ton
6. Hardwood Pulpwood	\$ 15.79/cord	\$ 5.54/ton

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 4:9 (January 1978), amended LR 5:7 (January 1979), LR 6:728 (December 1980), LR 7:627 (December 1981), LR 8:651 (December 1982), LR 9:848 (December 1983), LR 10:1038 (December 1984), LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry and the Louisiana Forestry Commission, LR 12:819 (December 1986), LR 13:432 (August 1987), LR 14:9 (January 1988), LR 15:5 (January 1989), LR 16:16 (January 1990), LR 17:476 (May 1991), LR 18:6 (January 1992), LR 19:611 (May 1993), LR 20:408 (April 1994), LR 21:930 (September 1995), LR 21:1069 (October 1995), amended by the Louisiana Forestry Commission and Louisiana Tax Commission, LR 22:581 (July 1996), LR 23:943 (August 1997), amended by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:

Billy Weaver, Chairman
Forestry Commission

Malcolm Price, Chairman
Tax Commission

9712#064

DECLARATION OF EMERGENCY

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

Eligibility of Aliens

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance 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. 49:953.B et seq., and shall be in effect for the maximum period of 120 days allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) significantly changed Medicaid eligibility for individuals who are not citizens of the United States. Medicaid must be provided to eligible citizens or nationals, but certain noncitizens may be eligible to receive only treatment for an emergency medical condition. Effective January 1, 1997, the department promulgated an emergency rule which adopted the mandatory provisions of P.L. 104-193. This rule addressed only the citizenship requirement: every applicant for Medicaid under any classification addressed in this rule must meet all requirements for eligibility (*Louisiana Register*, Volume 23, Numbers 1, 4, and 9). Previous regulations for Medicaid eligibility of lawful permanent residents and aliens permanently residing in the United States under color of law (PRUCOL) no longer apply and were replaced by the January 1997 rule.

Effective August 5, 1997, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 was amended by §§5301-5306 and §§5562-5563 of The Balanced Budget Act of 1997 as follows:

(a) the eligibility period of refugees and asylees (includes those whose deportation has been withheld under §243(h) of the INA and Cuban or Haitian entrants) increased from five to seven years; and

(b) the definition of qualified alien was expanded to include aliens granted status as Cuban and Haitian entrants.

All noncitizens are classified as qualified aliens or nonqualified aliens. Nonqualified aliens include both illegal and ineligible persons.

Definitions

Illegal Aliens—aliens who were never legally admitted to the United States for any period of time, or were admitted for a limited period of time and did not leave the United States when their period of time expired. Illegal aliens are eligible only for emergency services if they meet all eligibility criteria other than citizenship.

Ineligible Aliens—aliens lawfully admitted to the United States but only for a temporary or specified period of time as legal nonimmigrants. The following categories of individuals are ineligible aliens:

1. foreign government representatives on official business and their families and servants;
2. visitors for business or pleasure, including exchange visitors;
3. aliens in travel status while traveling directly through the U.S.;
4. crewmen on shore leave;
5. treaty traders and investors and their families;
6. foreign students;
7. international organization representation and personnel and their families and servants;
8. temporary workers, including agricultural contract workers; and

9. members of foreign press, radio, film, or other information media and their families.

Ineligible aliens are eligible only for emergency services if they meet all eligibility criteria other than citizenship.

Qualified Aliens—aliens who are:

1. lawful permanent residents;
 2. refugees;
 3. asylees;
 4. aliens who have had deportation withheld under §243(h) of the Immigration and Nationality Act (INA);
 5. aliens granted parole for at least one year by the INS;
- or
6. aliens granted conditional entry under immigration law in effect before April 1, 1980;
 7. aliens granted status as a Cuban or Haitian entrant.

Qualified aliens who are otherwise eligible for Medicaid are eligible for regular Medicaid coverage.

Emergency Medical Services—services necessary for treatment of an emergency medical condition as follows. The alien has, after sudden onset, a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part. Emergency medical services do not include any organ transplant procedure or routine prenatal or post-partum care.

Mandatory Qualified Aliens—aliens who are:

1. qualified aliens who were in the United States prior to August 22, 1996 and are members of these groups:
 - a. lawful permanent residents to whom 40 qualifying quarters of Social Security can be credited;
 - b. refugees until seven years after the date of the alien's entry into the United States;
 - c. asylees until seven years after the grant of asylum;
 - d. aliens who have had deportation withheld under §243(h) of the INA until seven years after the grant of withholding;
 - e. honorably discharged veterans who fulfill the minimum active-duty service requirements; aliens on active duty in the United States armed forces; the spouse or unmarried dependent child(ren) of such individuals; and the unremarried surviving spouse of a deceased, honorably discharged veteran;
 - f. an alien granted status as a Cuban or Haitian entrant until seven years after status granted.
2. qualified aliens entering the United States on or after August 22, 1996, who are members of the groups below:
 - a. refugees for seven years from date of entry;
 - b. asylees for seven years from date of entry;
 - c. aliens whose deportation has been withheld under §423(h) of the INA for seven years from grant of withholding;
 - d. honorably discharged veterans who fulfill the minimum active-duty service requirements; aliens on active duty in the United States armed forces; the spouse or unmarried dependent child(ren) of such individuals; and the unremarried surviving spouse of a deceased, honorably discharged veteran;

e. an alien with Cuban or Haitian entrance status until seven years from grant of status.

3. Native Americans born in Canada who have at least 50 percent Native American blood who enter and reside in the United States.

Optional Qualified Aliens—are persons who meet the definition of qualified aliens but who are not mandatory qualified aliens. Effective December 21, 1997, the state has elected to provide regular Medicaid coverage to optional qualified aliens who were in the United States prior to August 22, 1996.

Optional qualified aliens entering the United States on or after August 22, 1996 (those not described as mandatory qualified alien above) are not eligible for Medicaid benefits for five years after entry into the United States. Such qualified aliens are eligible for emergency services only. Upon expiration of the five-year period, coverage for regular Medicaid services shall be considered if the optional group of qualified aliens meets all eligibility criteria.

Adoption of this rule on an emergency basis is necessary to avoid sanctions or penalties from the federal government arising from failure to adopt appropriate regulations related to amendments to the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) contained in the Balanced Budget Act of 1997 (P.L. 105-33).

Emergency Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 401 of the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) as amended by the Balanced Budget Act of 1997 (P.L. 105-33) regarding Medicaid eligibility for noncitizens.

Effective for dates of service December 21, 1997 and after, the state elects to provide regular Medicaid coverage to optional qualified aliens who were in the United States prior to August 22, 1996, who meet all eligibility criteria.

Optional qualified aliens entering the United States on or after August 22, 1996 are not eligible for Medicaid for five years after entry into the United States. Such qualified aliens are eligible for emergency services only. Upon expiration of the five-year period, coverage for regular Medicaid services shall be considered if the optional qualified alien meets all eligibility criteria.

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

Bobby P. Jindal
Secretary

9712#088

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Board of Pardons

Clemency Filing and Processing
(LAC 22:V.Chapter 1)

(Editor's Note: The following emergency rule, adopted October 15, 1997, was received by the Office of the State Register on December 9, 1997.)

Pursuant to the emergency provisions of the Administrative Procedure Act, R.S. 49: 953(B) and R.S. 15:572 et seq. , the Board of Pardons, at its meeting of October 15, 1997, adopted the following emergency rules and procedures for processing and filing for clemency (pardon or commutation of sentence to include restoration of parole and/or good time). It is specifically provided that rules previously adopted and adhered to, unless included herein, are void.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part V. Board of Pardons

Chapter 1. Applications

§101. General

A. Any completed application will be considered for hearing by the board on the first Tuesday of each month. Should the first Tuesday fall on a legal holiday, the board will meet the following Tuesday. The board shall also meet at the discretion of the chairman to transact such other business as deemed necessary.

B. Applications must be received in the Board of Pardons office by the fifteenth of the month to be placed on the docket for consideration the following month.

C. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.

D. Any offender sentenced to death shall submit an application within one year from the date of the direct appeal denial.

E. Any offender sentenced to life may not apply until he has served 15 years from the date of sentence, unless he has sufficient evidence which would have caused him to have been found not guilty.

F. No application will be considered by the board until it deems the application to be complete in accordance with the following rules and procedures in Chapter 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.1 and 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 23:

§103. Filing Procedure

A. All Applicants

1. Every application must be submitted on the form approved by the Board of Pardons and must contain the following information:

- a. name of applicant;
- b. prison number [Department of Corrections (DOC) number];
- c. date of birth;
- d. race/sex;
- e. education (highest grade completed);
- f. age at time of offense;
- g. present age;
- h. offender class;
- i. place of incarceration (incarcerated applicant only);
- j. parish of conviction/judicial district/court docket number;
- k. offense(s) charged, convicted of or plead to;
- l. parish where offense(s) committed;
- m. date of sentence;
- n. length of sentence;
- o. time served;
- p. prior parole and/or probation;
- q. when and how parole or probation completed;
- r. prior clemency hearing/recommendation/approval;
- s. reason for requesting clemency;
- t. relief requested and narrative detailing the events surrounding the offense;
- u. institutional disciplinary reports (incarcerated applicants only); total disciplinary reports, number within the last 12 months; nature and date of last violation; and custody status.

2. The application shall be signed and dated by applicant and shall contain a prison or mailing address and home address.

3. An application must be completed. If any required information does not apply, the response should be "NA".

B. In addition to the information submitted by application, the following required documents must be attached as they apply to each applicant:

1. Incarcerated Applicants. Any applicant presently confined in any institution must attach a current master prison record and time computation/jail credit worksheet and have the signature of a classification officer verifying the conduct of the applicant as set out in §103.A.1.u. and a copy of conduct report. Applicants sentenced to death must attach proof of direct appeal denial.

2. Parolees. Applicants presently under parole supervision or who have completed parole supervision must attach a copy of their master prison record or parole certificate.

3. Probationers. Applicants presently under probation supervision or who have completed probationary period must attach a certified copy of sentencing minutes or copy of automatic first offender pardon.

4. First Offender Pardons [R.S. 15:572 (B)]. Applicants who have received an Automatic First Offender Pardon must attach a copy of the Automatic First Offender Pardon.

C. No additional information or documents may be submitted until applicant has been notified that he/she will be given a hearing unless applicant has a life sentence and has served less than 15 years and has documentation proving innocence. The Board of Pardons will not be responsible for

items submitted prior to notification that a hearing will be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 23:

§105. Discretionary Powers of the Board

A.1. The Board of Pardons, at its discretion, may deny any applicant a hearing for any of the following reasons:

- a. serious nature of the offense;
- b. insufficient time served on sentence;
- c. insufficient time after release;
- d. proximity of parole/good time date;
- e. institutional disciplinary reports;
- f. probation/parole—unsatisfactory/violated;
- g. past criminal record; or
- h. any other factor determined by the board.

2. However, nothing in this Chapter shall prevent the board from hearing any case.

B. Any applicant denied under this Chapter shall be notified, in writing, of the reason(s) for denial and thereafter may file a new application two years from date of the letter of denial. Any applicant with a life sentence denied after August 15, 1997 may reapply six years after the initial denial; three years after the subsequent denial; and every two years thereafter.

C. Any fraudulent documents or information submitted by applicant will result in an automatic denial by the board and no new application will be accepted until four years have elapsed from the date of letter of denial. Any lifer denied because of fraudulent documents may reapply 10 years from the date of letter of initial denial; seven years if subsequent denial; and six years for denials thereafter.

D. In any matters not specifically covered by these rules, the board shall have discretionary powers to act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 23:

§107. Contact with the Board of Pardons

A. Contact with the Board of Pardons or any member is prohibited except by appearing/testifying at a public hearing or by written letter addressed to the Board of Pardons.

B. If a board member is improperly contacted, he/she must immediately notify the individual that the contact is illegal. The letter must be accompanied by a copy of R.S.15:573.1, and the contact must be reported to the other board members.

C. Any prohibited contact after an individual has been informed of the prohibition as provided in §107.B shall be fined not more than \$500 or imprisoned for not more than six months or both.

D. All letters in favor of pardon, clemency, or commutation of sentence are subject to public inspection. Exceptions to this Section are:

- 1. letters from any victim of a crime committed by the applicant being considered for pardon, clemency, or commutation of sentence, or any person writing on behalf of the victim;

2. any letters written in opposition to pardon, clemency, or commutation of sentence.

E. All letters written by elected or appointed public officials in favor of or opposition to pardon, clemency, or commutation of sentence received after August 15, 1997 are subject to public inspection and shall be recorded in a central register maintained by the board. The register shall contain, the name of the individual whose pardon, clemency, or commutation of sentence is subject of the letter, the name of the public official who is the author of the letter and the date the letter was received by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 23:

§109. Hearing Granted

A. After notice to an applicant that a hearing has been granted the applicant must provide the Board of Pardons office with proof of advertisement within 90 days from the date of notice to grant a hearing. Advertisement must be published in the official journal of the parish where the offense occurred. This ad must state:

"I, (applicant's name), DOC Number, have applied for clemency"

and must be published for three days within a 30-day period without cost to the Department of Public Safety and Corrections, Corrections Services, Board of Pardons.

B. Applicant may submit additional information, e.g., letters of recommendation and copies of certificates of achievement and employment/residence agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1063 (December 1990), amended LR 23:

§111. Notice of Public Hearing Dates

A. After receipt of all documents required by §§103 and 109.A and the clemency investigation from the appropriate probation and parole district, the board shall set the matter for public hearing.

B. At least 30 days prior to public hearing date, the board shall give written notice of the date, time, and place to the following:

1. the district attorney and sheriff of the parish in which the applicant was convicted; and, in Orleans Parish, the superintendent of police;

2. the applicant;

3. the victim who has been physically or psychologically injured by the applicant (if convicted of that offense), and the victim's spouse or next of kin, unless the injured victim's spouse or next of kin advises the board, in writing, that such notification is not desired;

4. the spouse or next of kin of a deceased victim when the offender responsible for the death is the applicant (if convicted of that offense), unless the spouse or next of kin advises the board, in writing, that such notification is not desired;

5. the Crime Victims Services Bureau of the Department of Public Safety and Corrections; and

6. any other interested person who notifies the Board of Pardons, in writing, giving name and return address.

C. The district attorney, injured victim, spouse, or next of kin, and any other persons who desire to do so shall be given a reasonable opportunity to attend the hearing. The district attorney or his representative, victim, victim's family, and a victim advocacy group, may appear before the Board of Pardons by means of telephone communication from the office of the local district attorney.

D. Only three persons in favor, to include the applicant, and three in opposition, to include the victim/victim's family member, will be allowed to speak at the hearing. However, there is no limit on written correspondence in favor of and/or opposition to the applicant's request.

E. If an applicant is released from custody and/or supervision prior to public hearing date, the case will be closed without notice to the applicant. Applicant may reapply two years from the date of release.

F. Applicant's failure to attend and/or notify the Board of Pardons office of his/her inability to attend the hearing will result in an automatic denial. The applicant may reapply two years from the date of scheduled hearing. Lifers who fail to attend and/or advise of inability to attend may reapply in six years if it is his/her initial hearing, three years if subsequent hearing date, and two years thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4 and 15:574.12(G) and R.S. 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Correction, Board of Pardons, LR 16:1063 (December 1990), amended LR 23:

§113. Denials by Board after Public Hearing

A. The board shall notify the applicant of the denial. Applicant may submit a new application two years after the date of letter of denial. Any applicant serving life may apply six years after initial denial, three years after subsequent denial and thereafter every two years.

B. The board shall terminate hearing should the applicant become disorderly, threatening, or insolent. Any hearing terminated due to applicant's disorderly, threatening, or insolent behavior is an automatic denial and the applicant may reapply four years from the date of hearing except those serving life sentence who may reapply 10 years from the date of initial hearing termination, seven years from the subsequent hearing termination, and six years from hearing termination thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 23:

§115. Denial/No Action Taken by Governor after Favorable Recommendation

A. The board shall notify the applicant after its receipt of notification that favorable recommendation was denied or no action was taken by the governor. Applicant may submit a new application one year from the date of the letter of denial or notice of no action.

B. An applicant who has been paroled, released under good time parole supervision, or released from sentence within one year of the date of letter of denial or notice of no action by the governor, may submit a new application two years after the date of release from confinement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 23:

§117. Governor Grants

The Office of the Governor will notify the applicant if any clemency is granted. Applicant may submit a new application for additional relief four years from the date of notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 23:

Sally L. McKissack
Chairman

9712#043

DECLARATION OF EMERGENCY

Department of Revenue Office of Alcohol and Tobacco Control

Responsible Vendor Program Fees (LAC 55:VII.501)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act and the authority of R.S. 26:906, the Department of Revenue, Office of Alcohol and Tobacco Control hereby finds that emergency action is deemed necessary for the immediate implementation of the provisions of the Louisiana Responsible Vendor Program ("program") and hereby adopts an emergency rule, effective November 21, 1997. Act 1054 of the 1997 Regular Session of the Louisiana Session enacted Chapter 7, consisting of §§901 through 909, of Title 26 of the Revised Statutes and thereby established minimum standards for the training of employees of licensed establishments who sell or serve alcoholic beverages in the normal course of their employment. It further provided for the certification process for those training programs that wish to instruct these employees in matters such as the effects of alcohol, absorption rate, identifying underage individuals, and state laws and local ordinances that regulate the sale of alcoholic beverages and tobacco products. Finally, it provided for establishment of a fee to be charged to each licensed establishment for the development and administration of this program.

The Office of Alcohol and Tobacco Control finds that the establishment of the fee of \$35 per establishment, per year is necessary for the immediate implementation of the program in order to protect the public from the imminent threat to public health and safety associated with the sale of alcoholic beverages to underage individuals and the effects and

consequences of the irresponsible consumption of alcoholic beverages.

For the foregoing reasons, the Office of Alcohol and Tobacco Control hereby adopts Chapter 5 of Part VII of Title 55 of the *Louisiana Administrative Code*, by promulgating a new §501, relative to the establishment of the fee of \$35/licensed establishment/year to cover the cost of the Louisiana Responsible Vendor Program.

This emergency rule shall remain in effect for 120 days or until the final rule takes effect through normal promulgation process, whichever occurs first.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 5. Responsible Vendor Program

§501. Fees

A. In accordance with the authority of R.S. 26:906, the Office of Alcohol and Tobacco Control hereby establishes a fee of \$35 per establishment, per year for the development and administration of the Louisiana Responsible Vendor Program.

B. Except as provided in §501.C, beginning November 24, 1997, this fee shall be assessed on all renewal applications and to each new applicant seeking a retail permit to deal in alcoholic beverages.

C. The fee established in §501.A shall not be assessed to those parties seeking a Special Event Permit as defined in R.S. 26:793(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:906.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:

Murphy P. Painter
Commissioner

9712#086

DECLARATION OF EMERGENCY

Department of Revenue Tax Commission

Ad Valorem Taxation (LAC 61:V.Chapters 1-35)

The Tax Commission, at its meeting of December 9, 1997, exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, adopted the following additions, deletions and amendments to the real/personal property rules and regulations.

This emergency rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 1998. Cost indexes required to finalize these assessment tables are not available to this office until late October 1997. The effective date of this emergency rule is January 1, 1998.

Title 61
REVENUE AND TAXATION
Part V. Ad Valorem Taxation

Chapter 1. Constitutional and Statutory Guides to Property Taxation

§101. Constitutional Principles for Property Taxation

A. Assessments. Property subject to ad valorem (property) taxation shall be listed on the assessment rolls at its assessed valuation, which, except as provided in §101.C, shall be a percentage of its fair market value. The percentage of fair market value shall be uniform throughout the state upon the same class of property.

B. Classification

1. The classification of property subject to ad valorem taxation and the percentage of fair market value applicable to each classification for the purpose of determining assessed valuation are as follows:

Classifications	Percentages
a. land	10%
b. improvements for residential purposes	10%
c. electric cooperative properties, excluding land	15%
d. public service properties, excluding land	25%
e. other property (including personal property)	15%

2. The legislature may enact laws defining electric cooperative properties and public service properties. (See R.S. 47:1851).

C. Use Value. Bona fide agricultural, horticultural, marsh and timber lands, as defined by general law, shall be assessed for tax purposes at 10 percent of use value rather than fair market value. The legislature may provide by law similarly for buildings of historic architectural importance.

D. Valuation. Each assessor shall determine the fair market value of all property subject to taxation within his respective parish or district, except public service properties, which shall be valued at fair market value by the Tax Commission or its successor. Each assessor shall determine the use value of property which is to be so assessed under the provisions of §101.C. Fair market value and use value of property shall be determined in accordance with criteria which shall be established by law and which shall apply uniformly throughout the state.

E. Review. The correctness of assessments by the assessor shall be subject to review first by the parish governing authority, then by the Tax Commission or its successor, and finally by the courts, all in accordance with procedures established by law.

AUTHORITY NOTE: Promulgated in accordance with Louisiana Constitution of 1974, Article VII, Section 18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:

§103. Exempt Property

A. In addition to the homestead exemption provided for in Section 20 of Article VII of the constitution, the following

property and no other shall be exempt from the ad valorem tax:

1. public lands; other public property used for public purposes;
2. property of nonprofit organizations operated exclusively for religious, dedicated places of burial, charitable, health, welfare, fraternal, or educational purposes;
3. property of bona fide labor organizations and certain businesses and trade and professional organizations;
4. property of nonprofit organizations organized for fraternal and charitable purposes;

Note: See Louisiana Constitution of 1974, Article VII, Section 21.B, for specific conditions of authorization.

Note: None of the property listed in §103.A.2, 3, and 4 shall be exempt if owned, operated, leased or used for commercial purposes unrelated to the exempt purposes of the corporation or association.

* * *

6. stocks and bonds, except bank stocks, the tax on which shall be paid by the banking institution;

* * *

8. loans by life insurance companies to policyholders, if secured solely by their policies;

* * *

13. personal property used in the home or on loan in a public place;

14. irrevocably dedicated places of burial held by individuals for purposes of burial of themselves or members of their families;

15. agricultural products while owned by the producer, agricultural machinery and other implements used exclusively for agricultural purposes (including crop dusting aircraft), animals on the farm, and property belonging to an agricultural fair association (also see R.S. 47:1707);

* * *

17. rights-of-way granted to the Department of Transportation and Development (DOTD);

* * *

20. ships and oceangoing tugs, towboats and barges engaged in international trade and domiciled in Louisiana ports. However, this exemption shall not apply to harbor, wharf, shed, and other port dues or to any vessel operated in the coastal trade of the states of the United States;

21. materials, boiler fuels, and energy sources used by public utilities to fuel the generation of electricity;

22. all incorporeal movables of any kind or nature whatsoever, except public service properties, bank stocks, and credit assessments on premiums written in Louisiana by insurance companies and loan and finance companies. (See Louisiana Civil Code of 1870, as amended, and R.S. 47:1709).

B. Also exempt are raw materials, goods, commodities, articles and personal property imported into this state from outside the states of the United States or, held in storage while in transit through this state which are moving in interstate commerce.

Note: See Louisiana Constitution, Article VII, Section 21.D; R.S. 47:1951.1; R.S. 47:1951.2; and R.S. 47:1951.3 for specific conditions of authorization.

Note: Property described in §103.B, whether or not entitled to exemption, shall be reported to the proper taxing authorities on the forms required by law.

C. Motor vehicles used on the public highways of this state, from state, parish and special ad valorem taxes. This exemption shall not extend to any general or special tax levied by a municipal governing authority, or by a district created by it, unless the governing authority thereof provides for the exemption by ordinance or resolution.

D. New manufacturing establishments and additions to existing manufacturing establishments to be granted tax exemptions by the Board of Commerce and Industry, with the approval of the governor, as authorized by Article VII, Section 21.F of the Louisiana Constitution of 1974.

E. Coal or lignite stockpiled in Louisiana for use in Louisiana for industrial or manufacturing purposes or for boiler fuel, gasification, feedstock, or process purposes.

F. Value of enhancements to certain structures located in downtown, historic, or economic development districts to be granted a limited exemption by the Board of Commerce and Industry, if approved by the governor and the local governing authority, as authorized by Article VII, Section 21.H of the Louisiana Constitution of 1974.

G. Goods held in inventory by distribution centers, to be granted tax exemptions by the parish economic development or governing authority, with the approval of each affected tax recipient body in the parish, as authorized by Article VII, Section 21.I of the Louisiana Constitution of 1974.

AUTHORITY NOTE: Promulgated in accordance with Louisiana Constitution of 1974, Article VII, Section 21.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 15:1097 (December 1989), LR 17:1213 (December 1991), amended by the Department of Revenue, Tax Commission, LR 24:

§123. Statutes Pertaining to Specific Personal Property

Listing and Assessing of Notes and Indebtedness

1. All credits, including open accounts, bills receivable, judgments and all promissory notes, not exempt, shall be assessed at the personal property ratio. Valuation shall be at an average of the capital employed in the business after deduction from accounts payable, bills payable and other liabilities of a similar character, not exempt. Liabilities due from branches or subsidiaries shall not be deducted (R.S. 47:1962).

2. Indebtedness and all evidence of indebtedness, shall be taxable only at the situs and domicile of the holder or owner thereof (R.S. 47:1952).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1952 and R.S. 47:1962.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:921 (November 1984), LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:

Chapter 3. Real and Personal Property

§309. Tax Commission Miscellaneous Forms

A. TC Form 8, Agreement to Suspend Subscription of Ad Valorem Tax Form, should be used when audit or other circumstances deem it appropriate.

B. TC Form 9, Insurance Companies Form, should be sent to all property and casualty insurance companies, both foreign and domestic, licensed to write insurance in Louisiana.

C. TC Form 33, Abstract of Assessments Form, shall be annually completed and furnished to the Tax Commission by each parish assessor on or before the filing of the parish assessment rolls for certification by the Tax Commission.

D. TC Forms CO1, CO2 and CO3, should be used to electronically process change order requests submitted by tax assessors' offices.

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 21:186 (February 1995), amended LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:

Chapter 7. Watercraft

§701. Guidelines for Ascertaining Fair Market Value of Watercraft

* * *

B. Valuation

* * *

2. The same procedure shall be used as for other forms of machinery and equipment. That is, cost of the vessel will be brought up to current value through use of the appropriate index and depreciated based on the effective age of the vessel. The appropriate cost index, percent good factors and composite multipliers appear in Tables 703.A and 703.B.

3. Consideration of obsolescence when using the cost approach—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 shall be given. If economic and/or functional obsolescence is not given when warranted, an appreciated value greater than fair market value may result.

4. Gulf of Mexico Watercraft Fleet. When determining the three approaches to value, the assessor may use a variable annual income approach, as compiled by a certified marine surveyor-appraisal company, at the request of the Louisiana Assessors' Association, for weighting and correlating current market conditions as a part of the fair market valuation process.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, Sections 18 and 21, 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 10:922 (November 1984), LR 12:36 (January 1986), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:

§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
1997	0.993	1	94	.93
1996	1.009	2	87	.88

1995	1.024	3	80	.82
1994	1.061	4	73	.77
1993	1.091	5	66	.72
1992	1.112	6	58	.64
1991	1.126	7	50	.56
1990	1.148	8	43	.49
1989	1.179	9	36	.42
1988	1.242	10	29	.36
1987	1.295	11	24	.31
1986	1.314	12	22	.29
1985	1.326	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
1997	0.993	1	97	.96
1996	1.009	2	93	.94
1995	1.024	3	90	.92
1994	1.061	4	86	.91
1993	1.091	5	82	.89
1992	1.112	6	78	.87
1991	1.126	7	74	.83
1990	1.148	8	70	.80
1989	1.179	9	65	.77
1988	1.242	10	60	.75
1987	1.295	11	55	.71
1986	1.314	12	50	.66
1985	1.326	13	45	.60
1984	1.346	14	40	.54
1983	1.383	15	35	.48
1982	1.408	16	31	.44
1981	1.474	17	27	.40
1980	1.626	18	24	.39
1979	1.788	19	22	.39
1978	1.955	20	21	.41
1977	2.102	21	20	.42

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:

Chapter 9. Oil and Gas Properties

§905. Reporting Procedures

* * *

B. Surface Equipment

* * *

6. Property Class Number 6—Field Improvements—docks, lease buildings, equipment sheds and buildings, warehouses, land and leasehold improvements, etc.—furnish year constructed and cost. Use composite multiplier from appropriate table on original cost, and extend fair market value for each.

* * *

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 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 24:

§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 shall be given. If economic and/or functional obsolescence is not given when warranted, an appreciated value greater than fair market value may result.

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.	6.97	8.44	1.05	1.27
1,250-2,499 ft.	7.30	7.51	1.10	1.13
2,500-3,749 ft.	9.11	8.67	1.37	1.30
3,750-4,999 ft.	11.27	10.97	1.69	1.65
5,000-7,499 ft.	15.66	17.77	2.35	2.67
7,500-9,999 ft.	17.40	26.24	2.61	3.94
10,000-2,499 ft.	25.53	32.99	3.83	4.95
12,500-Deeper ft.	N/A	68.55	N/A	10.28

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.	26.69	45.01	4.00	6.75
1,250 - 2,499 ft.	21.14	41.37	3.17	6.21
2,500 - 3,749 ft.	21.50	30.95	3.23	4.64
3,750 - 4,999 ft.	21.70	30.99	3.26	4.65
5,000 - 7,499 ft.	19.89	31.17	2.98	4.68
7,500 - 9,999 ft.	26.06	28.18	3.91	4.23
10,000 - 12,499 ft.	31.75	37.91	4.76	5.69
12,500 - 14,999 ft.	45.02	52.34	6.75	7.85
15,000 - 17,499 ft.	62.46	68.56	9.37	10.28
17,500 - 19,999 ft.	85.31	106.00	12.80	15.90
20,000 - Deeper ft.	73.18	122.67	10.98	18.40

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

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	105.86	N/A	15.88
1,250-2,499 ft.	168.29	252.07	25.24	37.81
2,500-3,749 ft.	66.16	199.04	9.92	29.86
3,750-4,999 ft.	135.59	103.89	20.34	15.58
5,000-7,499 ft.	91.01	100.22	13.65	15.03
7,500-9,999 ft.	90.68	93.73	13.60	14.06
10,000-12,499 ft.	85.73	92.62	12.86	13.89
12,500-14,999 ft.	86.51	108.32	12.98	16.25
15,000-17,499 ft.	86.51	98.51	12.98	14.78
17,500-Deeper ft.	109.95	134.08	16.49	20.11

* As classified by Louisiana Office of Conservation.

4. Instructions for Use of Tables 907.A-1, 907.A-2 and 907.A-3 and Procedure for Arriving at Assessed Value

a. Determine if well is located in Region 1 by reference to Table 907.B-1.

b. Multiply depth of well by appropriate 15 percent of Cost-New amount as indicated in Table 907.A-1, 907.A-2 or 907.A-3.

c. Multiply the appropriate percent good factor based on age of the well as found in Table 907.B-2.

d. Use Oil Cost—New to assess all active service wells for region where located.

e. See explanations in Section 901.E regarding the assessment of multiple completion wells.

f. For wells recompleted at a deeper depth, multiply depreciated cost-new by 1.5. For wells recompleted at a shallower depth, use the new perforation depth to determine fair market value.

B. Parishes Considered to be Located in Region I; Serial Number to Percent Good Conversion; Producing Property (Well, Surface Equipment and Facilities) Total Assessment Limit (Economic Obsolescence); Adjustments for Allowance of Economic Obsolescence

1. Parishes Considered to be Located in Region I

Table 907.B-1 Parishes Considered to be Located in Region I			
Bienville	DeSoto	Madison	Tensas
Bossier	East Carroll	Morehouse	Union
Caddo	Franklin	Natchitoches	Webster
Caldwell	Grant	Ouachita	West Carroll
Catahoula	Jackson	Red River	Winn
Claiborne	LaSalle	Richland	
Concordia	Lincoln	Sabine	

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
1997	220034	Higher	96
1996	218653	220033	92
1995	217588	218652	88
1994	216475	217587	84
1993	215326	216474	80
1992	214190	215325	76
1991	212881	214189	72
1990	211174	212880	68
1989	209484	211173	64
1988	207633	209483	60
1987	205211	207632	56
1986	202933	205210	52
1985	197563	202932	48
1984	189942	197562	44
1983	184490	189941	40
1982	179370	184489	36

1981	173109	179369	32
1980	166724	173108	28
1979	Lower	166723	26*
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.

3. Producing Property (Well, Surface Equipment and Facilities) Total Assessment Limit (Economic Obsolescence)

Production Sold BOPD/BCPD or MCFGPD	Oil/Condensate Assessment Limit	Gas Assessment Limit
0.5	520	60
1	1,040	120
1.5	1,560	190
2	2,080	250
2.5	2,600	310
3	3,120	370
3.5	3,640	430
4	4,160	490
4.5	4,680	560
5	5,200	620
6	6,240	740
7	7,280	860
8	8,320	990
9	9,360	1,110
10	10,400	1,230
15	15,600	1,850
20	20,810	2,460
25	26,010	3,080
30	31,210	3,700
35	36,410	4,310
40	41,610	4,930
45	46,810	5,540
50	52,010	6,160
60	62,420	7,390
70	72,820	8,620
80	83,220	9,860
90	93,620	11,090
100	104,030	12,320

125	130,030	15,400
150	156,040	18,480
175	182,040	21,560
200	208,050	24,640
250	260,060	30,800
300	312,080	36,960
350	364,090	43,120
400	416,100	49,280
450	468,110	55,440
500	520,130	61,590
600	---	73,910
700	---	86,230
800	---	98,550
900	---	110,870
1,000	---	123,190
2,000	---	246,380
3,000	---	369,560
4,000	---	492,750
5,000	---	615,940

4. Adjustments for Allowance of Economic Obsolescence

a. All "incapable" wells (25 bbl oil or 250 mcf gas, or less, per day), as defined in R.S. 47:633, as well as all active service wells (e.g., injection, salt water disposal, water source, etc.) shall be allowed a 40 percent reduction. Taxpayer shall provide the assessor with the proper Office of Conservation forms to document claim for such reduction.

b. All inactive (shut-in) wells shall be allowed a 60 percent reduction.

c. Deduct any additional obsolescence that has been appropriately documented by the taxpayer, as warranted, to reflect fair market value.

d. Economic obsolescence credits shall be based on representative daily production from the prior year(s) (See Table 907.B-3), as a means of establishing a maximum assessed value to be applied to wells, surface equipment and facilities, which can be applied to single well leases, multiple well leases or to fields. This table is based on a crude oil/condensate price of \$19 and a natural gas price of \$2.25.

e. All oil and gas property assessments may be based on an individual cost basis.

f. 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. Surface Equipment

1. Listed below is the cost-new of major items used in the production, storage, transmission and sale of oil and gas. Any equipment not shown shall be assessed on an individual basis.

2. All surface equipment, including other property associated or used in connection with the oil and gas industry in the field of operation, must be rendered in accordance with guidelines established by the Tax Commission and in accordance with requirements set forth on LAT Form 12-Personal Property Tax Report - Oil and Gas Property.

3. Oil and gas personal property will be assessed in seven major categories, as follows:

- a. oil, gas and associated wells;
- b. oil and gas equipment (surface equipment);
- c. tanks (surface equipment);
- d. lines (oil and gas lease lines);
- e. inventories (material and supplies);
- f. field improvements (docks, buildings, etc.);
- g. other property (not included above).

4. The updated cost-new values, as compiled by a valuation consultant company, at the request of the Louisiana Assessors' Association, shall be the basis for assessing those items of surface equipment so provided. Otherwise, use the cost-new values listed below for assessing all other surface equipment.

5. 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.

6. 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 shall be given. If economic and/or functional obsolescence is not given when warranted, an appreciated value greater than fair market value may result.

7. 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	
Property Description	\$ Cost New
Actuators - (See Metering Equipment)	
Automatic Control Equipment - (See Safety Systems)	
Automatic Tank Switch Unit - (See Metering Equipment)	
Barges - Concrete - (Assessed on an individual basis)	
Barges - Storage - (Assessed on an individual basis)	
Barges - Utility - (Assessed on an individual basis)	
Barges - Work - (Assessed on an individual basis)	
Communication Equipment - (See Telecommunications)	

Dampeners - (See Metering Equipment - "Recorders")	
Desorbers - (No metering equipment included):	
125Number	56,710
300Number	62,530
500Number	71,160
Destroilets - (See Metering Equipment - "Regulators")	
Desurgers - (See Metering Equipment - "Regulators")	
Desilters - (See Metering Equipment - "Regulators")	
Diatrollers - (See Metering Equipment - "Regulators")	
Docks, Platforms, Buildings - (Assessed on an individual basis)	
Dry Dehydrators (Driers) - (See Scrubbers)	
Engines - Unattached - (Only includes engine and skids): Per Horsepower	180
Evaporators - (Assessed on an individual basis)	
Expander Unit - (No metering equipment included): Per Unit	20,800
Flow Splitters - (No metering equipment included):	
48 in. diameter vessel	10,130
72 in. diameter vessel	13,420
96 in. diameter vessel	20,560
120 in. diameter vessel	29,220
Fire Control System - (Assessed on an individual basis)	
Furniture and Fixtures - (Assessed on an individual basis) (Field operations only, according to location.)	
Gas Compressors - Package Unit - (skids, scrubbers, cooling system, and power controls. No metering or regulating equipment.):	
Up to 1500 horsepower - Per hp	620
1501 and up - Per hp	400
Gas Coolers - (No metering equipment):	
5,000 MCF/D	16,000
10,000 MCF/D	18,000
20,000 MCF/D	56,000
50,000 MCF/D	127,000
100,000 MCF/D	208,000
Generators - Package Unit only - (No special installation) - Per kW	440
Glycol Dehydration - Package Unit - (including pressure gauge, relief valve and regulator. No other metering equipment.):	
Up to 4.0 MMCF/D	11,220
4.1 to 5.0 MMCF/D	12,510
5.1 to 10.0 MMCF/D	21,040
10.1 to 15.0 MMCF/D	33,930
15.1 to 20.0 MMCF/D	49,780
20.1 to 25.0 MMCF/D	52,180
25.1 to 30.0 MMCF/D	72,980
30.1 to 50.0 MMCF/D	118,580
50.1 to 75.0 MMCF/D	158,360
75.1 and Up MMCF/D	200,000

Heaters - (includes unit, safety valves, regulators and automatic shut-down. No metering equipment.):	
Steam Bath - Direct Heater:	
24 in. diameter vessel - 250,000 Btu/hr rate	3,910
30 in. diameter vessel - 500,000 Btu/hr rate	4,910
36 in. diameter vessel - 750,000 Btu/hr rate	5,910
48 in. diameter vessel - 1,000,000 Btu/hr rate	8,760
60 in. diameter vessel - 1,500,000 Btu/hr rate	10,800
Water Bath - Indirect Heater:	
24 in. diameter vessel - 250,000 Btu/hr rate	4,890
30 in. diameter vessel - 500,000 Btu/hr rate	5,890
36 in. diameter vessel - 750,000 Btu/hr rate	8,310
48 in. diameter vessel - 1,000,000 Btu/hr rate	10,730
60 in. diameter vessel - 1,500,000 Btu/hr rate	13,360
Steam - (Steam Generators):	
24 in. diameter vessel - 250,000 Btu/hr rate	5,070
30 in. diameter vessel - 450,000 Btu/hr rate	6,360
36 in. diameter vessel - 500 to 750,000 Btu/hr rate	9,510
48 in. diameter vessel - 1 to 2,000,000 Btu/hr rate	10,930
60 in. diameter vessel - 2 to 3,000,000 Btu/hr rate	12,360
72 in. diameter vessel - 3 to 6,000,000 Btu/hr rate	19,510
96 in. diameter vessel - 6 to 8,000,000 Btu/hr rate	23,440
Heat Exchange Units-Skid Mounted - (See Production Units)	
Heater Treaters - (Necessary controls, gauges, valves and piping. No metering equipment included.):	
Heater - Treaters - (Non-metering):	
4 x 20 ft.	8,510
4 x 27 ft.	10,960
6 x 20 ft.	11,470
6 x 27 ft.	14,420
8 x 20 ft.	18,360
8 x 27 ft.	21,510
10 x 20 ft.	24,290
10 x 27 ft.	28,560
Heater - Treaters - (Metering) - (Also includes metering section with dump counters.):	
3 x 15 ft.	8,400
4 x 22 ft.	14,000
6 x 22 ft.	16,400
8 x 22 ft.	23,600
10 x 22 ft.	30,000
L.A.C.T. (Lease Automatic Custody Transfer) - See Metering Equipment)	
L.T.X. (Low Temperature Extraction) - (includes safety valves, temperature controllers, chokes, regulators, metering equipment, etc. - complete unit.):	
Range I - Up to 5.0 MMCF/D	73,180
Range II - 5.1 to 10.0 MMCF/D	95,910
Range III - 10.1 to 15.0 MMCF/D	123,240
Range IV - 15.1 and Up MMCF/D	158,200
Liqua Meter Units - (See Metering Equipment)	
Manifolds - (See Metering Equipment)	
Material and Supplies - Inventories - (Assessed on an individual basis)	
Meter Calibrating vessels - (See Metering Equipment)	
Meter Prover Tanks - (See Metering Equipment)	

Meter Runs - (See Metering Equipment)	
Meter Control Stations - (not considered Communication Equipment) - (Assessed on an individual basis)	
Metering Equipment	
Actuators - hydraulic, pneumatic and electric valves	3,310
Controllers - time cycle valve - valve controlling device (also known as Intermitter)	1,040
Fluid Meters:	
1 Level Control	
24 in. diameter vessel - 1/2 bbl. dump	2,530
30 in. diameter vessel - 1 bbl. dump	3,240
36 in. diameter vessel - 2 bbl. dump	4,490
2 Level Control	
20 in. diameter vessel - 1/2 bbl. dump	2,360
24 in. diameter vessel - 1/2 bbl. dump	2,840
30 in. diameter vessel - 1 bbl. dump	3,560
36 in. diameter vessel - 2 bbl. dump	4,800
L.A.C.T. and A.T.S. Units:	
30 lb. discharge	15,800
60 lb. discharge	18,000
Manifolds - Manual Operated:	
High Pressure	
per well	12,400
per valve	4,200
Low Pressure	
per well	6,000
per valve	2,000
Manifolds - Automatic Operated:	
High Pressure	
per well	22,400
per valve	7,400
Low Pressure	
per well	16,000
per valve	5,400
Note: Automatic Operated System includes gas hydraulic and pneumatic valve actuators, (or motorized valves), block valves, flow monitors - in addition to normal equipment found on manual operated system. NO METERING EQUIPMENT INCLUDED.	
Meter Runs - piping, valves and supports - no meters:	
2 in. piping and valve	3,400
3 in. piping and valve	3,800
4 in. piping and valve	4,600
6 in. piping and valve	6,400
8 in. piping and valve	9,600
10 in. piping and valve	12,800
12 in. piping and valve	16,000
14 in. piping and valve	21,780
16 in. piping and valve	28,440
18 in. piping and valve	35,200
20 in. piping and valve	45,780
22 in. piping and valve	57,690
24 in. piping and valve	70,600
Metering Vessels (Accumulators):	
1 bbl. calibration plate (20 x 9)	1,960
5 bbl. calibration plate (24 x 10)	2,130
7.5 bbl. calibration plate (30 x 10)	2,960
10 bbl. calibration plate (36 x 10)	3,690
Recorders (Meters) - Includes both static element and tube drive pulsation dampener - also one and two pen operations.	
per meter	1,380
Solar Panel (also see Telecommunications)	
per unit (10 ft. x 10 ft.)	200

Pipe Lines - Lease Lines	
Steel	
2 in. nominal size - per mile	14,690
2½ in. nominal size - per mile	24,710
3 and 3½ in. nominal size - per mile	28,470
4, 4½ and 5 in. nominal size - per mile	33,730
6 in. nominal size - per mile	47,730
Plastic - PVC	
2 in. nominal size - per mile	2,200
2½ in. nominal size - per mile	3,600
3 in. nominal size - per mile	4,000
4 in. nominal size - per mile	6,000
6 in. nominal size - per mile	11,800
Plastic - Fiberglass	
2 in. nominal size - per mile	12,910
3 in. nominal size - per mile	20,380
4 in. nominal size - per mile	29,130
6 in. nominal size - per mile	76,400
Note: Allow 85 percent obsolescence credit for lines that are inactive, idle, open on both ends and dormant, which are being carried on corporate records solely for the purpose of retaining right of ways on the land and/or due to excessive capital outlay to refurbish or remove the lines.	
Pipe Stock - (Assessed on an individual basis)	
Pipe Stock - Exempt - Under Louisiana Constitution, Article X, Section 4 (19-C)	
Production Units:	
Class I - per unit - separator and 1 heater	12,820
Class II - per unit - separator and 1 heater	15,220
Production Process Units - These units are by specific design and not in the same category as gas compressors, liquid and gas production units or pump-motor units. (Assessed on an individual basis.)	
Prover Tanks:	
5 bbl. (4 x 8)	4,600
10 bbl. (5 x 8)	5,800
15 bbl. (6 x 9)	7,510
20 bbl. (6 x 10)	9,130
25 bbl. (8 x 9)	10,510
Pumps - in Line - per horsepower rating of motor	
	160
Pump-Motor Unit - Pump and Motor only (Per hp)	
Class I - (water flood, s/w disposal, p/l, etc.)	200
Up to 300 hp - rated on per hp of motor	240
Class II - (high pressure injection, etc.)	
301 and up hp - rated on per hp of motor	
Pumping Units - Conventional and Beam Balance Units - (Unit value includes motor) - assessed according to well depth on which unit is operating.	
0 - 1,250 ft. well depth	3,670
1,251 - 2,500 ft. well depth	6,200
2,501 - 3,750 ft. well depth	8,710
3,751 - 5,000 ft. well depth	9,800
5,001 - 7,500 ft. well depth	13,110
7,501 - 10,000 ft. well depth	14,400
10,001 - 12,500 ft. well depth	16,910
12,501 - 15,000 ft. well depth	23,800
15,001 - 17,500 ft. well depth	31,000
17,501 - 20,000 ft. well depth	39,800
20,001 - deeper ft. well depth	49,510
Note: For "Air Balance" and "Heavy Duty" units, multiply the above values by 1.30.	

Regenerators (Accumulator) - (See Metering Equipment)	
Regulators: per unit	1,400
Safety Systems	
Onshore and Marsh Area	
Basic Case:	
well only	2,800
well and production equipment	3,200
with surface op. ssv, add	4,800
Offshore 0 - 3 Miles	
Wellhead safety system (excludes wellhead actuators)	
per well	8,000
production train	20,000
glycol dehydration system	12,000
P/L pumps and LACT	28,000
Compressors	17,600
Wellhead Actuators (does not include price of the valve)	
5,000 psi	2,000
10,000 psi and over	3,000
Note: For installation costs - add 25 percent	
Sampler - (See Metering Equipment - "Fluid Meters")	
Scrubbers - Two Classes	
Class I - Manufactured for use with other major equipment and, at times, included with such equipment as part of a package unit.	
8 in. diameter vessel	1,690
10 in. diameter vessel	2,440
12 in. diameter vessel	2,760
Class II - Small "in-line" scrubber used in flow system usually direct from gas well. Much of this type is "shop-made" and not considered as major scrubbing equipment.	
8 in. diameter vessel	800
12 in. diameter vessel	1,040
Note: NO METERING OR REGULATING EQUIPMENT INCLUDED IN THE ABOVE.	
Separators - (No metering equipment included)	
125 psi vessel	7,330
230 psi vessel	9,070
500 psi vessel	13,330
600 psi vessel	14,000
1,000 psi vessel	16,000
1,200 psi vessel	18,670
1,440 psi vessel	21,330
1,500 psi vessel	22,670
2,000 psi vessel	28,670
3,000 psi vessel	33,330
4,000 psi vessel	40,670
5,000 psi vessel	48,000
6,000 psi vessel	57,330
Skimmer Tanks - (See Flow Tanks in Tanks Section)	
Stabilizers - per unit	3,110
Sump/Dump Tanks - (See Metering Equipment - "Fluid Tanks")	

	Per Barrel*
Tanks - No metering equipment	
Flow Tanks (receiver or gunbarrel) 50 to 548 bbl. range average tank size - 250 bbl.	21.60
Stock Tanks (lease tanks) 100 to 750 bbl. range average tank size - 300 bbl.	15.80
Storage Tanks (Closed Top)	
1,000 barrel	11.50
1,500 barrel	10.20
2,000 barrel	9.80
2,001 - 5,000 barrel	8.20
5,001 - 10,000 barrel	7.20
10,001 - 15,000 barrel	12.00
15,001 - 55,000 barrel	10.80
55,001 - 150,000 barrel	9.60
Internal Floating Roof	
10,000 barrel	12.60
20,000 barrel	11.00
30,000 barrel	10.40
50,000 barrel	9.70
55,000 barrel	9.60
80,000 barrel	7.80
100,000 barrel	7.60
Pontoon Floating Roof	
10,000 barrel	12.10
20,000 barrel	11.60
40,000 barrel	10.90
50,000 barrel	10.20
80,000 barrel	8.20
100,000 barrel	8.00
150,000 barrel	7.00
* (I.E.: tank size bbl. x Number of bbls. x cost-new factor.)	
Telecommunications Equipment	
Microwave System	
Telephone and data transmission	40,000
Radio telephone	3,000
Supervisory controls	
remote terminal unit, well	6,600
master station	15,000
towers (installed):	
heavy duty, guyed, per foot	160
light duty, guyed	20
heavy duty, self supporting	510
light duty, self supporting	110
Equipment building, per sq. ft.	160
Solar panels, per unit (10 ft. x 10 ft.)	200
Utility Compressors - per horsepower - rated on motor	400
Vapor Recovery Unit - No Metering Equipment	
0 - 30 psi - 80 MCF/D	7,240
0 - 30 psi - 160 MCF/D	14,510
0 - 60 psi - 80 MCF/D	15,000
Water Flood Equipment - (See "Pump-Motor, Class I")	
Waterknockouts - Includes unit, backpressure valve and regulator, but, no metering equipment.	
24 in. diameter vessel	2,890
30 in. diameter vessel	3,600
36 in. diameter vessel	4,310
48 in. diameter vessel	5,910
72 in. diameter vessel	8,530
96 in. diameter vessel	12,800
120 in. diameter vessel	19,200

Table 907.C-2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	\$ Cost New
Air and Water Units:	
Above ground	360
Below ground	220
Air Compressors:	
1/8 to 1 hp	670
1/2 to 5 hp	1,420
Car Wash Equipment:	
In Bay (roll over brushes)	22,000
In Bay (pull through)	38,730
Tunnel (40 to 50 ft.)	73,710
Tunnel (60 to 75 ft.)	80,580
Drive on Lifts:	
Single Post	2,240
Dual Post	3,760
Lights:	
Light Poles (each)	110
Lights - per pole unit	240
Pumps:	
Non-electronic - self contained and/or remote controlled computer	
Single	1,380
Dual	2,380
Computerized - non-self service, post pay, pre/post pay, self contained and/or remote controlled dispensers	
Single	1,670
Dual	2,930
Read-out Equipment (at operator of self service)	
Per Hose Outlet	490
Rotators - (Additional Equipment)	
Small and medium signs	640
Large signs	1,110
Signs:	
Station Signs	
6 ft. lighted - installed on 12 ft. pole	1,000
10 ft. lighted - installed on 16 ft. pole	3,240
Attachment Signs (for station signs)	
Lighted "self-serve" (4 x 11 ft.)	760
Lighted "pricing" (5 x 9 ft.)	1,270
High Rise Signs - 16 ft. lighted - installed on:	
1 pole	6,000
2 poles	7,490
3 poles	8,760
Attachment Signs (for high rise signs)	
Lighted "self-serve" (5 x 17 ft.)	3,000
Lighted "pricing" (5 x 9 ft.)	1,270
Submerged Pumps - (used with remote control equipment, according to number used - per unit)	690
Tanks - (average for all tank sizes)	
Underground - per gallon	0.64

*This alternative assessment procedure should be used only when acquisition cost and age are unknown or unavailable. Otherwise, see general business section (Chapter 25) for normal assessment procedure.

Note: The above represents the cost-new value of modern stations and self-service marketing equipment. Other costs associated with such equipment are included in improvements. Old style stations and equipment should be assessed on an individual basis, at the discretion of the tax assessor, when evidence is furnished to substantiate such action.

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, Tax Commission, LR 24:

Chapter 11. Drilling Rigs and Related Equipment
§1101. Guidelines for Ascertaining the Fair Market Value of Drilling Rigs and Related Equipment
 * * *

C. Valuation. The valuation standard for drilling rigs and related equipment is fair market value. Fair market value for drilling rigs and related equipment, when using the cost approach, is to be achieved through use of the information provided the assessor on LAT Form 13. The assessor shall take the depth of operating capability or engine rated horsepower and apply the appropriate assessment of the drilling rig as presented in Table 1103.A, 1103.B, 1103.C or 1103.D, as appropriate.

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 15:1097 (December 1989), LR 16:1063 (December 1990), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:

§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	\$ 101,730	\$ 15,300
4,000	133,700	20,100
5,000	172,000	25,800
6,000	210,400	31,600
7,000	237,300	35,600
Depth 8,000 to 10,000 ft.		
Depth (Ft.)	Fair Market Value	Assessment
8,000	\$ 260,400	\$ 39,100
9,000	283,600	42,500
10,000	307,100	46,100
Depth 11,000 to 15,000 ft.		
Depth (ft.)	Fair Market Value	Assessment

11,000	\$ 330,610	\$ 49,600
12,000	364,020	54,600
13,000	400,730	60,100
14,000	434,340	65,100
15,000	458,650	68,800
Depth 16,000 to 20,000 ft.		
Depth (ft.)	Fair Market Value	Assessment
16,000	\$ 482,960	\$ 72,400
17,000	505,770	75,900
18,000	528,080	79,200
19,000	555,490	83,300
20,000	598,200	89,700
Depth 21,000 + ft.		
Depth (ft.)	Fair Market Value	Assessment
21,000	\$ 640,910	\$ 96,100
25,000 +	811,750	121,800

2. Barges (Hull)

a. Assess barges (hull) at 25 percent of the assessment for the rig value bracket, and add this to the proper rig assessment to arrive at total for barge and its drilling rig.

b. Living quarters are to be assessed on an individual basis.

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.	18,500,000	2,775,000
		35,300,000	5,295,000
IS	300- Up ft.		
	0-199 ft.	4,500,000	675,000
	200-299 ft.	8,000,000	1,200,000
MC	300- Up ft.	13,510,000	2,026,500
	0-100 ft.	1,975,000	296,250
MS	101-199 ft.	1,625,000	243,750
	200-250 ft.	7,600,000	1,140,000
MS	0-250 ft.	700,000	105,000
	250- Up ft.	7,420,000	1,113,000

IC - Independent Leg Cantilever
 IS - Independent Leg Slot
 MC - Mat Cantilever
 MS - Mat Slot

C. Submersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	Fair Market Value	Assessment
0- 800 ft.	44,920,000	6,738,000
801-1,800 ft.	65,000,000	9,750,000
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 hp	Fair Market Value	Assessment
220	\$ 80,000	\$ 12,000
300	90,000	13,500
400	115,000	17,250
500 +	150,000	22,500

Note: The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

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 shall be given.

2. If functional obsolescence is not given when warranted, an appreciated value greater than fair market value may result.

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:

Chapter 13. Pipelines

§1301. Guidelines for Ascertaining the Fair Market Value of Pipelines

A. General

2. Both classes of pipelines are to be assessed in the taxing district where located. A copy of LAT Form 14 is to be provided the pipeline owner. Surface equipment associated with pipelines (compressor stations, booster stations, etc.) are to be reported separately on LAT Form 5. Surface pipeline related equipment is to be valued individually at cost factored to current value less physical deterioration. Pipelines are to be valued for assessment purposes at cost less physical

deterioration. A cost schedule is provided for the various sizes of "other pipelines" (See Tables 1307.A and B). Represented in these schedules is the cost-new, as of the appropriate assessment date, for the different size pipelines. This cost is to be reduced for the appropriate allowance for physical deterioration (See Table 1307.C), based on the age of the pipeline, by multiplying replacement cost by the appropriate percent good factor. Where significant functional and economic obsolescence has been proven to the assessor, appropriate allowance should be made on an individual basis.

B. Lease lines. The category "lease lines" represents pipelines which are generally in the 2 inches to 6 inches size range. These pipelines are considered to be subject to changes in routes due to equipment and well requirements; and, generally are not of the same quality as "other pipelines." These lines are generally associated with wells and surface equipment on the oil and gas production field. Fiberglass and plastic lines which are now being used in some areas are also covered in this category. Refer to Oil and Gas Properties Section, Surface Equipment (See Table 907.C-1) for "lease lines".

C. Other Pipelines. The category "other pipelines" is generally represented by the larger gathering and transmission pipelines, but includes all lines, other than plastic, 2 inches and larger in diameter. This class of pipelines is normally of better quality, requiring more rigid controls, and not subject to changes in routes as are "lease lines". Tables 1307.A and 1307.B describe the cost-new per mile for various size pipelines in the "other pipelines" category.

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 10:940 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:

§1305. Reporting Procedures

C. Use schedules adopted by the Tax Commission and report cost per mile, calculate and extend "total reproduction cost".

E. Refer to current cost tables (1307.A and B) and depreciation guidelines (Table 1307.C) adopted by the 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 19 years.

G. Economic obsolescence should be recognized with a service factor calculated using the following formula:

$$\text{Service Factor} = \left(\frac{\text{Actual Throughput}}{\text{Rated Capacity}} \right)^{0.6}$$

This service factor represents remaining utility for the pipeline and should be applied in addition to normal depreciation.

H. Pipeline sales, properly documented, should be considered by the assessor as the fair market value, provided the sale meets all tests relative to it being a valid sale.

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:

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines Onshore

Table 1307.A Current Costs for Other Pipelines Onshore	
Diameter (inches)	Cost Per Mile
2	\$ 76,050
4	83,070
6	94,760
8	111,130
10	132,170
12	157,890
14	188,280
16	223,340
18	263,080
20	307,500
22	356,590
24	410,350
26	468,790
28	531,900
30	599,690
32	672,150
34	749,290
36	831,100
38	917,590
40	1,008,750
42	1,104,580
44	1,205,090
46	1,310,280
48	1,420,140

Note: excludes river and canal crossings.

B. Current Costs for Other Pipelines Offshore

Table 1307.B Current Costs for Other Pipelines Offshore	
Diameter (inches)	Cost Per Mile
6	\$ 391,520

8	398,920
10	408,420
12	420,030
14	433,760
16	449,590
18	467,540
20	487,590
22	509,760
24	534,040
26	560,420
28	588,920
30	619,530
32	652,240
34	687,070
36	724,010
38	763,050
40	804,210
42	847,480
44	892,860
46	940,350
48	989,950

C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

Table 1307.C Pipeline Transportation Allowance for Physical Deterioration (Depreciation)	
Effective Age	Percent Good
1	96
2	92
3	88
4	84
5	80
6	76
7	72
8	68
9	64
10	60
11	56
12	52
13	48
14	44
15	40

16	36
17	32
18	28
19 and older	26*

* 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 and 10:942 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:

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
1997	0.993	1	92	.91
1996	1.009	2	84	.85
1995	1.024	3	76	.78
1994	1.061	4	67	.71
1993	1.091	5	58	.63
1992	1.112	6	49	.54
1991	1.126	7	39	.44
1990	1.148	8	30	.34
1989	1.179	9	24	.28
1988	1.242	10	21	.26
1987	1.295	11	20	.26

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:

Chapter 17. Inventories

§1705. Guidelines Pertaining to Specific Merchandise Inventories

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2322.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 13:188 (March 1987), amended 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 21:186 (February 1995), repealed by the Department of Revenue, Tax Commission, LR 24:

§1707. Forms—Inventories

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1961 and R.S. 47:2322.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 13:764 (December 1987), amended LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 21:186 (February 1995), repealed by the Department of Revenue, Tax Commission, LR 24:

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, 1997 = 100*
1997	1052.7	0.993
1996	1036.0	1.009
1995	1020.4	1.024
1994	985.0	1.061
1993	958.0	1.091
1992	939.8	1.112
1991	928.5	1.126
1990	910.2	1.148
1989	886.5	1.179
1988	841.4	1.242
1987	806.9	1.295
1986	795.4	1.314
1985	787.9	1.326
1984	776.4	1.346
1983	755.8	1.383
1982	742.4	1.408
1981	709.2	1.474
1980	642.8	1.626
1979	584.4	1.788
1978	534.7	1.955
1977	497.1	2.102
1976	472.1	2.214
1975	444.3	2.352
1974	398.4	2.623
1973	344.1	3.037
1972	332.1	3.147

*Reappraisal Date: January 1, 1997 - 1045.1 (Base Year)

D. Composite Multipliers

Table 2503.D Composite Multipliers 1998 (1999 Orleans Parish)								
Age	3 Yrs.	5 Yrs.	8 Yrs.	10 Yrs.	12 Yrs.	15 Yrs.	20 Yrs.	25 Yrs.
1	.70	.84	.89	.91	.93	.94	.96	.97
2	.49	.70	.80	.85	.88	.91	.94	.96
3	.35	.53	.69	.78	.82	.87	.92	.95
4	.21	.36	.57	.71	.77	.84	.91	.95
5		.25	.47	.63	.72	.80	.89	.95
6		.22	.37	.54	.64	.76	.87	.93
7			.29	.44	.56	.70	.83	.91
8			.25	.34	.49	.63	.80	.90
9			.24	.28	.42	.58	.77	.88
10				.26	.36	.53	.75	.88
11				.26	.31	.48	.71	.88
12					.29	.41	.66	.84
13					.27	.34	.60	.80
14						.31	.54	.75
15						.29	.48	.72
16						.28	.44	.68
17							.40	.65
18							.39	.63
19							.39	.61
20							.41	.59
21							.42	.55
22								.51
23								.49
24								.52
25								.61
26								.63

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 and 10:945 (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:

Chapter 27. Guidelines For Application, Classification and Assessment of Land Eligible to be Assessed at Use Value

§2717. Tables—Use Value

C. Average Assessed Values Per Acre of Marshland, by Class

Table 2717.C-1 Average Assessed Value Per Acre of Marshland, by Class West Zone	
Class	Assessed Value per Acre
Fresh Water Marsh	\$7.00
Brackish Water Marsh	\$6.00
Salt Water Marsh	\$5.00

Table 2717.C-2 Parishes Considered To Located Be In the West Zone			
Acadia	Iberia	St. Landry	Vermilion
Calcasieu	Jefferson Davis	St. Martin	
Cameron	Lafayette	St. Mary	

Table 2717.C-3 Average Assessed Value Per Acre of Marshland, By Class East Zone	
Class	Assessed Value Per Acre
Fresh Water Marsh	\$ 5.00
Brackish Water Marsh	\$ 4.00
Salt Water Marsh	\$ 3.00

Table 2717.C-4 Parishes Considered To Be Located In the East Zone			
Ascension	Lafourche	St. Charles	Terrebonne
Assumption	Livingston	St. James	West Baton Rouge
East Baton Rouge	Orleans	St. John	
Iberville	Plaquemines	St. Tammany	
Jefferson	St. Bernard	Tangipahoa	

Note: Only the parishes listed above should have lands classified as marshland. All other parishes should classify such land as All Other Acreage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 through R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:248 (April 1987), LR 13:764 (December 1987), LR 14:110 (February 1988), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:

Chapter 31. Public Exposure of Assessments; Appeals
§3101. Public Exposure of Assessments, Appeals to the
Board of Review and Board of Review Hearings

Form 3101
Exhibit A
Appeal to Board of Review by Taxpayer
for Real and Personal Property

Name: _____ Parish/District: _____
 Taxpayer
 Address: _____ City, State, Zip: _____
 Ward: _____ Assessment/Tax Bill Number: _____
 Address or Legal Description of Property Being Appealed. Also, please
 identify building by place of business for convenience of appraisal.

I hereby request the review of the assessment of the above described
 property pursuant to L.R.S. 47:1992. I timely filed my reports (if personal
 property) as required by law, and I have reviewed my assessment with my
 assessor.

The assessor has determined Fair Market Value of this property at:
 Land \$ _____ *Improvement \$ _____ Total \$ _____
 I am requesting that the Fair Market Value of this property be fixed at:
 Land \$ _____ *Improvement \$ _____ Total \$ _____
 The assessor has determined assessment of this property at:
 Land \$ _____ *Improvement \$ _____ Total \$ _____
 I am requesting that the assessment of this property be fixed at:
 Land \$ _____ *Improvement \$ _____ Total \$ _____

*NOTE: Report personal property on Improvement line above.

I understand that property is assessed at a percentage of fair market value
 which means the price for the property which would be agreed upon between
 a willing and informed buyer and a willing and informed seller under usual
 and ordinary circumstances, the highest price the property would bring on the
 open market if exposed for sale for a reasonable time. I understand that I
 must provide the Board of Review with evidence of fair market value to
 support my claim.

I feel that the Fair Market Value of this property as of January 1, 1995, the
 official reappraisal date on which assessments are currently based, was:
 Land \$ _____ *Improvement \$ _____ Total \$ _____

Please notify me of the date, place and time of my appeal at the address
 shown below.

Appellant (Taxpayer/Taxpayer's Rep./Assessor)

Address: _____

Telephone No. _____

Date of Appeal: _____

Your request for review will be heard on the ____ day of _____ 19__
 at ____ M. at _____
 Company, Street Address, including Room Number

**NOTE: If appellant disputes Board of Review's
 decision, appellant may appeal to La. Tax Commission
 by completing and submitting Appeal Form 3103.A to
 LTC within 10 days of postal date of BoR's written
 determination. For further information, call LTC at
 (504) 925-7830.**

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:

§3103. Appeals to the Louisiana Tax Commission

La. Tax Commission
 P. O. Box 66788
 Baton Rouge, LA 70896
 (504)925-7830 (B.R.)
 (504)568-5259 (N.O.)

Form 3103.A
Exhibit A
Appeal to Louisiana Tax Commission
By Taxpayer or Assessor
for Real and Personal Property

Name: _____ Parish/District: _____
 Taxpayer
 Address: _____ City, State, Zip: _____
 Board of Review
 Ward: ____ Asses./Tax Bill Number: _____ Appeal Number: _____
 (Attach copy of complete appeal submitted to the Board of Review)
 Address or Legal Description of Property Being Appealed. Also, please
 identify building by place of business for convenience of appraisal.

I hereby appeal the decision of the Board of Review on the assessment of
 the above described property pursuant to L.R.S. 47:1992. I timely filed my
 appeal as required by law.

The original Fair Market Value by the assessor was:
 Land \$ _____ *Improvement \$ _____ Total \$ _____
 The proposed Fair Market Value by the taxpayer was:
 Land \$ _____ *Improvement \$ _____ Total \$ _____
 The revised Fair Market Value by the Board of Review was:
 Land \$ _____ *Improvement \$ _____ Total \$ _____
 The original assessment by the assessor was:
 Land \$ _____ *Improvement \$ _____ Total \$ _____
 The proposed assessment by the taxpayer was:
 Land \$ _____ *Improvement \$ _____ Total \$ _____
 The revised assessment by the Board of Review was:
 Land \$ _____ *Improvement \$ _____ Total \$ _____

*NOTE: Report personal property on Improvement line above.

I understand that property is assessed at a percentage of fair market value
 which means the price for the property which would be agreed upon between
 a willing and informed buyer and a willing and informed seller under usual
 and ordinary circumstances, the highest price the property would bring on the
 open market if exposed for sale for a reasonable time. I feel that the Fair
 Market Value of this property as of January 1, 1995, the official reappraisal
 date on which assessments are based, was:
 Land \$ _____ *Improvement \$ _____ Total \$ _____

I will call the following witness(es): _____

Presentation of my case will take approximately ____ minutes. Please notify
 me of the date, place and time of my appeal at the address shown below.

Appellant(Taxpayer/Taxpayer's Rep./Assessor)
 Address: _____

 Telephone Number: _____

 Date of Appeal

Appointment of Taxpayer Agent
in
Louisiana Tax Commission
Ad Valorem Tax Appeal

Form 3103.B, for any attorney or other representative of the taxpayer, who is not a full time employee of the taxpayer.

LTC Docket Number _____

La. Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(504)925-7830(B.R.)
(504)568-5259(N.O.)

- I. Appellant Taxpayer:
Name _____
Address _____
Telephone Number _____
- II. Authorized Taxpayer Agent:
Name of Agent _____
Address _____
Telephone Number _____
- III. Scope of Authorized Appointment:
 - A. Duration:
_____ Tax Year _____ (Days, Months, etc.) _____ Until Revoked.
 - B. Agent Authority:
 - 1. _____ General powers granted to represent taxpayer in all matters.
 - 2. _____ Specified powers as listed.
 - (a.) _____ File notices of protest and present protests before the Louisiana Tax Commission.
 - (b.) _____ Receive confidential information filed by taxpayer.
 - (c.) _____ Negotiate and resolve disputed tax matters without further authorization.
 - (d.) _____ Represent taxpayer during appeal process.
 - C. Properties Authorized to Represent:
 - 1. _____ All property.
 - 2. _____ The following property only (give assessment number, and municipal address or legal description).

**Form 3105.A
Exhibit A
Appeal to Louisiana Tax Commission
by Taxpayer or Assessor
for Public Service Property**

Name: _____ Parish/District: _____
Taxpayer
Address: _____ City, State, Zip: _____
Address or Legal Description of Property Being Appealed _____

I hereby appeal the decision of the Board of Review on the assessment of the above described property.

The Fair Market Value of the Louisiana Tax Commission is:
Land \$ _____ Improvement \$ _____ Total \$ _____
I am requesting that the Fair Market Value be fixed at:
Land \$ _____ Improvement \$ _____ Total \$ _____

The assessment of the Louisiana Tax Commission is:
Land \$ _____ Improvement \$ _____ Total \$ _____
I am requesting that the assessment be fixed at:
Land \$ _____ Improvement \$ _____ Total \$ _____

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time.

I feel that the Fair Market Value of this property as of January 1, 1995, the official reappraisal date on which assessments are currently based, was:
Land \$ _____ *Improvement \$ _____ Total \$ _____

I will call the following witness(es): _____

Presentation of my case will take approximately _____ minutes. Please notify me of the date, place and time of my appeal at the address shown below.

Appellant(Taxpayer/Taxpayer's Rep./Assessor)
Address: _____

Telephone Number: _____
Date of Appeal _____

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:

(Continue on attached pages as needed.)

IV. The undersigned owner or legally authorized corporate officer does hereby appoint the above named taxpayer agent as provided herein.

By: _____
Signature Date

Name _____
Address _____
Title or Position _____

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:

§3105. Practice and Procedure for Public Service Properties Hearings

A. The Tax Commission or its designated representative, as provided by law (that is a hearing officer), shall conduct hearings to consider the written protest of an appellant taxpayer, who shall be required to use Form 3105.A. The appeal shall be filed within 30 days of the Tax Commission's dated Certificate of Value to the taxpayer. The taxpayer shall also submit an "Exhibit B, Appointment of Taxpayer Agent,"

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, 1998, in connection with services performed by the Tax Commission as follows:

* * *

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:

§3507. Claim for Taxes Paid in Error

* * *

**Form 3507
Claim for Refund or Credit
of Taxes Paid in Error**

I. Claimant:

Name _____
Mailing Address _____
City _____ State _____ Zip _____

II. Property:

Parish _____ Ward _____ Assessment Number _____
Amount of Claim _____ Description of Property: _____

III. Basis of Claim:

Dual or multiple payment _____
Payment on nonexistent property _____
Payment on property in which taxpayer no longer
has an interest _____
Property is eligible for homestead exemption _____
Clerical error in assessment rolls _____
Other _____

The following documents are attached to this form as proof of the basis for this claim: _____

IV. Date of Erroneous Payment:

The following proof of date of payment is attached to document t h e date(s) of payment(s): _____

Copy of canceled check(s) (both sides) _____
Received tax bill _____
Other _____

V. Signature: _____

Property Owner/Authorized Agent

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2108.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 16:1063 (December 1990), amended LR 19:212 (February 1993), LR 20:198 (February 1994), LR 22:117 (February 1996), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:

Malcolm B. Price, Jr.
Chairman

9712#070

DECLARATION OF EMERGENCY

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

Support Enforcement—Distribution (LAC 67:III.2514)

The Department of Social Services, Office of Family Support has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in Support Enforcement Services (SES), the child support enforcement program, effective December 3, 1997. This emergency rule shall remain in effect for a period of 120 days.

Public Law 105-33, the Balanced Budget Act of 1997, signed into law on August 5, 1997, amended §457 of Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which governs the distribution of support collected under Title IV-D of the Social Security Act. The Department of Health and Human Services, Administration for Children and Families, issued Action Transmittal OCSE-AT-97-17 on October 21, 1997 directing states to take immediate action. Under the existing rule, funds collected in excess of a Family Independence Temporary Assistance Program (FITAP) grant amount, up to the amount of the court-ordered monthly support, are disbursed to the Applicant/Recipient. These funds must now be retained for reimbursement of the recipient's FITAP payments. Failure to implement the change in distribution would subject the state of Louisiana to sanctions since the state must pay the federal share of assigned support collected.

Additionally, P.L. 104-193, as clarified by the Action Transmittal, mandated that state tax intercepts be distributed as all other collections, so the words "and/or state tax" are being deleted from LAC 67:III.2514.B.

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 December 3, 1997, the agency will distribute child support collections in the following manner:

1. In cases in which the Applicant/Recipient (AR) currently receives Family Independence Temporary Assistance Program (FITAP) benefits, collections received in a month will be retained by the state to reimburse previous and current assistance amounts. If the collection amount exceeds the amount of reimbursed grant, the excess will be refunded to the AR up to the current arrearage amount.

2. - 4. ...

B. There are general exceptions to distribution. Any collections received through intercept programs or income assignments are subject to refund to the noncustodial parent

based on federal and state laws and regulations. Effective December 3, 1997, amounts collected through IRS intercepts will be applied to arrears in this order:

1. - 2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:304 (March 1997), amended LR 24:

Madlyn B. Bagneris
Secretary

9712#042

DECLARATION OF EMERGENCY

Department of Transportation and Development Office of Weights and Measures

Minimum Standards for Reflectivity of Work-Site Materials (LAC 73:III.Chapter 3)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of Act 1303 of the 1997 Regular Session of the Louisiana Legislature, the Department of Transportation and Development adopts the following emergency rule setting forth minimum standards for reflective materials.

This emergency adoption is necessary in order to prevent imminent peril to the health, safety or welfare of the citizens of Louisiana for the reasons set forth below:

This emergency rule complies with the requirements set forth in Act 1330 of the 1997 Regular Session of the Louisiana Legislature. Act 1330 specifies that unless and until the following emergency rules are adopted, "no contract for highway construction, repair, or maintenance shall be awarded." Therefore, it is necessary that these emergency rules become effective immediately so that the business of the Department of Transportation and Development and the services it provides to the citizens of the state of Louisiana may continue. Construction, repair and maintenance of the state's highways are essential to the health, safety and welfare of Louisiana citizens.

The effective date of this emergency rule is December 20, 1997, and it shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first.

Title 73

WEIGHTS, MEASURES AND STANDARDS

Part III. Weights and Measures

(Editor's Note: Text in existing §301, promulgated in LR 21:706 (July 1995), has been moved to Chapter 5, Materials and Testing, §501, Manuals.)

Chapter 3. Minimum Standards for Reflectivity of Work-Site Materials

§301. Minimum Standards for Reflective Sign Sheeting

A. Reflective sheeting shall be one of the following types as specified on the plans and conforming to ASTM D 4956 except as modified herein. The sheeting shall be an approved product listed in QPL 13.

1. Type I. A medium-intensity retro reflective sheeting referred to as "engineering grade" and typically enclosed lens glass-bead sheeting.

2. Type II. A medium-high-intensity retro reflective sheeting sometimes referred to as "super engineering grade" and typically enclosed lens glass-bead sheeting.

3. Type III. A high-intensity retro reflective sheeting, that is typically encapsulated glass-bead retro reflective material.

4. Type IV. A high-intensity retro reflective sheeting. This sheeting is typically an unmetallized microprismatic retro reflective element material.

5. Type V. A super-high-intensity retro reflective sheeting. This sheeting is typically a metallized microprismatic retro reflective element material.

6. Type VI. An elastomeric-high-intensity retro reflective sheeting without adhesive. This sheeting is typically a vinyl microprismatic retro reflective material.

7. Type VII. A super-intensity retro reflective sheeting having high retro reflectivity values at wide entrance angles of +45° and +60°. This sheeting is typically an unmetallized microprismatic retro reflective element material.

8. Type VIII. A super-intensity retro reflective sheeting having optimized performance over a broad range of observation angles. This sheeting is typically an unmetallized microprismatic retro reflective element material.

B. Adhesive Classes. The adhesive required for retro reflective sheeting shall be Class 1 (pressure sensitive) or Class 2 (heat activated) as specified in ASTM D 4956.

C. Identification Marks. Type II sheeting shall be distinguished by integral identification marks that cannot be removed or affected by physical or chemical methods without causing damage to the sheeting. The markings shall be inconspicuously placed on 12-inch centers and shall be visible from a distance of not more than 3 feet.

D. Alternate Sheeting Types

1. DOTD Type VII. Minimum coefficient of retro reflection shall be as specified in Table 1015-1. Reflectance or daytime luminance shall be as specified in Table 1015-2.

Artificially weathered panels exposed for 2,200 hours and evaluated in accordance with Section 7.4 and 8.6 of ASTM D 4956 shall conform to 50 percent of minimum values specified in Table 1015-1.

Observation Angle	Entrance Angle	White	Yellow	Red	Blue	Green	Orange	Flour. Orange
0.2°	-4°	800	660	215	43	80	300	200
0.2°	+30°	400	340	100	20	35	150	120
0.2°	+45°	145	85	25	7.6	12	50	50
0.2°	+60°	35	23	6.6	1.0	2.0	10	10
0.5°	-4°	200	160	45	9.8	20	100	80
0.5°	+30°	100	85	26	5.0	10	50	50
0.5°	+45°	75	60	18	2.8	6.0	20	20
0.5°	+60°	30	20	6.4	2.0	2.0	10	6.0

^AMinimum Coefficient of Retro Reflection (R_A) cd/ft² (cd lx/m²) or (cd lx²m⁻²)

Color	Minimum	Maximum
White	40	--
Yellow	24	45
Red	3.0	15
Blue	1.0	10
Green	3.0	9.0
Orange	12	30
Florescent Orange	30	--

2. DOTD Type VIII. Minimum coefficient of retro reflection shall be as specified in Table 1015-3. Reflectance or daytime luminance shall be as specified in Table 1015-2. Artificially weathered panels exposed for 2,200 hours and evaluated in accordance with Section 7.4 and 8.6 of ASTM D 4956 shall conform to 50 percent of minimum values specified in Table 1015-3.

Observation Angle	Entrance Angle	Rotation Angle	White	Yellow	Red	Blue	Green
0.20°	-4°	0°	430	350	70	20	45
0.33°	-4°	0°	300	250	53	15	33
0.50°	-4°	0°	250	200	46	10	25
1.00°	-4°	0°	80	65	14	4.0	10
0.20°	30°	0°	235	190	39	11	24
0.33°	30°	0°	150	130	25	7.0	18

0.50°	30°	0°	170	140	25	7.0	19
1.00°	30°	0°	50	40	11	2.5	5.0
0.20°	40°	90°	150	125	25	6.0	15
0.33°	40°	90°	85	75	14	4.0	8.0
0.50°	40°	90°	35	30	4.0	1.5	3.5
1.00°	40°	90°	20	13	5.0	0.7	2.0
λ Minimum Coefficient of Retro Reflection (R_{λ}) cd/ft ² (cd/lxm ²) or (cd lx ⁻¹ m ⁻²)							

E. Durability. Type VII and VIII sheeting shall perform satisfactorily for at least seven years (three years for orange) and retain 50 percent of the minimum coefficient of retro reflection in Table 1015-1 and Table 1015-3, respectively.

F. Sheeting Guaranty. The contractor shall supply the department with a guaranty from the sheeting manufacturer stating that if the retro reflective sheeting fails to conform to the performance and durability requirements of §301.F, the sheeting manufacturer shall do the following:

1. If the failure occurs within the first five years (seven years for Type III) from the date of sign fabrication (three years for Type II, Type III and Type VII orange sheeting), the sheeting manufacturer shall restore the sign face, in its field location, to its original effectiveness at no cost to the department for materials, labor, and equipment.

2. If the failure occurs from five to seven years from the date of sign fabrication for Types I, VII and VIII sheeting (except for orange), or from five to 10 years from the date of sign fabrication for Type II and seven to 10 years for Type III sheeting (except for orange), the sheeting manufacturer shall replace the sheeting required to restore the sign face to its original effectiveness at no cost to the department.

3. Replacement sheeting for sign faces, materials, and labor shall carry the unexpired guaranty of the sheeting for which it replaces.

4. The sign fabricator shall be responsible for dating all signs with the month and year of fabrication at the time of sign fabrication. This date shall constitute the start of the guaranty obligation period.

G. Reflective sheeting for temporary signs, barricades and channelizing devices, except drums and cones, shall meet the requirements of ASTM D 4956, Type II or Type III.

H. Reflective sheeting for drums shall be a minimum of 6 inches wide and shall meet the requirements of ASTM D 4956, Type III, and the Supplementary Requirement S2 for reboundable sheeting with the following modifications pertaining to artificial weathering. The reboundable reflective sheeting shall be tested for weather resistance by a 45° southern outdoor exposure for six months as opposed to the accelerated weathering specified in Subsections 8.6 and S2.2.4 of ASTM D 4956.

I. Reflective sheeting for cones shall conform to ASTM D 4956, Type VI.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Measures, LR 24:

§303. Minimum Standards for Striping

A. Temporary Pavement Markings

1. Temporary Tape. Temporary tape shall conform to ASTM D 4592, Type I (removable) or Type II (nonremovable) and shall be an approved product listed in QPL-60.

2. Painted Stripe. Paint shall be an approved traffic paint conforming to Subsection 1015.12. of *Louisiana Specifications for Roads and Bridges*. Glass beads for drop-on applications shall conform to Subsection 1015.13 of *Louisiana Specifications for Roads and Bridges*.

3. Temporary Raised Pavement Markings for Microsurfacing

a. Material Requirements. The temporary raised markers shall be flexible reflective tabs. The markers shall be yellow with amber reflective area on both sides. The body of the marker shall consist of a base and vertical wall made of polyurethane or other approved material and shall be capable of maintaining a reasonable vertical position after installation. The initial minimum coefficient of luminous intensity at an entrance angle of -4° and an observation angle of 0.2° shall be 2.5.

b. The markers shall be of standard size and quality and amenities as manufactured by:

- i. Davidson Plastic Company;
- ii. Renco, Inc.;
- iii. Valterra Products, Inc.; or
- iv. an approved equal for traffic marking materials (microsurfacing raised markers).

c. The reflective material shall be protected with an easily removable cover of heat resistant material capable of withstanding and protecting the reflective material from the application of asphalt at temperatures exceeding 325°F.

d. Certificates of Compliance. The contractor shall furnish three copies of certifications from the manufacturer stating that the materials meet the requirements of these specifications.

2. Temporary Raised Pavement Markers

a. Temporary raised pavement markers shall be installed as per manufacturer's recommendation or as directed by the engineer.

b. The temporary raised markers shall be flexible reflective tabs placed at 40-foot intervals on the centerline of the roadway.

c. The markers shall be installed in a manner so that the reflective faces of the markers are perpendicular to a line parallel to the roadway centerline.

d. If, in the opinion of the engineer, the temporary raised markers require removal after permanent striping has been accomplished, they shall be removed in such a manner as the pavement surface will not be unnecessarily damaged.

B. Traffic Paint. The contractor shall have the option of furnishing either alkyd traffic paint or water-borne traffic paint; however, the same type paint shall be used throughout the project. Each paint container shall bear a label with the name and address of manufacturer, trade name or trade mark, type of paint, number of gallons, batch number and date of manufacture. Paints shall be approved products listed in QPL-36; shall show no excessive settling, caking or increase in viscosity during six months of storage; and shall be readily stirred to a suitable consistency for standard spray gun application. An infrared curve shall be generated in accordance with DOTD TR 610 and compared with the standard curve made during the initial qualification process.

1. Alkyd Traffic Paint. This material shall be rapid-setting compound suitable for use with hot application equipment. The material shall meet the following requirements:

Property	Test Method	Requirements	
		Min	Max
Weight, lb/gal	ASTM D 1475	12.0	
Viscosity @ 25°C, Krebs Units	ASTM D 562	85	115
Dry to No Pick Up	ASTM D 711		180
Directional Reflectance, % White Yellow	ASTM E 97	80 50	
Bleeding	Fed. Spec. TT-P-115	Pass	
Total Solids, % by weight	ASTM D 1644, Method A	70	
Film Shrinkage	(a)	Pass	
Hiding Power	(b)	Pass	
Pigment, %	ASTM D 2371	50	55
Nonvolatiles in Vehicle, % by weight	ASTM D 215	35	
Flexibility	Fed. Spec. TT-P-1952	Pass	
Pigment Composition	(c)	Pass	

a. Film Shrinkage. With a film applicator, cast a wet film with a thickness of 30 mils over a smooth glass plate. Allow sample to cure at room condition for four to five hours. Using a micrometer, measure the plate thickness before the

film is cast using five measurements to obtain an average. The cured film shall have a minimum thickness of 12 mils.

b. Hiding Power. The paint shall have a wet hiding power of at least 350 square feet per gallon. The compound shall have sufficient hiding power to cover any pavement when applied at a wet film thickness of 15 mils.

c. Pigment Composition. White paint shall contain at least 1.5 pounds of titanium dioxide pigment per gallon as determined using DOTD TR 523 with at least 92 percent TiO₂ content. The TiO₂ shall conform to ASTM D 476. Yellow paint shall contain at least 1.3 pounds of medium chrome yellow pigment per gallon as determined using DOTD TR 523. Medium chrome yellow pigment shall conform to ASTM D 211, Type III.

2. Water Borne Traffic Paint. This material shall be a rapid setting waterborne compound suitable for use with hot application equipment. The material shall meet the following requirements:

Property	Test Method	Requirements	
		Min	Max
Weight, lb/gal	ASTM D 1475	12.0	
Viscosity @ 25°C, Krebs Units	ASTM D 562	75	90
Drying to No Pickup, min.	ASTM D 711		10
Dry through, min.	ASTM D 1640		20
Volume Solids	---	58	
Total Solids, % by weight	ASTM D 2369	70	
Pigment, % by weight	ASTM D 3723	45	55
Nonvolatiles in Vehicle % by weight	Fed. Test 141B	40	
Bleed Ration	Fed. Spec. TT-P-1952	0.96	
Daylight Reflectance, % White Yellow	Fed. Test 141B	85 54	
Hiding Power (Contract Ration at 10 mils)	Fed. Test 141B	0.96	
Flexibility	Fed. Spec. TT-P-1952	Pass	
Drying Time, min.	(a)		3
Fineness of Grind	ASTM D 1210	3	
Freeze-Thaw	ASTM D 2243	Pass	
Heat Stability	Fed. Spec. TT-P-1952	Pass	
Color	(b)	Pass	
Volatile Organic Compounds (g/L)			150
Pigment Composition	(c)	Pass	

a. **Drying Time to No Track.** Paint applied at 15 mils wet on the road surface with paint heated to 120-150°F shall not show tracking when a standard size automobile crosses in a passing maneuver at three minutes.

b. **Color.** Yellow paint shall conform to the requirements of the following table when tested in accordance with ASTM E 1349. White shall be a clean, bright, untinted binder.

Color Specification Limits (Daytime)								
Color	1		2		3		4	
	X	Y	X	Y	X	Y	X	Y
YELLOW	0.4756	0.4517	0.4985	0.4779	0.5222	0.4542	0.4919	0.4354

(The four pairs of chromaticity coordinates determine the acceptable color in terms of the CIE 1931 Standard Colorimetric system measured with Standard Illuminant C.)

c. The white paint shall contain a minimum of 1.0 pound per gallon of titanium dioxide as determined using DOTD TR 523. The titanium dioxide shall conform to ASTM D 476.

C. **Glass Beads for Drop-On Application.** Glass beads shall conform to AASHTO Designation: M 247, Type I, with the following modifications.

Gradation of Glass Beads	
Sieve Designation Alternative No.	Mass Percent Passing
20	80 - 100
30	65 - 85
40	--
50	15 - 35
80	--
100	0 - 5

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Measures, LR 24:

§305. Minimum Standard for Thermoplastic Pavement Markings

A. **Description.** This specification covers hot-sprayed or hot-extruded reflective thermoplastic compound for pavement markings on asphaltic or portland cement concrete pavement. Thermoplastic marking material applied to asphaltic surfaces shall consist of an alkyd-based formulation. Thermoplastic marking material applied to portland cement concrete surfaces shall consist of either an alkyd-based or hydrocarbon-based formulation. Material shall be so manufactured as to be applied by spray or extrusion to pavement in molten form, with internal and surface application of glass spheres, and upon cooling to normal pavement temperature, shall produce an adherent, reflectorized pavement marking of specified thickness and width, capable of resisting deformation.

1. Materials shall be approved products listed in QPL 63 and shall conform to AASHTO M 249. Material shall not

scorch, break down, or deteriorate when held at the plastic temperature specified in Subsection 732(03)(d)(1) for four hours or when reheated four times to the plastic temperature. Temperature-vs-viscosity characteristics of plastic material shall remain constant when reheated four times, and shall be the same from batch to batch. There shall be no obvious change in color of material as the result of reheating four times, or from batch to batch.

2. **Suitability for Application.** Thermoplastic material shall be a product especially compounded for pavement markings. Markings shall maintain their original dimension and placement and shall not smear or spread under normal traffic at temperatures of below 140°F. Markings shall have a uniform cross section. Pigment shall be evenly dispersed throughout its thickness. The exposed surface shall be free from tack and shall not be slippery when wet. Material shall not lift from pavement in freezing weather. Cold ductility of material shall be such as to permit normal movement with the pavement surfaced without chipping or cracking.

B. **Inverted Profile Thermoplastic Pavement Markings.** Materials shall conform to AASHTO M 249 and the specifications as stated herein with the following modifications:

1. **Bead Content**

U.S. Standard Sieve Size (Microns)	Class A - 10% min. (by wt.) of Thermoplastic Compound, Percent Retained	Class B - 25% min. (by wt.) of Thermoplastic Compound
14 (1400)	0 - 1	Beads shall meet gradation requirement of AASHTO M 247, Type I
16 (1190)	0 - 20	
18 (1000)	0 - 45	
20 (840)	30 - 80	
30 (595)	20 - 50	
Pan	0 - 10	

2. **Bead Quality.** The glass beads shall be coated with A-116 Silane or other adhesion promoting coating. The glass beads shall have a maximum of 3 percent irregular particles and a maximum of 5 percent are inclusions. The percentage

of true sphere shall be 90 percent minimum for Class A beads and 80 percent minimum for Class B beads.

3. Binder Content. The binder content of the thermoplastic material shall be 19 percent minimum.

4. Titanium Dioxide. The titanium dioxide shall meet ASTM D476, Type II, Rutile grade—93 percent minimum titanium content.

5. Yellow Pigment. The yellow pigment for the yellow thermoplastic material shall be 4 percent minimum.

6. Specific Gravity. The specific gravity of the thermoplastic pavement marking material shall not exceed 2.35.

7. Flowability. After heating the thermoplastic material for 4 hours \pm 5 minutes at $425^\circ \pm 3^\circ\text{F}$ ($218^\circ \pm 2^\circ\text{C}$) and testing flowability, the white thermoplastic shall have a maximum percent residue of 22 percent and the yellow thermoplastic shall have a maximum residue of 24 percent.

8. Reflectivity. The initial reflectance for the in-place marking shall have the minimum reflectance value of 450 mcd/lux/m² for yellow when measured with a geometry of 1.5° observation angle and 86.5° entrance angle.

9. Wet Reflectivity. The minimum in-place marking when wet shall have the minimum reflectance value of 200 mcd/lux/m² for white and 175 mcd/lux/m² for yellow when measured with a geometry of 1.5° observation angle and 86.5° entrance angle. The stripe shall be wet utilizing a pump-type garden sprayer for 30 seconds. After five seconds, place the reflectometer on the stripe and measure the retro reflectance.

10. Retained Reflectivity. The thermoplastic pavement marking material shall retain the minimum reflectance value of 130 mcd/lux/m² for at least four years after placement. Failure to meet this requirement shall require the contractor to replace the portion of the material shown to be below these minimums. The contractor shall supply a written warranty indicating the terms of this requirement.

11. Inverted Profile. The thermoplastic pavement marking material shall be applied to have individual profiles having a minimum height of 0.140 inches with the recessed inverted profiles having a thickness of 0.025 to 0.050 inches. The profiles shall be well defined and not excessively run back together.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Measure, LR 24:

§307. Minimum Standards for Preformed Plastic Pavement Marking

A. Preformed plastic pavement marking tape shall be approved products listed in QPL 64 and shall conform to ASTM D 4505 Type I, Type I—High Performance (as specified below) or Type V, except as modified herein. The marking tape shall be Grade A, B, C, D, or E. The type and color shall be in accordance with the plans and the *Manual on Uniform Traffic Control Devices*.

B. Thickness. All preformed plastic pavement marking tape shall have a minimum overall thickness of 60 mils when tested without the adhesive.

C. Skid Resistance. The surface of the Type I preformed plastic pavement marking tape shall provide a minimum skid

resistance value of 35 British Polish Number (BPN) when tested according to ASTM E 303. The surface of the Type I—High Performance and Type V preformed plastic pavement marking tape shall provide a minimum skid resistance value of 45 British Polish Number (BPN) when tested according to ASTM E 303, except values for the Type V are calculated by averaging values taken at downweb and a 45° angle from downweb.

D. Retro Reflective Requirements. The performed plastic pavement marking tape shall have the following minimum specific luminance values when measured in accordance with ASTM D 4061.

Type	Observation Angle	Entrance Angle	Specific Luminance mcd/ft ² /fc	
			White	Yellow
I	0.2°	86°	500	400
	1.0°	86.5°	300	175
I-High Performance	0.2°	86°	700	560
	1.0°	85.5°	400	225
V	0.2°	86°	1100	800
	1.0°	86.5°	700	500

E. Durability Requirements. The Type V preformed plastic pavement marking tape shall show no appreciable fading, lifting or shrinkage for at least four years after placement for longitudinal lines and at least two years after placement for symbols and legends.

F. The Type V preformed plastic pavement marking tape shall retain the following reflectance values for at least four years after placement for longitudinal lines and at least two years after placement for symbols and legends.

Observation Angle	Entrance Angle	Specific Luminance mcd/ft ² /fc	
		White	Yellow
1.0°	86.5°	100	100

G. Plastic Pavement Marking Tape Guaranty (Type V). The contractor shall provide the department with a guaranty from the manufacturer stating that if the plastic pavement marking tape fails to conform to the performance and durability requirements of §307.G within four years, the manufacturer will restore the plastic pavement marking tape to its original effectiveness at no cost to the department for materials, labor, and equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Measures, LR 24:

§309. Minimum Standards for Raised Pavement Markers

A. Markers shall conform to ASTM D4280, and be either nonreflectorized or reflectorized, as specified. Markers shall be approved products listed in QPL9. Infrared curves of materials used in markers shall match approved curves on file at the department's Materials and Testing Section.

B. Temporary Raised Pavement Markers for Asphaltic Surface Treatment

1. **Material Requirements.** The temporary raised markers shall be flexible reflective tabs. The markers shall be yellow with amber reflective area on both sides. The body of the marker shall consist of a base and vertical wall made of polyurethane or other approved material and shall be capable of maintaining a reasonable vertical position after installation. The initial minimum reflectivity at an entrance angle of 4° and an observation angle of 0.2° shall be 2.5.

2. The markers shall be of standard size and quality with amenities as manufactured by:

- a. Davidson Plastics Company;
- b. Renco, Inc.;
- c. Valterra Products, Inc.; or
- d. an approval equal for traffic marking materials (asphaltic surface treatment raised markers).

3. The reflective material shall be protected with an easily removable cover of heat resistant material capable of withstanding and protecting the reflective material from the application of asphalt at temperatures exceeding 325°F.

4. **Certificates of Compliance.** The contractor shall furnish three copies of certifications from the manufacturer stating that the materials meet the requirements of these specifications.

C. Temporary Raised Pavement Markers for Microsurfacing

1. **Material Requirements.** The temporary raised markers shall be flexible reflective tabs. The markers shall be yellow with amber reflective area on both sides. The body of the marker shall consist of a base and vertical wall made of polyurethane or other approved material and shall be capable of maintaining a reasonable vertical position after installation. The initial minimum reflectivity at an angle of incidence of 4° and an observation angle of 0.2° shall be 2.5.

2. The markers shall be of standard size and quality with amenities as manufactured by:

- a. Davidson Plastics Company;
- b. Renco, Inc.;
- c. Valterra Products, Inc.; or
- d. an approval equal for traffic marking (microsurfacing raised markers).

3. The reflective material shall be protected with an easily removable cover of heat resistant material capable of withstanding and protecting the reflective material from the application of asphalt at a temperature of 325°F.

4. **Certificates of Compliance.** The contractor shall furnish three copies of certificates from the manufacturer stating that the materials meet the requirements of these specifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Standards, LR 24:

Frank M. Denton
Secretary

9712#053

DECLARATION OF EMERGENCY

**Department of the Treasury
Board of Trustees of the State
Employees Group Benefits Program**

Plan Document—Sleep Disorders

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(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 emergency rule is effective December 12, 1997, 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 provisions of the Plan Document to limit benefits for the treatment of sleep disorders. Failure to adopt these amendments on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars: amend Article 3, Section VIII, Subsection OO, to read as follows:

VIII. Exceptions and Exclusions for All Medical Benefits

No benefits are provided under this contract for:

* * *

OO. Testing for sleep disorders, except when such tests are performed at a facility accredited by the American Sleep Disorders Association and interpreted by a physician certified by the American Sleep Disorders Association; benefits otherwise payable are provided for nonsurgical treatment of sleep disorders, but no benefits are provided under any circumstances for sleep studies conducted in a patient's home, nor for surgical treatment of sleep disorders, including LAUP, except following demonstrated failure of nonsurgical treatment and only upon specific case-by-case approval by the Program;

James R. Plaisance
Executive Director

9712#071

DECLARATION OF EMERGENCY

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

White-Tailed Deer Importation (LAC 76:V.117)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of the Louisiana Constitution, Article IX,

Section 7, R.S. 56:6(10), (13) and (15), R.S. 56:20 and R.S. 56:171 et seq., the Wildlife and Fisheries Commission hereby adopts the following emergency rule.

A declaration of emergency is necessary to regulate the importation of white-tailed deer into Louisiana past the January 1, 1998 expiration of the current declaration of emergency which bans importation of white-tailed deer. Permanent rules regulating importation have been developed. These new rules and this declaration of emergency will allow regulated importation of white-tailed deer in a manner which will allow monitoring and tracking of imports and will minimize threats of disease introduction into Louisiana. This declaration of emergency will provide for regulated importation until the permanent rule is adopted.

This emergency rule will supplant any prior declaration of emergency adopted by the Wildlife and Fisheries Commission pertaining to importation of white-tailed deer in effect on December 4, 1997, the effective date of this declaration of emergency.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§117. White-Tailed Deer Importation

A. Definitions

White-Tailed Deer—any animal of the species *Odocoileus virginianus*.

B. Permits. No person shall import, or cause to be imported, white-tailed deer into the state of Louisiana without first notifying the Department of Agriculture and Forestry and obtaining a current permit number. The permit number shall be included on the certificate of veterinary inspection and shall accompany the shipment of white-tailed deer. The permit number and certificate of veterinary inspection shall be made available to Department of Wildlife and Fisheries personnel upon request.

C. Import Restrictions

1. No person shall import or cause to be imported any white-tailed deer from the states of California, Colorado, Connecticut, Delaware, Michigan, New Jersey, New York, Pennsylvania, Rhode Island, or Wyoming. This shall include any white-tailed deer that have been confined within these states, or have been in direct contact with deer of any species from these states, within 180 days of entry into Louisiana.

2. No person shall import or cause to be imported any white-tailed deer without written proof of a negative test for tuberculosis in accordance with the *Tuberculosis Eradication in Cervidae Uniform Methods and Rules*, as published by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

3. No person shall import, or cause to be imported, white-tailed deer without written proof of a negative test for brucellosis in accordance with the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* once published by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service. Until such time as the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* are published, all white-tailed deer 6 months of age and older entering Louisiana shall be tested negative for brucellosis

within 30 days prior to entry into Louisiana, and written proof thereof shall be provided, unless the white-tailed deer originate from a herd which has been officially declared a certified brucellosis-free herd by the state of origin.

4. No person shall import, or cause to be imported, any white-tailed deer for release into the wild or into any enclosure not specifically licensed for the possession of white-tailed deer.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:6(10), (13) and (15), R.S. 56:20 and R.S. 56:171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:

Daniel Babin
Chairman

9712#048

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Hunting Seasons—Farm-Raised
White-Tailed Deer and Exotics
(LAC 76:XIX.109)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of the 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 hereby adopts the following emergency rule.

A declaration of emergency is necessary to allow for the hunting of farm-raised white-tailed deer and exotics in the absence of permanent rules. A declaration of emergency was adopted on October 2, 1997 but will expire before the permanent rule can take effect. This declaration of emergency will provide continuous regulation of farm-raised white-tailed deer and exotic hunting until the ratification of permanent rules.

This declaration of emergency will supplant any prior declaration of emergency adopted by the Wildlife and Fisheries Commission pertaining to hunting of farm-raised deer and exotics that is in effect on the effective date of this declaration of emergency.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting

Chapter 1. Resident Game Hunting Seasons

§109. Farm-Raised White-Tailed Deer and Exotics

A. Definitions

Exotics—any animal of the family *Bovidae*, except the tribe *Bovini* (cattle), or *Cervidae* which is not indigenous to Louisiana and which is introduced and kept within an enclosure of not less than 150 acres nor greater than 2,500 acres to be hunted, provided that a current farm-raising license has been issued by the Department of Agriculture and Forestry for the enclosure, with the concurrence of the Department of Wildlife and Fisheries. Exotics shall include,

but are not limited to, fallow deer, red deer, elk, sika deer, and black buck antelope.

Farm-Raised White-Tailed Deer—any animal of the species *Odocoileus virginianus* which is introduced and kept within an enclosure of not less than 150 acres nor greater than 2,500 acres to be hunted, provided that a current farm-raising license has been issued by the Department of Agriculture and Forestry for the enclosure, with the concurrence of the Department of Wildlife and Fisheries.

B. Hunting Seasons

1. Farm-Raised White-Tailed Deer—October 1, 1997 through January 31, 1998, either sex.

2. Exotics—January 1, 1997 through December 31, 1998.

3. Farm-raised white-tailed deer and exotics may be taken with longbow (including compound bow) and arrow; shotguns not larger than a 10 gauge fired from the shoulder without a rest, 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.

4. The use of dogs to take farm-raised white-tailed deer or exotics is prohibited.

5. A farm-raising licensee may kill farm-raised white-tailed deer within the enclosure for which he is licensed at any time during daylight hours after proper notice is given as required by the Department of Agriculture and Forestry's alternative livestock rules.

C. Shooting Hours. Farm-raised white-tailed deer and exotics may be hunted one-half hour before sunrise to one-half hour after sunset.

D. Bag Limit

1. Farm-Raised White-Tailed Deer—no limit.

2. Exotics—no limit.

E. Hunting Permit. No person shall take or attempt to take any farm-raised white-tailed deer or exotic without possessing a farm-raised deer and exotic hunting permit issued by the Department of Wildlife and Fisheries. An administrative fee of \$50 shall be assessed for each farm-raised deer and exotic hunting permit. Permits are valid only on the deer farm indicated on the face of the permit. Permits shall be issued on a fiscal year basis beginning July 1 of each calendar year and shall expire on June 30 of the following calendar year.

F. Tagging. Each farm-raised white-tailed deer or exotic 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 Department of Agriculture and Forestry. The tag shall remain with the carcass at all times. All other deer tagging and identification requirements provided for in Title 56 of the Louisiana Revised Statutes and the Wildlife and Fisheries Commission's rules shall also apply.

G. Additional Restrictions. Except as otherwise specified herein, all of the provisions of Title 56 of the Louisiana Revised Statutes and the Wildlife and Fisheries Commission's rules pertaining to the hunting and possession of white-tailed deer shall apply to farm-raised white-tailed deer and exotics.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 36:601, R.S. 56:115, R.S. 56:171 et seq., and R.S. 56:651 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:

Daniel Babin
Chairman

9712#049

DECLARATION OF EMERGENCY

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

Oyster Sack Limit Adjustment
Calcasieu Lake and West Cove

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. 56:6(25)(a), notice is hereby given that the Wildlife and Fisheries Commission finds that additional oyster resources could be utilized in Calcasieu Lake and hereby adopts the following emergency rule:

Effective December 4, 1997 and for the remainder of the 1997-98 oyster season in Calcasieu Lake, the daily take limit shall be 15 one and one-half bushel sacks per boat, per day.

Daniel J. Babin
Chairman

9712#047

Rules

RULE

Department of Economic Development Office of Financial Institutions

Licensee's Informal Opportunity to
Show Compliance (LAC 10:XXI.101)

In accordance with the authority granted by the Administrative Procedure Act, R.S. 49:950 et seq., and particularly R.S. 49:952(2), the Department of Economic Development, Office of Financial Institutions hereby adopts the following rule to provide for an informal procedure for a licensee to show compliance with all lawful requirements for retention of his license, in conformity with R.S. 49:961(C).

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC Part XXI. Miscellaneous Provisions

Chapter 2. Procedures

§201. Informal Opportunity to Show Compliance

A. Definitions

Commissioner—the commissioner of the Louisiana Office of Financial Institutions.

Licensee—any person or entity chartered or licensed by the Louisiana Office of Financial Institutions.

Office—the Louisiana Office of Financial Institutions.

B. Prior to the institution of agency proceedings regarding the revocation, suspension, annulment, or withdrawal of a license, when such action must be accomplished pursuant to the Administrative Procedure Act, R.S. 49:950 et seq., the office shall give notice by mail to the licensee, setting forth the facts or conduct which serve(s) as the office's basis for such action. The notice shall advise the licensee that he is being offered an opportunity to participate in an informal meeting with a representative of the office to show compliance with all lawful requirements for retention of the license, in conformity with R.S. 49:961(C).

C. The licensee shall have 15 calendar days from receipt of such notice to request, in writing, an informal meeting. Such informal meeting shall be held not less than 10 days nor more than 30 days following receipt of the licensee's request for the meeting, unless the commissioner determines that an extension is warranted.

D. Notwithstanding any other provision of this rule, if the office finds that the public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in an order to the licensee, summary suspension may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 23:1638 (December 1997).

Larry L. Murray
Commissioner

9712#056

RULE

Department of Economic Development Office of the Secretary

Economic Development Award
Program (LAC 13:I.Chapter 60 and
Repeal of LAC 19:VII.Chapter 91)

In accordance with R.S. 51:2341, the Department of Economic Development, Office of the Secretary hereby adopts rules and regulations in LAC 13:I. Chapter 60 for the Economic Development Award Program. The rule transfers the program from the Economic Development Corporation to the Department of Economic Development.

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 infrastructures 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).

§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—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).

§6005. General Principles

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

1. awards are not to be construed as entitlements 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;
7. 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 infrastructure approved from the Economic Development Award Program.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, LR 23:1639 (December 1997).

§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 proceedings; 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 23:1639 (December 1997).

§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 U.S. 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 size shall be \$25,000.

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

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

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 23:1639 (December 1997).

§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 need for the project and the factors creating the need;
3. quantifiable objectives for the project and plans to measure the effectiveness of the project according to those objectives;
4. evidence of the number, types and compensation levels of jobs to be created or retained by the project;
5. a specific description of the project, including construction, operation and maintenance plans, and a timetable for the project's completion;
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 23:1639 (December 1997).

§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. determine whether the project's financing needs are best met by the proposed award;
3. validate the information presented;
4. 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 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 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.

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

E. The secretary will issue a letter of commitment to the applicant within five working days of the application review and approval by the Joint Legislative Committee on the Budget.

F. 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.

G. If any application is rejected by any of the preceding entities, the application shall not be considered by the next succeeding entity unless first reconsidered and approved by the entity which initially rejected the application.

H. The final 15 percent of the grant amount will not be paid until DED staff 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 23:1639 (December 1997).

§6015. General Award Provisions

A. Award Agreement. A grant agreement will be executed between DED, the sponsoring entity and the company. The agreement will specify the performance objectives expected of the company and the sponsoring entity and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time frames for investment and job creation. Under the agreement, the sponsoring entity will monitor the progress of the project. DED will disburse funds from invoices or certificates of work completed.

B. Use of Funds

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

- a. engineering 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 cost 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 approved invoices from the sponsoring entity to DED. 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 toward 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, to 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 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 23:1640 (December 1997).

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 7. Workforce Development and Training Program

Chapter 91. Infrastructure Financing Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), repealed by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997).

Kevin P. Reilly, Sr.
Secretary

9712#095

RULE

Department of Economic Development Office of the Secretary

Workforce Development and Training Program (LAC 13:I.Chapter 50 and Repeal of LAC 19:VII.Chapter 81)

In accordance with R.S. 51:2331, the Department of Economic Development, Office of the Secretary hereby adopts rules and regulations in LAC 13:I.Chapter 50 for the Workforce Development and Training Program. The rule transfers the program from the Economic Development Corporation to the Department of Economic Development.

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, Office of the Secretary, LR 23:1641 (December 1997).

§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(ies)] receiving a training award under this program.

Contract—a legally enforceable agreement between the Department of Economic Development (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.

Subprogram—the different components of the Louisiana Workforce Development and Training Program, including, but not limited to, New Employee Training and Workplace-Based Retraining.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997).

§5005. General Principles

The following principles will direct the administration of the Workforce Development and 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. appropriate cost sharing among project beneficiaries;

7. awards will be coordinated with the existing plans and programs of other government agencies whenever appropriate; and

8. a train-the-trainer approach will be adopted, whenever appropriate, in order to strengthen the institutional capacity of public and private sector training providers;

9. 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.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997).

§5007. Subprogram Descriptions

A. New Employee Training

1. This subprogram provides training assistance for companies seeking prospective employees who possess sufficient skills to perform the jobs to be created by the companies.

2. The training to be funded can include:

a. pre-employment training for which prospective employees are identified and recruited for training with the knowledge that the company will hire a subset of the trainees; and

b. on-the-job training for new employees that is needed to bring the employees up to a minimum skill and/or productivity level.

B. Workplace-Based Retraining. This subprogram provides training assistance for companies seeking to upgrade 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, Office of the Secretary, LR 23:1642 (December 1997).

§5009. Eligibility

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

1. an individual employer who seeks customized training services to create, upgrade, or retain jobs in a:

a. labor demand occupation;

b. nonlabor demand occupation to prevent job loss;

2. 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;

3. a consortium made up of one or more educational institutions and individual employers, labor, or community-based organizations that seeks customized training services to provide training in a labor demand occupation;

4. an individual employer who seeks customized training for employees at a facility which is being newly developed or is being relocated from another state into Louisiana.

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 proceedings; 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, Office of the Secretary, LR 23:1642 (December 1997).

§5011. Criteria

A. General (These apply to all training subprograms 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. During the first nine months of a fiscal year, not less than 25 percent of all funds available during a fiscal year shall be available for employers with 150 or fewer Louisiana-based employees. For the final three months of a fiscal year, the remaining available funds will be available to all eligible employers, without size restrictions.

4. No single employer shall receive more than 10 percent of the total funds available to the program during a fiscal year.

5. Employers receiving awards must provide evidence satisfactory to DED of their long-range commitment to employee training as a means of enhancing their future competitiveness.

B. New Employee 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. Workplace-Based 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, Office of the Secretary, LR 23:1642 (December 1997).

§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;

4. quantifiable objectives for the training related to the overall performance of the company, and plans to measure the effectiveness of the training according to those objectives; and

5. 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, Office of the Secretary, LR 23:1642 (December 1997).

§5015. Submission and Review Procedure

A. Applicants must submit their completed applications 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. understand the labor market conditions the proposed training is seeking to mitigate;

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

3. determine whether the employer's specific needs are best met by training;

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

5. identify the resources the business can provide to support the training, including trainers, facilities, materials and equipment;

6. identify or develop appropriate curricula; and

7. determine the most cost effective approach to meet the employer's training needs.

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 state and local economies;

2. the importance of the proposed training to the recruitment/retention of businesses and/or jobs in the state (factors to be considered include the degree of technological advancement of the skills to be taught, the transferability of those skills across companies and industries, and the wage levels of the jobs to be created and/or retained);

3. the training award's expectation as a significant factor in the company's location, investment, and/or expansion decision; and

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

C. 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 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.

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

E. The secretary will issue a letter of commitment to the applicant within five working days of the application approval by the Joint Legislative Committee on the Budget.

F. If any application is rejected by any of the preceding entities, the application shall not be considered by the next succeeding entity unless first reconsidered and approved by the entity which initially rejected the application.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1643 (December 1997).

§5017. General Award Provisions

A. Award Contract

1. A contract will be executed between DED, the applicant [and/or company(ies)] 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(ies) and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time frames for job training and job creation.

2. The monitoring entity will monitor the progress of the training and reimburse the applicant from invoices submitted by the applicant on a form approved by DED.

3. DED will disburse funds from invoices or certificates of work completed.

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, whichever is less.

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

B. Use of Funds

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, inter alia, the following:

a. instruction costs: wages for company trainers and training coordinators, Louisiana public and/or private school tuition, contracts for vendor trainers and training seminars;

b. travel costs (limited to 30 percent of the total training award): travel for trainers and training coordinators (company and other) and travel for trainees. Travel expenses reimbursable under this agreement will comply with state travel regulations, PPM 49;

c. materials and supplies costs: training texts and manuals, audio/visual materials, skills assessment (documents or services to determine training needs), raw materials (for manufacturing and new employee on-the-job training), computer based training (CBT) software; and

d. other costs: facility rental, wages for on-the-job trainees (limited to 25 percent of a trainee's wage, excluding benefits), 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.3.

3. Training costs ineligible for reimbursement include:

a. trainee fringe benefits;
b. nonconsumable tangible property (e.g., equipment, calculators, furniture, classroom fixtures, noncomputer 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. basic skills: literacy, numeracy, problem solving, team participation, etc.;

b. 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.);

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

d. 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

e. pedagogical skills: skills which pertain to instructional methods and techniques to be used by trainers (these are most relevant to train-the-trainer activities).

C. Amount of Award

1. New Employee Training. The training award amount may cover up to 100 percent of the eligible training costs, not to exceed \$500,000.

2. Workplace-Based Retraining. The training award amount may cover up to 50 percent of the eligible training costs, not to exceed \$500,000.

D. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of approved invoices to DED. Funds will not be available for reimbursement until a training agreement between the applicant [and/or company(ies)] 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. Invoices 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.

E. 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, to 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 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, Office of the Secretary, LR 23:1643 (December 1997).

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation Subpart 7. Workforce Development and Training Program

Chapter 81. Workforce Development

Repealed.

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), repealed by the Department of Economic Development, Office of the Secretary, LR 23:1644 (December 1997).

Kevin P. Reilly, Sr.
Secretary

9712#063

RULE

Board of Elementary and Secondary Education

Bulletin 741—Vocational Agriscience/Agribusiness

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Standard 2.105.25 of Bulletin 741, Louisiana Handbook for School Administrators, as printed below:

Vocational Agriscience/Agribusiness

2.105.25. Vocational Agriscience course offerings shall be as follows:

Recommended

Course Title	Grade Level	Units
Exploratory Agriscience	7-8	1
Agriscience/Agribusiness I	9-12	1
Agriscience/Agribusiness II	10-12	1
Agriscience/Agribusiness III	11-12	1
Agriscience/Agribusiness IV	12	1
Agricultural Entrepreneurship	11-12	½
Agricultural Construction	11-12	½
Agriculture and Environmental Applications	11-12	½
Animal Production	11-12	½
Crop Production	11-12	½
Equine Science	11-12	½
Food and Fiber Systems	11-12	½
Forestry	11-12	½
Horticulture	11-12	½
Introduction to Aquaculture	11-12	½
Introduction to Agribusiness	11-12	½
Personal Development	11-12	½
Small Engines	11-12	½
Welding	11-12	½
Ag Lab III	11-12	1
Ag Lab IV	12	1
Cooperative Agriscience Education (CAE)	11-12	2

Ag Lab III and Ag Lab IV are offered only to students who are also enrolled in Agriscience/Agribusiness III or IV or two consecutive semester courses during the year.

Semester courses are designed to be offered in the place of or in addition to Agriscience/Agribusiness III and/or IV. Required prerequisites are to be determined by local board policy for course sequencing.

Three units of credit in Cooperative Agriscience/Agribusiness Education (CAE) are granted to students who successfully complete both the classroom phase of instruction and the on-the-job training phase. These courses are available only to students who have completed Agriscience/Agribusiness I and Agriscience/Agribusiness II.

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:1644 (December 1997).

Weegie Peabody
Executive Director

9712#062

RULE

Board of Elementary and Secondary Education

Bulletin 1213—Minimum Standards for School Buses

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary

Education amends Bulletin 1213, Minimum Standards for School Buses. The revision, located on page 34 of Bulletin 1213, section on Weight Distribution, is amended as stated below.

Undercoating

* * *

Weight Distribution

Weight distribution of a fully-loaded bus on a level surface shall be such as not to exceed the manufacturer's front gross axle rating and rear axle weight rating.

Chassis Manufacturer

1., 2.A.B., 3., 4., 5.A.B. . . .

* * *

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:1645 (December 1997).

Weegie Peabody
Executive Director

9712#061

RULE

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

**Scholarship and Grant Policy Manual—Tuition
Assistance Program (TAP) and Honors Scholarship**

The Louisiana Student Financial Assistance Commission (LASFAC) is adopting the following changes to the Scholarship and Grant Policy and Procedure Manual.

IV. LOUISIANA TUITION ASSISTANCE PLAN (TAP)

AMEND PARAGRAPHS IV.A. AND IV.B. TO READ AS FOLLOWS:

A. Program Description, History and Purpose

The Louisiana Tuition Assistance Plan (TAP) Program, formerly referred to as the Louisiana College Tuition Plan, was first awarded in the fall of 1989, and provides tuition reimbursement for Louisiana residents who enroll in public colleges and universities to pursue an academic undergraduate degree and who meet specific academic standards and financial need criteria. The annual award amount for TAP varies, since it is the actual tuition charged by individual state institutions.

A maximum cumulative award amount is not established; however, there is a five-year limitation on the number of academic years (10 semesters or 15 quarters) a recipient may receive this entitlement. Institutions, after submitting invoices to LASFAC, are reimbursed each term for the tuition and fees awarded for TAP recipients. Effective for academic year 1998-99, the program will be terminated and students receiving TAP will be continued as TOPS Opportunity award recipients.

B. Legislative Authority

R.S. 17:3026;

Act 789 of the 1989 Regular Legislative Session, effective July 1, 1989;

Act 1055 of the 1990 Regular Legislative Session, effective July 27, 1990;

Act 718 of the 1992 Regular Legislative Session, effective January 1, 1993;

Act 269 of the 1995 Regular Legislative Session, effective January 1, 1996;

Act 872 of the 1995 Regular Legislative Session, effective June 28, 1995;

Act 287 of the 1997 Regular Legislative Session, effective July 15, 1997; and

Act 1375 of the 1997 Regular Legislative Session, effective August 15, 1997, (portions affecting 1996-97 and prior high school graduates).

* * *

AMEND PARAGRAPH IV.C.1.o. TO READ AS FOLLOWS:

o. not be receiving a tuition waiver or tuition award from another source including, but not limited to, the Louisiana National Guard Tuition Waiver, the Vocational Rehabilitation Tuition Waiver, the Louisiana Honors Scholarship or any institutional award which is limited to payment of tuition provided that the total cost of the student's tuition would be covered by the TAP award.

* * *

AMEND PARAGRAPH IV.C.3.b. TO READ AS FOLLOWS:

b. Achieve a cumulative GPA, as evaluated at the end of each academic year (the conclusion of the spring term), of at least 2.10 after the completion of less than 48 credit hours; at least 2.30 after the completion of 48 credit hours; and at least 2.50 after the completion of 72 credit hours, calculated on a 4.00 scale. Effective with the 1998-99 academic year, students continuing under TOPS who fail to achieve the required cumulative grade point average may be reinstated upon attainment of a cumulative grade point average, as required above, provided that the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

* * *

INSERT NEW PARAGRAPH IV.C.3.d. AS FOLLOWS:

d. Effective for the 1997-98 academic year, if a student is placed on academic probation by the college or university attended, the student is ineligible for further TAP payments. The student may be reinstated upon the lifting of academic probation, provided that the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

FORMER PARAGRAPHS IV.C.3.d., IV.C.3.e. and IV.C.3.f. ARE REDESIGNATED AS IV.C.3.e., IV.C.3.f. and IV.C.3.g., RESPECTIVELY.

* * *

AMEND FORMER PARAGRAPH IV.C.3.g. AND REDESIGNATE IT AS IV.C.3.h.:

h. TAP recipients prior to Fiscal Year 1997 who were denied continuation because of failure to show financial need, may be reinstated, upon written request, if they have maintained all other requirements for continuation as listed in Section C.3. of Chapter IV.

FORMER PARAGRAPH IV.C.3.h. IS REDESIGNATED AS IV.C.3.i.:

* * *

THE FOLLOWING FOOTNOTE HAS BEEN ADDED TO ACCOMPANY PARAGRAPH IV.E.1.:

1. Note: Effective with the 1998-99 award year, campuses of Louisiana Technical College and regionally accredited LAICU member independent colleges and universities are authorized to participate in TOPS, which will replace the TAP program.

* * *

AMEND PARAGRAPH IV.E.3.d. TO READ AS FOLLOWS:

d. Institutions may not bill LASFAC for a TAP award if the recipient has elected to accept a tuition waiver or tuition award from another source including, but not limited to, the Louisiana National Guard Tuition Waiver, the Vocational Rehabilitation Tuition Waiver, Louisiana Honors Scholarship or any institutional award which is limited to payment of tuition provided that the total cost of the student's tuition would be covered by the TAP award.

* * *

V. LOUISIANA HONORS SCHOLARSHIP PROGRAM

AMEND PARAGRAPHS V.A. AND V.B. TO READ AS FOLLOWS:

A. Program Description, History and Purpose

The Louisiana Honors Scholarship Program, first awarded in the fall of 1992, provides tuition exemption to Louisiana residents to acknowledge, honor and reward the academic achievement of Louisiana's top high school graduates; to ensure that these students have the financial resources to pursue a higher education in one of Louisiana's colleges and universities; and to provide an incentive to these students to seek their higher education in this state. Effective for academic year 1998-99, the program will be terminated and students receiving the Honors Scholarship will be continued as TOPS Performance award recipients.

B. Legislative Authority

R.S. 17:3042:31 through 3042:35;

Act 1085 of the 1992 Regular Legislative Session, effective July 14, 1992;

Act 225 of the 1993 Regular Legislative Session, effective June 2, 1993;

Act 86 of the Third Extraordinary Legislative Session, effective July 7, 1994;

Act 714 of the 1995 Regular Legislative Session, effective June 21, 1995;

Act 1283 of the 1997 Regular Legislative Session, effective July 15, 1997; and

Act 1375 of the 1997 Regular Legislative Session, effective August 15, 1997 (portions affecting 1996-97 and prior year high school graduates).

* * *

AMEND PARAGRAPHS V.C.1.e., V.C.1.f. AND V.C.1.g. TO READ AS FOLLOWS:

e. have attained a cumulative high school grade point average of at least 3.00 on a 4.00 scale; and

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

g. not be receiving a tuition waiver or tuition award from another source including, but not limited to, the Louisiana Tuition Assistance Plan (TAP), the Louisiana National Guard Tuition Waiver, the Vocational Rehabilitation Tuition Waiver or any other institutional award which is limited to payment of tuition provided that the total cost of the student's tuition would be covered by the honors award.

AMEND PARAGRAPH V.C.3.b. TO READ AS FOLLOWS:

b. Maintain by the end of each academic year a cumulative college or Louisiana technical college Grade Point Average (GPA) of at least 3.00 on a 4.00 scale. Effective with the 1998-99 academic year, students who fail to achieve the required cumulative grade point average may be reinstated upon attainment of a 3.00 cumulative grade point average provided that the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

DELETE FORMER PARAGRAPH V.C.3.g. AND REDESIGNATE FORMER PARAGRAPHS V.C.3.h. AND V.C.3.i. as V.C.3.g. AND V.C.3.h., RESPECTIVELY; AND AMEND THE REDESIGNATED V.C.3.g. AND V.C.3.h. TO READ AS FOLLOWS:

g. not be receiving other aid which, together with award of the Honors Scholarship, would exceed the student's total cost of attendance as defined by the institution in accordance with federal regulations. This Paragraph shall not preclude an institution from establishing a maximum limitation on aid based upon some other criteria which would result in a limitation that is less than the student's total cost of attendance; and

h. not be receiving a tuition waiver or tuition award from the state or an institution of higher education including, but not limited to, the Louisiana Tuition Assistance Plan (TAP), the Louisiana National Guard Tuition Waiver, the Vocational Rehabilitation Tuition Waiver or any institutional award which is limited to payment of tuition provided that the total cost of the student's tuition would be covered by the Honors Scholarship.

REDESIGNATE FORMER PARAGRAPH V.C.3.j. AS V.C.3.i. AND INSERT NEW PARAGRAPH V.C.3.j. TO READ AS FOLLOWS:

j. Effective for the 1997-98 Academic Year, if a student is ineligible for further payments. The student may be reinstated upon the lifting of academic probation, provided that the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

AMEND PARAGRAPHS V.D.1.f. AND V.C.1.g.iii. TO READ AS FOLLOWS:

f. Each year, by the deadline specified and on the forms provided by LASFAC, city and parish school boards for public high schools, principals or headmasters for approved special schools and nonpublic BESE-approved high schools, governing boards of eligible non-Louisiana high schools, and Louisiana Department of Education representatives for home study students shall certify and submit to LASFAC the names of students graduating in the top 5 percent of each high school's academic year graduating class who have attained a cumulative high school grade point average of at least 3.00 on

a 4.00 scale or the names of those students completing an approved home study program who scored in the upper 5 percent in the state on the National Merit Exam.

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

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

iii. You must have attained a cumulative high school grade point average of at least 3.00 on a 4.00 scale,

AMEND PARAGRAPH V.E.3.d. TO READ AS FOLLOWS:

d. LAICU institution's reimbursement is limited to the lesser of actual tuition or the tuition amount charged by the highest cost public institution admitting freshmen. Institutions will be notified each term of the current maximum amount for full-time students and maximum amount for less than full-time students in accordance with Chapter VII.C.3. of this manual. Effective with the continuation of students under TOPS in the fall 1998 term, LAICU institutions may bill for the average tuition paid for students attending public colleges and universities as determined by LASFAC.

VII. GENERAL SCHOLARSHIP/GRANT POLICY

AMEND PARAGRAPH VII.D. TO READ AS FOLLOWS:

D. Release of Scholarship Awards

Awards shall be released to students by the institution if the student is listed on a LASFAC eligibility roster or master listing and is enrolled full-time for the applicable term, except as limited by Chapters IV.C.3.d., V.C.3.j. and VIII.C.3.b. Institutions continue to be responsible for verifying that Rockefeller Scholarship and TOPS-Teacher Award recipients are enrolled in a required field of study prior to the release of award checks.

Glossary

AMEND THE GLOSSARY BY DELETING THE DEFINITION OF *Gratuitous Financial Assistance or Support* IN ITS ENTIRETY.

Jack L. Guinn
Executive Director

9712#004

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for
Students (TOPS)—1997 Eligibility

The Louisiana Student Financial Assistance Commission (LASFAC) is providing eligibility information for 1997 high

school graduates under the Tuition Opportunity Program for Students (TOPS), as follows:

VIII. TUITION OPPORTUNITY PROGRAM FOR STUDENTS (TOPS)

A. Program Description, History and Purpose. The Tuition Opportunity Program for Students (TOPS) is a comprehensive, merit-based student aid program consisting of a series of components, with each component having its own eligibility criteria and titled award. The purpose of TOPS is to financially assist any Louisiana student who has met the criteria for an award and has enrolled in an institution in the state for the purpose of pursuing a postsecondary education. The components of TOPS are the Opportunity Award, the Performance Award, the Honors Award and the Teachers Award. Each component shall be addressed in a separate chapter of this manual.

B. Legislative Authority. The TOPS was created by Act 476 of the 1997 Regular Session of the Louisiana Legislature. The Act created Chapter 20-G of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:3048.1 and 3048.2.

C. Effective Date. Although Act 476 became effective on August 15, 1997, the monetary awards authorized under TOPS may only be made for the first time beginning with the 1998-99 academic year.

D. Special Provisions

1. Applicability. With the exception of students applying for the TOPS-Teacher Award, the following provisions are only applicable to students who graduated during the period August 15, 1996, to August 15, 1997, from a high school approved by the Louisiana Board of Elementary and Secondary Education (BESE). These emergency rules do not apply to students graduating from approved high schools after these inclusive dates.

2. Student Eligibility. With the exception of the TOPS-Teacher Award, TOPS awards are authorized for the first time beginning in August 1998, which is the acknowledged beginning of the 1998-99 academic year. Students must establish their eligibility for TOPS, enroll in an eligible postsecondary institution and be awarded no later than the beginning of the fourth semester (or equivalent period for schools using quarters or other terms) following the date of their graduation from high school. Accordingly, only those students who graduated from approved high schools after August 15, 1996, will be eligible for TOPS. Students graduating before that date, may be eligible to apply for the TOPS-Teacher Award.

a. TOPS-Opportunity Award

i. Students who will not be first-time freshmen in academic year 1998-99 (meaning they have previously attended a postsecondary institution) must apply during the 1997 special application period (see Paragraph D4a, Special Application Periods and Application Deadlines) and establish continuing eligibility in 1998 by showing evidence of a college grade point average that meets the continuation requirement for this program. (See the Glossary, page G-7 for the grade requirement for continuation in this program).

ii. Students who will be first time freshmen in academic year 1998-99 must apply during the regular application period for 1998 (January 1, 1998 to June 1, 1998),

and be awarded and accept funds no later than the 1999 spring term, or lose their eligibility for the program.

b. TOPS-Honors Award

i. Students who will not be first-time freshmen in academic year 1998-99 (meaning they have previously attended a postsecondary institution) must apply during the 1998 regular application period (January 1, 1998 to June 1, 1998) and show evidence of having achieved a cumulative grade point average of at least 3.00 on all college course work.

ii. Students who will be first-time freshmen in academic year 1998-99 (meaning they have not previously attended a postsecondary institution) must apply during the 1998 regular application period and be awarded and accept funds no later than the 1999 spring semester, or lose their eligibility for the program.

c. TOPS-Teacher Award is authorized to be awarded during the 1997-98 academic year. Unlike the other TOPS components, students who will be enrolled as college undergraduates (freshmen through college seniors) in academic year 1997-98 may apply for this award. Students applying for the 1997-98 academic year must apply during the 1997 special application period. (See Paragraph D4b, Special Application Periods and Application Deadlines). In addition to the special provisions referred to in this Chapter, applicants for this award must meet the requirements specified in Chapter IX, adopted as emergency rules on August 12, 1997. Since the 1997 special application period will close after the 1997-98 academic year has begun, students who are selected for a Teacher Award should not expect to receive funds prior to the spring semester, 1998. Beginning in academic year 1998-99, students may accept other TOPS awards in conjunction with the Teacher Award.

3. Establishing Eligibility. To establish eligibility for an award under TOPS, students must meet the criteria specific to the individual awards which are depicted on the chart, page G-7 of the Glossary, and the following:

i. be a U.S. Citizen or National and be registered with the Selective Service if required to do so by law; and

ii. be a resident of Louisiana, meaning any person who has actually resided in Louisiana continuously during the 24 months immediately preceding enrollment in an eligible postsecondary institution, and who has a domiciliary parent or guardian in Louisiana who has manifested intent to remain in this state by establishing Louisiana as legal domicile as demonstrated by compliance with all of the following:

(a) if registered to vote, is registered to vote in Louisiana;

(b) if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;

(c) if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle; and

(d) if earning an income, has complied with state income tax laws and regulations.

iii. be a graduate of a public or nonpublic high school which has been approved, provisionally approved, or probationally approved by the Louisiana Board of Elementary and Secondary Education (BESE);

iv. annually, complete and submit the Free Application for Federal Student Aid (FAFSA), and authorize the state of Louisiana to receive application results from the federal processor of the form;

v. meet standards for admission to the desired postsecondary institution and successfully complete 16.5 units of high school course work, constituting the following core curriculum:

UNITS	COURSE
1	English I
1	English II
1	English III
1	English IV
1	Algebra I
1	Algebra II
1	Geometry, Trigonometry, Calculus, or Comparable Advanced Math
1	Biology I
1	Chemistry I
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, or Physics
1	American History
1	World History, World Culture, Western Civilization, or World Geography
1	Civics and/or Economics/Free Enterprise
1	Fine Arts Survey (or substitute 2 units performance courses in Music, Dance and/or Theater; or 2 units of Studio Art; or one elective from among the other subjects listed in this core curriculum)
2	In the same Foreign Language
½	Computer Science, Computer Literacy or Data Processing (or substitute at least ½ unit of an elective from among the other subjects listed in this core curriculum)

vi. except for misdemeanor traffic violations, shall not have a criminal conviction.

4. Special Application Periods and Application Deadlines. Special application periods are hereby established for the TOPS-Opportunity Award and the TOPS-Teacher Award. The special application period for the TOPS-Opportunity Award is intended to permit students who will not be first-time freshmen in academic year 1998-99, to establish their eligibility for the award during the current year and, by showing evidence of having met the program's continuation requirements, receive the award during the 1998-99 academic year. Since the TOPS-Teacher Award is authorized to be funded for the current academic year, the special application period for the Teacher Award is intended to assure that all interested students who will be college undergraduates in academic year 1997-98 are afforded the opportunity to compete for these awards.

a. Students who graduated from an approved high school on or after August 15, 1996 and through June 1997, and who enroll in a postsecondary institution during the 1997-98 academic year, must apply for the TOPS-Opportunity Award by completing and mailing the Free Application for Federal Student Aid (FAFSA), School Year 1997-98, or the Renewal FAFSA for the same year, whichever may be applicable to the student, by December 15, 1997, to be received at the address on the FAFSA's mailing envelope by December 31, 1997. Students who have previously submitted the FAFSA for 1997-98 shall be considered and should not resubmit this form.

b. Students who will be college undergraduates during the 1997-98 academic year and who are pursuing a program which leads to regular certification as a teacher may apply for the TOPS-Teacher Award by completing and mailing the Free Application for Federal Student Aid (FAFSA), School Year 1997-98, or the Renewal FAFSA for the same year, whichever may be applicable to the student, by November 1, 1997, to be received at the address on the FAFSA's mailing envelope by November 15, 1997. Students who have previously submitted the FAFSA for 1997-98 shall be considered and should not resubmit this form.

Jack L. Guinn
Executive Director

9712#009

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)—Teachers Award

The Louisiana Student Financial Assistance Commission (LASFAC) is adopting rules for the Tuition Opportunity Program for Students (TOPS)—Teachers Award.

TOPS—TEACHERS AWARD

A. Program Description, History and Purpose. The Tuition Opportunity Program for Students (TOPS)—Teachers Award was created to attract academically talented high school graduates into the elementary and secondary level teaching profession and to encourage these individuals to practice their profession in Louisiana. The program provides competitively awarded educational loans to residents of Louisiana who indicate their willingness to teach at the elementary or secondary level in Louisiana. When the recipient teaches at an approved institution in Louisiana, the loans are forgiven in the ratio of one year of loan forgiveness for each year of teaching, or two years of loan forgiveness for each year of teaching in an elementary or secondary school which is located in an economically disadvantaged region of the state. The loans are made in the amount of \$6,000 per award year for math and chemistry majors and \$4,000 per year for all other approved majors.

B. Legislative Authority. The TOPS—Teachers Award was created by Act 476, of the 1997 Regular Session of the

Louisiana Legislature. This bill amended and reenacted R.S. 17:3042.1(A)(3) and (4), (B), (C), and (D) and 3042.2(A) and (B), reenacted R.S. 17:3042.1(A)(5) and (6) and 3042.8 and renamed Chapter 20-B of Title 17 of the Louisiana Revised Statutes of 1950.

C. Student Applicants

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

- a. be a U.S. citizen or National, and registered with the Selective Service, if required; and
- b. be a resident of Louisiana, as defined for recipients of the Tuition Assistance Plan on page G-5 of the Scholarship and Grant Policy and Procedure Manual; and
- c. submit the completed Free Application for Federal Student Aid (FAFSA); and
- d. have graduated or will graduate from a public or nonpublic high school that has been approved, provisionally-approved, or probationally-approved by the Louisiana Board of Elementary and Secondary Education (BESE); and
- e. have graduated with a cumulative high school grade point average of at least 3.25 calculated on a 4.00 scale for all courses completed in grades 9 through 12; and
- f. have attained a composite score on American College Test (ACT) or the Scholastic Aptitude Test (SAT) which is, or is equivalent to at least 23 on the 1990 version of the American College Test; and
- g. have successfully completed 16.5 units of high school course work constituting a core curriculum as follows:

UNITS	COURSE
1	English I
1	English II
1	English III
1	English IV
1	Algebra I
1	Algebra II
1	Geometry, Trigonometry, Calculus, or Comparable Advanced Math
1	Biology I
1	Chemistry I
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, or Physics
1	American History
1	World History, World Culture, Western Civilization, or World Geography
1	Civics and/or Economics/Free Enterprise
1	Fine Arts Survey (or substitute 2 units performance courses in Music, Dance and/or Theater; or 2 units of Studio Art; or one elective from among the other subjects listed in this core curriculum)
2	In the same Foreign Language

1/2 Computer Science, Computer Literacy or Data Processing (or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

- h. if by the end of June in the year of application, will have completed 24 or more hours of graded college credit, have at least a 3.25 cumulative college grade point average based on a 4.00 scale; and
 - i. enroll as an undergraduate student during the fall term at an eligible college or university; and
 - j. complete and submit such additional materials as may be required by LASFAC; and
 - k. be in compliance with the terms of other federal and state aid programs which the applicant may be in receipt of and which are administered by LASFAC; and
 - l. not have a criminal conviction, except for misdemeanor traffic violations; and
 - m. agree that proceeds, if received, will be used for educational expenses; and
 - n. enroll full time in a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level in math or chemistry. LASFAC may require confirmation from the dean of the College of Education or head of the Department of Education at the college or university attended, or from officials of the Louisiana Department of Education; and
 - o. complete a promissory note approved by the attorney general.

2. Initial Selection Criteria. To be selected for award:

- a. applicants meeting the criteria in Section C.1 are assigned a merit score determined by formula. Merit score formulas are defined in the Glossary, page G-5 of the Scholarship and Grant Policy and Procedure Manual;
- b. applicants' merit scores are ranked in descending order, with the applicant with the highest merit score ranked first;
- c. the number of applicants selected for award is dependent upon the amount of award funds available;
- d. prior to the receipt of award funds, applicants must have completed a Teacher Award Program Master Promissory Note.

3. Renewal Eligibility. Annual continuing eligibility is based upon the availability of funds and meeting all of the following requirements:

- a. have received less than four years or eight semesters of funding; and
- b. not be on academic probation as determined by the college or university attended; and
- c. maintain a cumulative college Grade Point Average (GPA) of at least 3.00 calculated on a 4.00 scale at the end of each academic year; and
- d. continue to enroll each subsequent semester or quarter as a full-time undergraduate student, unless granted an exception for cause, in a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level; or

e. enter a program approved by the State Board of Elementary and Secondary Education which leads to a degree in education or to regular certification as a teacher as soon as sufficient credits have been earned to do so; and

f. complete and submit such materials as may be required by the LASFAC, including a promissory note; and

g. annually apply for federal student aid; and

h. have no criminal convictions, except for misdemeanor traffic violations; and

i. be in compliance with the terms of all other federal and state aid programs which the student may be in receipt of and which are administered by LASFAC.

4. Academic Suspension of Awards and Reinstatement.

A student who is placed on academic probation by the college or university attended and/or who fails to achieve the required grade point average is not eligible to receive renewal funding under the provisions of Sections 3.b or c above. The student may be returned to eligible status if:

a. the period of suspension did not persist for more than two years from the date of loss of eligibility; and

b. LASFAC is in receipt of:

i. student request for reinstatement; and

ii. institutional verification that the student:

(a) has been removed from academic probation by the college or university attended and is in good academic standing; and

(b) has regained a cumulative college grade point average of 3.00 based on a 4.00 scale; and

(c) is continuing to pursue initial teacher certification.

iii. sufficient funding to award the reinstated student after funding all continuing recipients who have not been suspended from funding.

5. Annual Award Amounts

a. Students enrolled in a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level in a major other than math or chemistry will receive awards of \$4,000 per year, in two equal disbursements of \$2,000 each.

b. Students enrolled in a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level in math or chemistry will receive awards of \$6,000 per year, in two equal disbursements of \$3,000 each.

c. Students may not receive other aid which, together with award of the Teacher Award, would exceed the students' total cost of attendance as determined by the institution in accordance with regulations implementing federal Title IV student aid.

6. Discharge of Obligation. The loan obligation may be discharged by teaching fulfillment, monetary repayment or cancellation.

a. Teaching Fulfillment. Fulfillment is accomplished by:

i. within two years of the initial teacher certification, perform service as a full-time classroom teacher in a Board of Elementary and Secondary Education (BESE)-approved, provisionally-approved, or probationally-approved elementary or secondary school;

ii. each period of teaching of one-half year or more will fulfill an equivalent period of funding (one semester). However, if teaching in an elementary or secondary school which is located in an economically disadvantaged region of the state, as defined by BESE, one year of teaching will fulfill two years of funding;

iii. the first semester of full-time teaching will fulfill the earliest dated disbursement not previously paid under Subsection b, the second semester the next earliest dated disbursement, and continuing until all disbursements have been fulfilled; and

iv. teaching to meet fulfillment requirements shall be completed within six years of completion of the initial teacher certification.

b. Monetary Repayment. Recipients who elect not to discharge the obligation by Teaching Fulfillment and who are not eligible for discharge by cancellation must repay the loan principal plus accrued interest.

i. Interest will accrue on the outstanding principal at the rate of 8 percent per year.

ii. Interest on each disbursement will accrue from the date of said disbursement until lump sum repayment or until capitalized when the recipient enters repayment status.

iii. Repayment Status. The recipient enters repayment status the first of the month following:

(a) determination by LASFAC that the recipient cannot complete fulfillment by teaching;

(b) notification of LASFAC by the recipient that monetary repayment is desired;

(c) six months after LASFAC determines that the recipient is no longer pursuing a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary school level.

iv. Annual repayment amount will be the greater of:

(a) the amount necessary to repay the capitalized amount within 10 years; or

(b) \$1,200 per year or the unpaid balance.

v. Recipients in repayment status may have their payments deferred for the following reasons:

(a) Parental Leave

(i) Definition. The student/recipient must be pregnant or caring for a newborn or newly-adopted child.

(ii) Certification Requirements. Certification by a written statement from a doctor of medicine who is legally authorized to practice or an authorized official of the adoption agency.

(iii) Acceptable Documentation. Includes dates of required leave of absence, the number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, and the required treatment.

(iv) Filing Requirements. The recipient must request by letter, with the required certification and documentation, within 60 days after the occurrence of the qualifying event.

(v) Maximum Length of Deferment. Up to one academic year.

(b) Rehabilitation Program

(i) Definition. The recipient must be receiving rehabilitation in a program administered by a licensed rehabilitation center under a written individualized plan with specific dates of beginning and ending services.

(ii) Certification Requirements. Certification by a rehabilitation counselor or doctor of medicine.

(iii) Acceptable Documentation. Includes dates of the required leave of absence, the semester(s) or number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, and the required treatment.

(iv) Filing Requirements. The recipient must file a written request, with the required certification and documentation, within 60 days after occurrence of the qualifying treatment.

(v) Maximum Length of Deferment. Up to two academic years.

(c) Temporary Disability of Recipient, Child, Parent, or Spouse

(i) Definition. Temporary total disability of recipient or recipient's child, parent or spouse of whom recipient is primary care giver.

(ii) Certification Requirements. Certification by a qualified physician.

(iii) Acceptable Documentation. Includes dates of the required leave, the length of the recovery or disability period, the beginning and ending dates of the doctor's care, and the required treatment.

(iv) Filing Requirements. The recipient must file a written request with the required certification and documentation no earlier than 30 days but within 60 days after the occurrence of disability.

(v) Maximum Length of Deferment. A deferment under this Subsection for temporary disability of the maker shall not exceed 36 months. A deferment under this Subsection for temporary disability of any other person shall not exceed 12 months.

(d) Military Service, Peace Corps, National Service Corps, VISTA

(i) Definition. The recipient is called on active duty status with the United States Armed Forces or is performing emergency state service with the National Guard or is serving in the Peace Corps, National Service Corps or VISTA.

(ii) Certification Requirements. Certified by a written statement from the commanding officer or regional supervisor or certified military orders.

(iii) Acceptable Documentation. Includes dates of required leave of absence, the semester(s) or number of days involved, the length of duty (beginning and ending dates).

(iv) Filing Requirements. The student/recipient must file a written request with the required certification and documentation, within 60 days after receipt of military orders or letter of appointment.

(v) Maximum Length of Deferment. Up to the length of the required service period.

(e) Recipient is engaging in a full-time course of study at an institution of higher education at the baccalaureate

level or higher. A deferment under this Subsection shall not exceed 36 months; or

(f) Recipient is:

(i) seeking and unable to find full-time employment for a single period not to exceed 12 months; or

(ii) seeking and unable to find full-time employment at a qualifying Louisiana school for a period of time not to exceed 27 months.

(g) Teaching full time as per Subsection a above.

vi. During the period of time a recipient is in deferment status, a recipient is not required to make repayments and interest does not accrue.

vii. 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.

c. Cancellation. Upon submission of applicable proof, teacher loans may be canceled for the following:

i. death of the recipient;

ii. complete and permanent disability of the recipient which precludes the recipient from gainful employment.

D. High Schools

1. Only graduates of Louisiana BESE-approved, probationally-approved, and probationally-approved public or nonpublic high schools are authorized to participate in the Teacher Award.

2. Participating high schools must complete and return the certification listing of applicants to LASFAC by the deadline specified.

E. College and Universities

1. Those institutions offering degree programs or courses of study leading to a degree in education or an alternative program leading to certification as a teacher at the elementary or secondary level that are:

a. Louisiana public colleges and universities, or

b. regionally accredited independent colleges and universities that are members of the Louisiana Association of Independent Colleges and Universities (LAICU).

2. College and university responsibilities include:

a. Certification of student status. Upon request by LASFAC, the institution will verify the following:

i. admission, and if appropriate, full-time enrollment; and

ii. eligibility for, or enrollment in, a course of study leading to initial teacher certification;

iii. enrollment in math or chemistry as major while pursuing teacher certification.

b. Disbursement of Funds. Upon receipt of award checks the institution will:

i. determine that the recipient is enrolled full time, in an approved degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level;

ii. if designated as math or chemistry recipient, verify enrollment in course of study leading to certification as a math or chemistry teacher;

iii. release the award check to the recipient as instructed by LASFAC.

**Title 28
EDUCATION**

Part VI. Student Tuition Trust Authority

Chapter 2. Bylaws

§201. Definitions and Authority

Chairman of the Authority—the executive secretary to the governor or his/her designee to the Louisiana Student Financial Assistance Commission (LASFAC), who shall also serve as ex officio chairman of the authority.

Director—that person appointed in the classified service as the administrative head of a division of the Office of Student Financial Assistance.

Division—a subordinate organizational element of the Office of Student Financial Assistance.

Executive Director—that person duly appointed by the Louisiana Student Financial Assistance Commission pursuant to R.S. 17:3022(B) to serve in the unclassified service as executive director of the Office of Student Financial Assistance, who shall be its chief executive officer and the appointing authority for all classified employees of the office.

Fiscal Officer—that employee of the office assigned responsibility for preparation and monitoring of the approved budget of the authority, who may jointly serve as a director.

Louisiana Tuition Trust Authority or Authority—the statutory body created by R.S. 17:3093 et seq., and composed of the members who are duly appointed and qualified as provided by law. The authority shall administer the Louisiana Student Tuition Assistance and Revenue Trust Program, commonly referred to as the "START Saving Program," through the Office of Student Financial Assistance.

Office of Student Financial Assistance, Louisiana Department of Education or Office—the organization created by R.S. 36:650 to perform the functions of the state relating to the programs of financial assistance and certain scholarship programs for higher education in accordance with the directives of its governing bodies and applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1653 (December 1997).

§203. Meetings

A. Regular Meetings

1. The authority shall hold at least one but not more than 12 meetings per calendar year.

2. All regular meetings shall be held at meeting places designated by the authority.

3. Proxy voting shall be allowed at all meetings for the chairman of the State Board of Elementary and Secondary Education; Board of Supervisors, Louisiana State University; Board of Supervisors, Southern University; Board of Regents; University of Louisiana System and Louisiana Association of Independent Colleges and Universities, or each of their designees; however, any proxy holder must also be a member of that respective board.

4. The state superintendent of Education and the state treasurer may vote by proxy through members of their executive staffs.

c. Reporting of Academic Data. At the conclusion of each academic year, the institution will complete and return to LASFAC, the College Academic Grade Report, including:

- i. academic year and cumulative hours earned;
- ii. cumulative grade point average;
- iii. major;
- iv. upon graduation, degree date and degree program.

F. Louisiana Department of Education. The responsibilities of the Louisiana Department of Education include verification of:

1. eligibility of teacher education programs;
2. award of teacher certification.

* * *

Amend the Glossary of the Scholarship/grant Policy and Procedure Manual by definition of Merit Ranking Formula to read as follows:

Merit Ranking Formula. A formula incorporating selected merit factors which is used to rank eligible applicants in the priority by which competitive scholarships are to be awarded. The following formulas for the merit ranking of scholarship applicants provide for the equating of scores for high school graduating seniors and college students:

Formula I. Utilized for applicants with less than 24 hours of graded college credit.

$$\frac{\text{HSGPA}}{4.00} \times 60 + \frac{\text{ACT}}{36} \times 40 = \text{MERIT SCORE}$$

Formula II. Utilized for applicants with 24 or more hours of graded college credit.

$$\frac{\text{COLLEGE GPA}}{4.00} \times 95 + \frac{\text{COLLEGE LEVEL}}{4} \times 5 = \text{MERIT SCORE}$$

Formula III. Utilized for applicants for the TOPS—Teacher Award

For those applicants majoring in math or chemistry, an additional 10 points is added to the merit score determined by Formula I or II, resulting in an adjusted merit score.

Jack L. Guinn
Executive Director

9712#011

RULE

**Tuition Trust Authority
Office of Student Financial Assistance**

Bylaws (LAC 28:VI.Chapter 2)

The Tuition Trust Authority, the statutory body created by R.S. 17:3093 et seq., in compliance with the Administrative Procedure Act, R.S. 49:950 et seq., adopts rules relative to bylaws to govern the authority, its meetings, officers and executive staff, order of business, committees, communications to the authority, rights, duties and responsibilities of the executive staff, responsibilities of authority members and amendment or repeal of bylaws.

5. The member from the Louisiana Bankers Association may vote by proxy. No other members shall have the right of proxy voting.

B. Special Meetings

1. Special meetings of the authority may be called by the chairman at any time, or by the secretary upon written request therefor, signed by a majority of the members and specifying the purposes of the desired meeting.

2. Written notification shall be sent to each member at least three calendar days before the time of the meeting.

C. Compensation

1. Members of the authority shall receive per diem compensation for their service at the rate authorized by statute or as authorized by executive order, and shall be reimbursed for their necessary travel expenses actually incurred in the conduct of the business of the authority.

2. The authority is limited to 12 meetings per year for which per diem may be drawn by authority members.

D. Quorum. A simple majority of the authority shall constitute a quorum for the transaction of any business, and a simple majority of the quorum present at any meeting voting in favor or against a particular item shall be the act of the authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1653 (December 1997).

§205. Officers of the Authority and Executive Staff

A. Chairman and Vice-Chairman

1. The chairman of the Louisiana Student Financial Assistance Commission shall serve as chairman of the authority.

2. The authority shall select a vice-chairman annually.

3. The authority may elect such other officers as it deems necessary.

4. The chairman of the authority shall preside over all meetings of the authority; serve as ex officio member of all committees; name the appointive members of all standing and special committees of the authority; and fill all vacancies in the membership of such committees, in accordance with the provisions of these bylaws.

5. The vice-chairman of the authority shall perform the duties of the chairman in the absence of the chairman.

6. In the event both the chairman and the vice-chairman are absent from a meeting of the authority, the authority shall elect a temporary chairman from those present.

B. Secretary. The authority shall select a secretary annually, who may certify the minutes, papers and documents of the authority or of its committees to be true and correct copies.

C. Executive Staff

1. The executive staff of the authority shall include the incumbent of those positions within the Office of Student Financial Assistance so designated by the executive director and will normally be composed of the executive director; the legal counsel; the fiscal officer and the directors of the designated divisions within the office; and such other personnel as may be required for the efficient performance of the functions of the authority.

2. The executive staff shall be tasked, directed and supervised by the executive director.

D. Authentication. Copies of all minutes, papers and documents of the commission, or its committees, may be certified to be true and correct copies by either the chairman, secretary or executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1654 (December 1997).

§207. Order of Business

A. Rules of Order. When not in conflict with any of the provisions of this article, *Roberts Rules of Order* (latest revision) shall constitute the rules of parliamentary procedure applicable to all meetings of the authority or its committees.

B. Order of Business. The order of business of regular meetings of the authority shall be as follows:

1. roll call;

2. corrections and approval of minutes of preceding regular meetings and of all special meetings held subsequently thereto;

3. reports and recommendations of standing and special committees;

4. unfinished business;

5. informational updates;

6. new business;

7. next meeting.

C. Reference to Committees

1. In cases where feasible and desirable before taking action, the authority should refer any subject or measure to the standing or special committee in whose purview the matter falls.

2. The committee to which the matter is referred should submit to the authority its recommendations in writing, together with any resolutions necessary to facilitate such recommendations.

D. Meetings

1. Meetings shall be conducted in accordance with state law governing public bodies.

2. It shall be the policy of the authority that all meetings be open to all who wish to attend.

3. In complying with the provisions of the Open Meetings Law, the authority may enter into a closed or executive session by two-thirds majority vote of the quorum present.

4. Prior to each regular meeting of the authority, the executive director, with approval of the chairman, shall prepare and forward to each member of the authority a tentative agenda for the meeting at least five working days prior to such regular meeting.

5. Upon request of three members of the authority made prior to the fifth day before the authority's next meeting that a particular item be included, the chairman shall place the subject or subjects upon the agenda.

6. Notwithstanding the foregoing, all matters requiring authority action may be acted upon even though not carried on the agenda.

7. Each proposal and/or resolution shall be reduced to writing and presented to the authority before it is acted upon.

8. All official actions of the authority shall require a simple majority vote of the quorum present at the meeting.

E. Minutes

1. The minutes of the authority shall record official action taken upon motions or resolutions which are voted upon by the authority, and may contain a summary of reports and pertinent discussion.

2. The foregoing provisions relative to contents of the minutes shall, in general, also apply to minutes of committees of the authority.

3. The minutes of meetings of the authority become official only when completed and approved by the authority.

F. Meeting Attendance

1. Authority members are required to attend all authority meetings.

2. Failure to annually attend a minimum of one-fourth of the authority's meetings will result in a notice being sent from the authority to the absent member stating that failure to attend one more meeting will result in a request being made to the appointing authority that the absent member be replaced.

3. The absent member shall be relieved of duties on any committee to which he/she has been appointed to serve.

4. This Subsection is not applicable to meetings that are missed with just cause, as determined by the chairman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1654 (December 1997).

§209. Committees

A. Standing Committees. Unless and until otherwise decided by the vote of a simple majority of the membership of the authority, the standing committees of the authority shall consist of the following:

1. executive committee;
2. budget and finance committee;
3. investment committee.

B. Appointment and Terms

1. Members of all standing committees, one of whom shall be designated as chairman and one of whom shall be designated as vice-chairman, shall be appointed by the chairman of the authority, ordinarily soon after the chairman assumes office.

2. The state treasurer shall serve as the chairman of the investment committee.

3. The term of committee appointments shall be one year.

4. Vacancies occurring among the appointive members of any committees, however arising, shall be filled by the chairman of the authority for the remainder of the unexpired term.

C. Officers of Standing Committees

1. The chairman and the vice-chairman of the authority shall be chairman and vice-chairman, respectively, of the executive committee.

2. In the absence of the chairman, the vice-chairman shall preside.

3. In the event both the chairman and vice-chairman are absent from a meeting, the committee shall elect a temporary chairman from those present.

4. It shall be the duty of the chairman of each committee to call and preside over the necessary meetings.

5. The minutes of the meeting of the committee, showing its actions and recommendations, shall be deemed in compliance with the provisions of §207.C, concerning the written recommendations of the committee.

D. Quorum of Committee Meetings

1. A simple majority of the membership present at a meeting of a committee of the authority shall constitute a quorum for the transaction of business.

2. When a quorum is not present, the chairman of the committee, or vice-chairman in the chairman's absence, may designate a member of the authority to serve as a substitute member of the committee concerned.

E. Authority of Committees. The authority of committees of the authority shall be subject to these bylaws and to the policies and direction of the authority.

F. Executive Committee

1. The executive committee shall consist of five members.

2. The chairman and vice-chairman of the authority shall serve in those capacities on the executive committee.

3. The chairman of each of the other standing committees or the chair's designee from his respective committee shall be a member of the executive committee.

4. The remaining member, for a total of five members, shall be appointed by the chairman of the authority from the other members of the authority.

5. The executive committee shall consider such matters as shall be referred to it by the authority and shall execute such orders and resolutions as shall be assigned to it at any meeting of the authority.

6. However, the authority may not delegate to the executive committee the final determination of the rate of interest to be paid on education savings accounts of record at the close of the calendar year.

7. All official actions of the executive committee shall require a majority vote of the quorum present at the meeting.

8. The executive committee shall also approve all budget adjustments prior to submission to the appropriate authority.

9. In the event that an emergency requiring immediate authority action shall arise between authority meetings, it shall be the duty of the executive committee to meet in emergency session to take such action as may be necessary and appropriate.

10. The executive committee shall report the actions it takes in emergency session to the authority for ratification at the authority's next meeting.

G. Budget and Finance Committee

1. The budget and finance committee shall consist of not less than six members of the authority.

2. Normally, to this committee shall be referred all matters related to budget and to policies concerning the financial management of the authority and the office.

H. Investment Committee

1. The investment committee shall consist of not less than five members of the authority.

2. The state treasurer shall chair this committee.

3. Normally, to this committee shall be referred all matters related to investments of the authority, including:

- a. reviewing the treasurer's investment policy and investment performance;
- b. reporting to the authority on the performance of investments;
- c. advising the treasurer regarding the authority's perspectives on the treasurer's Investments; and
- d. receiving the treasurer's annual report of earnings and recommending to the authority an annual earnings rate for adoption by the authority.

I. Special Committees

1. As the necessity therefor arises, the chairman may, with the concurrence of the authority, create special committees with such functions, powers and authority as may be delegated.

2. The chairman may appoint ad hoc committees for special assignments for limited periods of existence not to exceed the completion of the assigned task.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1655 (December 1997).

§211. Communications to the Authority

A. All communications to the authority, or to any committee thereof, from persons having official relations with the authority shall be filed in writing with the executive director and duly transmitted by him to the authority.

B. "Official relations" with the authority shall include those with other agencies of government, contractors, and employees.

C. The executive director shall have the authority to read and comment upon all communications from employees of the office but shall not delay or withhold such communications, except as hereinafter provided.

1. Such communications shall be filed with the executive director at least five days before the meeting of the authority or committee and with the chairman at least three days before such meeting.

2. Otherwise, the executive director may either submit such communication at that time or withhold such communication until the next meeting.

3. In the event the executive director elects to withhold any such communication until the next meeting, such communication shall be promptly forwarded to the chairman with the notation of the executive director concerning such withholding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1656 (December 1997).

§213. Rights, Duties and Responsibilities of Executive Staff of the Authority

A. Executive Staff of the Authority

1. The executive staff of the authority shall include the incumbents of those positions within the Office of Student Financial Assistance so designated by the executive director and will normally be composed of the executive director; the

legal counsel; the fiscal officer and the directors of designated divisions within the office; and such other personnel as may be required for the efficient performance of the functions of the authority.

2. The executive staff shall be tasked, directed and supervised by the executive director.

3. Unless otherwise directed by the executive director, the executive staff shall attend the meetings of the authority and its various committees.

B. Executive Director

1. The executive director shall:

a. be the executive head and chief administrative officer of the Office of Student Financial Assistance;

b. be responsible to the authority for the conduct of the Office of Student Financial Assistance in all affairs; and

c. execute and enforce all of the decisions, orders, rules and regulations of the authority with respect to the conduct of the Office of Student Financial Assistance.

2. The executive director's discretionary authority shall be broad enough to enable him/her to meet his/her responsibilities, in the day to day operations of the Office of Student Financial Assistance.

3. The executive director shall be the "appointing authority" for the purposes defined by State Civil Service law, rules and regulations and shall exercise the authority granted to an "appointing authority" thereunder.

4. Subject to these bylaws and the regulations and directions of the authority, the executive director shall:

a. establish administrative policies and procedures for the operation of the Office of Student Financial Assistance, as they may relate to the authority's program;

b. plan, organize, supervise, direct, administer, and execute the functions and activities of the Office of Student Financial Assistance, as they may relate to the authority's program;

c. prepare and present a business plan and consolidated budget for the Office of Student Financial Assistance and the authority;

d. serve as governmental liaison and spokesperson for the authority; and

e. promote the development of the authority's program.

5. The executive director shall task, direct, and supervise the executive staff.

6. The executive director shall be responsible for ensuring compliance with the legislatively enacted budgets as approved by the authority.

C. Delegation of Authority

1. In the absence of the executive director, the director of the loan division, as delegated by the executive director during his/her absences, will assume the duties of the executive director.

2. In the event both the executive director and the director of the loan division are absent, the executive director will appoint another division director to assume the duties of the executive director.

D. Directors of Divisions

1. There shall be a director for each division of the Office of Student Financial Assistance, appointed by the

executive director in accordance with State Civil Service laws, rules and regulations.

2. Under the direction and authority of the executive director, each director shall administer the division for which he/she is appointed.

3. As the administrative head of a division, the director shall be responsible to the executive director for planning, supervising, directing, administering and executing the functions and programs assigned to the division in accordance with all applicable laws, rules, regulations, policies, directives, and budgets.

4. The directors may invite members of his/her administrative staff to aid in his/her presentations to the authority.

E. Agency Fiscal Officer (Manager). The fiscal officer is responsible for assisting in the development of annual operating budgets, based upon the authority's approved business plan, including:

1. the functions of review and recommendations concerning the budget of the scholarship, grant, and savings division;

2. the preparation of a consolidated budget; and

3. monitoring and reporting the budget as approved by the authority and enacted by the state legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1656 (December 1997).

§215. Responsibilities of Authority Members

A. Authority members are charged with the responsibility of ensuring that the functions and duties of the Office of Student Financial Assistance as they relate to the authority's program are performed effectively in fulfilling the purposes of R.S. 17:3091 through 3099.2.

B. Prior to assuming the responsibilities to which appointed and to avoid any potential conflict of interest, an authority member shall, to the best of his or her knowledge, disclose to the State Board of Ethics any pre-existing relationship between the authority and the member, the member's immediate family, or any entity in which the member has a substantial economic interest. This obligation to disclose is a continuing obligation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1657 (December 1997).

§217. Amendment or Repeal of Bylaws

New bylaws may be adopted, and bylaws may be amended or repealed, at any meeting of the authority, but no such action shall be taken unless notice of such proposed adoption, amendment, or repeal shall have been given at a previous meeting or notice in writing of the proposed change shall have been served upon each member of the authority at least 30 days in advance of the final vote upon such change, provided, however, when deemed necessary, that by a simple majority of the entire membership of the authority, the requirements for such notice may be waived at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1657 (December 1997).

§219. Rules and Regulations of Louisiana Tuition Trust Authority

A. Any action by the authority establishing policy or methods of procedure, administrative, business, or otherwise shall be known as "Rules and Regulations of the Louisiana Tuition Trust Authority."

B. "Rules and Regulations of the Louisiana Tuition Trust Authority" may be adopted by the authority, or may be amended or repealed, in whole or in part, at any meeting of the authority by a vote of simple majority.

C. All policies and procedures of the authority falling within the definition of rules and regulations, as herein defined, and in existence upon the date of the adoption of these bylaws, shall be a part of the "Rules and Regulations of the Louisiana Tuition Trust Authority."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1657 (December 1997).

§221. Effective Dates

These bylaws shall be adopted and shall become effective on the date they are published as final rules in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1657 (December 1997).

§223. Repealing Clause

All rules, orders, regulations, and resolutions heretofore enacted or adopted by the authority, which are in conflict with these bylaws, are hereby repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1657 (December 1997).

§225. Conforming Clause

No rule, order, regulation or resolution shall be adopted by the authority which is in conflict or is inconsistent with the law, rules, guidelines, officer selection and employment policies applicable to the Louisiana Student Financial Assistance Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1657 (December 1997).

Jack L. Guinn
Executive Director

9712#013

RULE

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

Comprehensive Toxic Air Pollutant Emission Control Program (LAC 33:III.5113, 5116, and 5122); Area Sources of Toxic Air Pollutants (LAC 33:III.5311)(AQ162*)

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.5113, 5122, and 5311 (AQ162*).

This rule is identical to federal law or regulations, 40 CFR Parts 61 and 63, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the rule. Therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4). 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.

This rule will incorporate by reference, into LAC 33:III.Chapters 51 and 53, additional federal regulations in 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAP) and 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories as they pertain to major sources. These changes will expedite both the EPA approval process and the state implementation of delegation of authority for the NESHAP program. The NESHAP and the authority for EPA to delegate authority of that program to the state are established in the Clean Air Act Amendments of 1990, Section 112. This rulemaking is applicable to stationary sources statewide.

The basis and rationale for this rule are to maintain the delegation of authority from EPA to implement the NESHAP program. Louisiana incorporated certain NESHAP regulations by reference on January 20, 1997. In agreement with the revised delegated authority mechanism and with EPA grant objectives, the department is incorporating additional NESHAP regulations by reference.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter A. Applicability, Definitions, and General Provisions

§5113. Notification of Start-Up, Testing, and Monitoring

* * *

[See Prior Text in A - C.5]

a. Upon request, the owner or operator of any affected facility shall evaluate the performance of continuous

monitoring systems and furnish the administrative authority with two or more copies of a written report of the test results within 60 days. The performance of the continuous monitoring systems shall be evaluated in accordance with the requirements and procedures contained in the applicable performance specification of 40 CFR Part 60, Appendix B.

* * *

[See Prior Text in C.5.b - C.7]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1364 (December 1992), LR 23:59 (January 1997), LR 23:1658 (December 1997)

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Code of Federal Regulations* at 40 CFR Part 61, revised as of July 1, 1996, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR 61	Subpart/Appendix Heading
Subpart A	General Provisions
Subpart C	National Emission Standard for Beryllium
Subpart D	National Emission Standard for Beryllium Rocket Motor Firing
Subpart E	National Emission Standard for Mercury
Subpart F	National Emission Standard for Vinyl Chloride
Subpart J	National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene
Subpart V	National Emission Standard for Equipment Leaks (Fugitive Emission Sources)
Subpart Y	National Emission Standard for Benzene Emissions from Benzene Storage Vessels
Subpart BB	National Emission Standard for Benzene Emissions from Benzene Transfer Operations
Subpart FF	National Emission Standard for Benzene Waste Operations
Appendix A	National Emission Standards for Hazardous Air Pollutants, Compliance Status Information
Appendix B	Test Methods
Appendix C	Quality Assurance Procedures

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Federal Register* as promulgated from July 2, 1996, through July 1, 1997, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR 61	Federal Register Citation	Date Promulgated	Subpart/ Appendix Heading
Subpart A	62 FR 8328	February 24, 1997	General Provisions

[See Prior Text in C - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997)

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR Part 63, revised as of July 1, 1996, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

40 CFR 63	Subpart/Appendix Heading
*** [See Prior Text in Subpart A - B]	
Subpart C	List of Hazardous Air Pollutants, Petition Process, Lesser Quantity Designations, Source Category List
*** [See Prior Text in Subparts D - X]	
Subpart Y	National Emission Standards for Marine Tank Vessel Loading Operations
Subpart CC	National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries
Subpart DD	National Emission Standards for Hazardous Air Pollutants from Off-site Waste and Recovery Operations
Subpart GG	National Emission Standards for Aerospace Manufacturing and Rework Facilities
Subpart II	National Emission Standards for Shipbuilding and Ship Repair (Surface Coating)
Subpart JJ	National Emission Standards for Wood Furniture Manufacturing Operations
Subpart KK	National Emission Standards for the Printing and Publishing Industry
Subpart OO	National Emission Standards for Tanks - Level I
Subpart PP	National Emission Standards for Containers
Subpart QQ	National Emission Standards for Surface Impoundments

Subpart RR	National Emission Standards for Drain Systems
Subpart VV	National Emission Standards for Oil-water Separators and Organic-water Separators
*** [See Prior Text in Appendix A - C]	
Appendix D	Alternative Validation Procedure for EPA Waste and Wastewater Methods

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Federal Register* as promulgated from July 2, 1996, through July 1, 1997, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

40 CFR 63	Federal Register Citation	Date Promulgated	Subpart/Appendix Heading
Subpart C	61 FR 37542	July 18, 1996	List of Hazardous Air Pollutants, Petition Process, Lesser Quantity Designations, Source Category List
Subpart F	61 FR 64574	December 5, 1996	National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry
	62 FR 2729	January 17, 1997	
Subpart G	61 FR 64575	December 5, 1996	National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater
	62 FR 2742	January 17, 1997	
Subpart H	62 FR 2788	January 17, 1997	National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks
Subpart I	62 FR 2792	January 17, 1997	National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks
Subpart M	61 FR 49265	September 19, 1996	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities

Subpart R	62 FR 9092	February 28, 1997	National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)
Subpart U	61 FR 46924	September 5, 1996	National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins
	62 FR 1837	January 14, 1997	
Subpart X	61 FR 65336	December 12, 1997	National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting
	62 FR 32216	June 13, 1997	
Subpart CC	62 FR 7938	February 21, 1997	National Emission Standards for Hazardous Air Pollutants: Petroleum Refineries
Subpart GG	61 FR 66227	December 17, 1996	National Emission Standards for Hazardous Air Pollutants for Source Categories: Aerospace Manufacturing and Rework Facilities
Subpart II	61 FR 66227	December 17, 1996	National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair (Surface Coating) Operations
Subpart JJ	62 FR 30259	June 3, 1997	National Emission Standards for Hazardous Air Pollutants; Final Standards for Hazardous Air Pollutant Emissions from Wood Furniture Manufacturing Operations
	62 FR 31363	June 9, 1997	
Subpart JJJ	61 FR 48229	September 12, 1996	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins
	62 FR 1838	January 14, 1997	
	62 FR 30995	June 6, 1997	
Appendix A	62 FR 2793	January 17, 1997	Test Methods
	62 FR 12546	March 17, 1997	
Appendix C	62 FR 2801	January 17, 1997	Determination of the Fraction Biodegraded (Fbio) in the Biological Treatment Unit

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997).

Chapter 53. Area Sources of Toxic Air Pollutants
Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR part 63, revised as of July 1, 1996, and specifically listed in the following table are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

40 CFR 63	Subpart/Appendix Heading
Subpart A	General Provisions
Subpart M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities
Subpart X	National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Federal Register* as promulgated from July 2, 1996, through July 1, 1997, and specifically listed in the following table are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

40 CFR 63	Federal Register Citation	Date Promulgated	Subpart/Appendix Heading
Subpart M	61 FR 49265	September 19, 1996	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities
Subpart X	61 FR 65336	December 12, 1996	National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting
	62 FR 32216	June 13, 1997	

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997).

Gus Von Bodungen
Assistant Secretary

9712#033

RULE

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

**Control of Emissions of Organic Compounds
Exemptions (LAC 33:III.2117)(AQ165*)**

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 (AQ165*).

This rule is identical to a federal law or regulation, 62 FR 44900, Number 164, August 25, 1997, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the rule. Therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4). 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.

This rule is revising LAC 33:III.2117 in accordance with the final rule promulgation by the US EPA published in the August 25, 1997 *Federal Register*. The state is adding an additional 19 Volatile Organic Compounds (VOC) to the exemption list to be consistent with EPA's VOC exemption list. The basis and rationale for this rule are to mirror the federal regulations.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§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-365mf); 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); and 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OC₂H₅). 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).

Gus Von Bodungen
Assistant Secretary

9712#032

RULE

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

**Lead-Based Paint Activities
(LAC 33:III.Chapters 2 and 28)(AQ114)**

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.Chapters 2 and 28 (AQ114).

This rule sets requirements for certification and training of persons who conduct lead-based paint activities. It also requires licensure of lead abatement contractors and sets work practice standards for those individuals who perform inspections, risk assessment, and abatement in target housing (pre-1978 residences) and child-occupied facilities, such as day care centers. Additionally, the rule provides for accreditation of training providers and instructors. It includes

a mechanism for notification to the department prior to initiation of abatement. The rule also incorporates into LAC 33:III.Chapter 2 the lead program fees which were statutorily set by the 1997 Regular Legislative Session. This regulation is required by R.S. 30:2351-2351.59, Act Number 224 of the 1993 Regular Legislative Session, amended and reenacted as Act Number 1085 of the 1995 Regular Legislative Session.

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 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§223. Fee Schedule Listing

* * *

[See Prior Text in Fee Number 0010-1720]

Additional Fees		
Fee Number	Fee Description	Amount
* * * [See Prior Text in Fee Number 2000-2810]		
2900 *NOTE 19*	Lead Contractor License Evaluation Fee	500.00
2901 *NOTE 19*	Lead Project Supervisor Accreditation Fee	250.00
2902 *NOTE 19*	Lead Project Designer Accreditation Fee	500.00
2903 *NOTE 19*	Risk Assessor Accreditation Fee	250.00
2904 *NOTE 19*	Lead Inspector Accreditation Fee	150.00
2905 *NOTE 19*	Lead Worker Accreditation Fee	50.00
2906 *NOTE 19*	Accreditation Fee for Louisiana Lead Training Organizations, Application Processing Fee	500.00
2907 *NOTE 19*	Accreditation Fee for Louisiana Lead Training Organizations, Processing Fee Per Instructor	50.00
2908 *NOTE 19*	Accreditation Fee for Out of State Training Organizations, Application Processing Fee	750.00
2909 *NOTE 19*	Accreditation Fee for Out of State Training Organizations, Processing Fee Per Instructor	100.00
2910 *NOTE 19*	Lead Abatement Project Notification Fee, 2000 Square Feet and Under	200.00
2911 *NOTE 19*	Lead Abatement Project Notification Fee for Each Additional Increment of 2000 Square Feet or Portion Thereof	100.00
2912 *NOTE 19*	Revisions to Lead Abatement Project Notification Fee	50.00

2913 *NOTE 19*	Soil Lead Abatement Project Notification Fee, Half Acre or Less	200.00
2914 *NOTE 19*	Soil Lead Abatement Project Notification Fee, Each Additional Half Acre or Portion Thereof	100.00

Explanatory Notes for Fee Schedule

* * *

[See Prior Text in Notes 1-18]

Note 19. The fee for emergency processing will be 1.5 times the regular fees.

PROCESSING TIMELINES		
Notification or Application	Normal Processing	Emergency Processing
Lead Training Provider and Trainers' Recognition	30 days	Applicant requests the application be processed in five working days or less
Accreditation	2 weeks	Applicant requests the application be processed in three working days or less
Notification	Postmarked or hand-delivered 10 working days prior to start-up	Postmarked or hand-delivered less than 10 working days prior to start-up
Contractors' "letter of approval"	30 days	Applicant requests processing in five working days or less

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 30:2341 and 30:2351 et seq.

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 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496 (November 1997), LR 23:1499 (November 1997), LR 23:1662 (December 1997).

Chapter 28. Lead-Based Paint

Activities—Recognition, Accreditation, Licensure, and Standards for Conducting Lead-based Paint Activities

§2801. Scope and Applicability

A. This Chapter contains procedures and requirements for the recognition of lead-based paint activities training providers, procedures and requirements for the accreditation of individuals, and licensure of contractors engaged in lead-based paint activities, project notifications, and work practice standards for performing such activities. Except as discussed below, all lead-based paint activities, as defined in

this Chapter, must be performed by accredited individuals and licensed contractors.

B. This Chapter applies to all individuals and contractors who are engaged in lead-based paint activities, as defined in LAC 33:III.2803, except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level.

C. Public entities are exempt from the requirements for licensure; however, employees of public entities must be accredited in the appropriate disciplines. Public entities shall not be required to pay accreditation fees or notification fees.

D. The provisions of this Chapter shall not apply to lead-based paint activities or to persons performing such activities when such activities are performed wholly within an industrial facility and are performed by persons who are subject to the training requirements of the Occupational Safety and Health Administration's hazard communication standard.

E. All modifications to facilities or structures and to their component systems that may occur in conjunction with a lead abatement activity shall be designed in accordance with applicable state and municipal building codes.

F. Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the federal government having jurisdiction over any property or facility or engaged in any activity resulting, or which may result, in a lead-based paint hazard, and each officer, agent, or employee thereof shall be subject to, and comply with, all federal, state, interstate, and local requirements, both substantive and procedural, including the requirements of this Chapter regarding lead-based paint, lead-based paint activities, and lead-based paint hazards.

G. While this Chapter establishes specific requirements for performing lead-based paint activities should they be undertaken, nothing in this Chapter requires that the owner or occupant undertake any particular lead-based paint activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1662 (December 1997).

§2803. Definitions

The terms used in this Chapter are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined in this Section as follows:

Abatement—any measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes, but is not limited to:

a. the removal of lead-based paint and lead-contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil; and

b. all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

Accreditation Certificate—a document issued by the department affirming that the person has successfully completed the training and other requirements for lead-based paint activities.

Accredited Lead Inspector—an individual who has been trained by a recognized training provider and certified by the department to conduct inspections. An accredited inspector also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing.

Accredited Lead Project Designer—an individual who has been trained by a recognized training provider and certified by the department to prepare abatement project designs, occupant and worker protection plans, and abatement reports. For the purposes of this Chapter, "lead project designer" is equivalent to "lead hazard reduction planner" in R.S. 30:2351.1.

Accredited Lead Project Supervisor—an individual who has been trained by a recognized training provider and certified by the department to supervise and conduct abatements and to prepare occupant and worker protection plans and abatement reports.

Accredited Lead Risk Assessor—an individual who has been trained by a recognized training provider and certified by the department to conduct risk assessments. A risk assessor also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing.

Accredited Lead Worker—an individual who has been trained by a recognized training provider and certified by the department to perform abatements.

Adequate Quality Control—a plan or design to ensure the authenticity, integrity, and accuracy of lead-based paint samples, including dust, soil, and paint chip or paint film samples. Adequate quality control also includes provisions for representative sampling.

Bare Soil—any exposed earth not covered with grass, sod, or other vegetation.

Child-Occupied Facility—a building or portion of a building or common area, other than the child's principal residence, constructed prior to 1978, that:

a. is visited regularly by the same child, age 6 years and under, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least three hours, the combined weekly visit lasts at least six hours, and the combined annual visits last at least 60 hours. Examples of child-occupied facilities/common areas include, but are not limited to, schools attended by children, age 6 years and under, day care centers, parks, playgrounds, and community centers;

b. has been determined by the department, in conjunction with the state health officer, to be a significant risk because of its contribution to lead poisoning or lead exposure to children, age 6 years and under; or

c. is a child-occupied unit and common area in a multi-use building.

Clearance Levels—values that indicate the maximum amount of lead permitted in soil or dust on a surface following completion of an abatement activity. Clearance levels that are appropriate for the purposes of this Chapter are listed in LAC 33:III.2811.A.4.

Common Area—a portion of a building generally accessible to all occupants/users including, but not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, and boundary fences.

Component or Building Component—specific design or structural elements or fixtures of a building, residential dwelling, or child-occupied facility that are distinguished from each other by form, function, and location. These include, but are not limited to, interior components such as: ceilings, crown molding, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including sashes, window heads, jambs, sills or stools, and troughs), built-in cabinets, columns, beams, bathroom vanities, counter tops, and air conditioners; and exterior components such as: painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fascias, rake boards, corner boards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, window sills or stools and troughs, casings, sashes and wells, and air conditioners.

Containment—a barrier system to protect workers and the environment by controlling exposures to the lead-contaminated dust and debris created during an abatement.

Course Agenda—an outline of the key topics to be covered during a training course, including the time allotted to teaching each topic.

Course Test—an evaluation of the overall effectiveness of the training that shall test the trainees' knowledge and retention of the topics covered during the course.

Course Test Blue Print—written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.

Deteriorated Paint—paint that is cracking, flaking, chipping, peeling, or otherwise separating from the substrate of a building component.

Discipline—one of the specific types or categories of lead-based paint activities identified in this Chapter for which individuals may receive training from recognized providers and become accredited by the department. For example, "lead worker" is a discipline.

Distinct Painting History—the application history, as indicated by its visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.

Documented Methodologies—methods or protocols used to sample for the presence of lead in paint, dust, and soil. Documented methodologies that are appropriate to use for target housing and child-occupied facilities may be found in the U.S. Department of Housing and Urban Development (HUD) *Guidelines for the Evaluation and Control of Lead-based Paint Hazards in Housing* (HUD-006700); *Guidance on Identification of Lead-based Paint Hazards*; Notice (FR 47248, Volume 60, Number 175); the EPA *Residential Sampling for Lead: Protocols for Dust and Soil*

Sampling (EPA report number 747-R-95-001); and other EPA or HUD guidance.

Elevated Blood Lead Level (EBL)—an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 20 µg/dl (micrograms of lead per deciliter of whole blood) for a single venous test or of 15-19 µg/dl in two consecutive tests taken three to four months apart.

Encapsulant—a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating (with or without reinforcement materials) or an adhesively bonded covering material. For the purposes of this Chapter, only coatings or materials determined to be encapsulants by ASTM procedures are acceptable.

Enclosure—the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

Guest Instructor—an individual with expertise in a specific field who is designated by the training provider manager or principal instructor to provide instruction specific to certain course topics.

Hands-On Skills Assessment—an evaluation that tests the trainees' ability to perform specified work practices and procedures satisfactorily.

Inspection—a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

Interim Controls—a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and occupant education programs.

Lead Contractor—any person, including self-employed individuals, who bid and/or perform lead-based paint abatements.

Lead-Based Paint—paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

Lead-Based Paint Activities—in the case of target housing and child-occupied facilities, inspection, lead hazard screen, risk assessment, and abatement as defined by this Chapter. For the purposes of this Chapter, *lead-based paint activities* is equivalent to *lead hazard reduction activities* as defined in R.S. 30:2351.1.

Lead-Based Paint Hazard—any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by this Chapter. For the purposes of this Chapter, *lead-based paint hazard* is equivalent to *lead hazard* as defined in R.S. 30:2351.1.

Lead-Contaminated Dust—surface dust in residential dwellings or child-occupied facilities that contains an area or mass concentration of lead at or in excess of clearance levels established by this Chapter.

Lead-Contaminated Soil—bare soil on residential real property and on the property of a child-occupied facility that contains lead at or in excess of clearance levels as established by this Chapter.

Lead-Contaminated Waste—any discarded material resulting from an abatement activity that fails the toxicity characteristic (LAC 33:V.4903.E) due to the presence of lead or any material that is a mixture of discarded material resulting from an abatement activity and some other material.

Lead Hazard Screen—a limited risk assessment activity conducted by an accredited risk assessor in target housing and child-occupied facilities that involves limited paint and dust sampling to determine the absence of a lead-based paint hazard as described in LAC 33:III.2811.D.

Lead Project Notification (LPN)—the notification document required by the department to report lead abatement projects. For the purposes of this Chapter, a completed notification, approved by the department and returned to the lead contractor, serves as a permit to proceed with the abatement project.

Living Area—any area of a residential dwelling used by one or more children age 6 years and under including, but not limited to, living rooms, kitchen areas, dens, play rooms, and children's bedrooms.

Multi-Family Dwelling—a building that has more than one residential dwelling unit.

Owner/Operator—any person who owns, leases, operates, controls, or supervises the building where an abatement occurs, or any person who owns, leases, operates, controls, or supervises an abatement.

Paint in Poor Condition—more than 10 square feet of deteriorated paint on exterior components with large surface areas; or more than two square feet of deteriorated paint on interior components with large surface areas (e.g., walls, ceilings, floors, doors); or more than 10 percent of the total surface area of the component is deteriorated on interior or exterior components with small surface areas (window sills, baseboards, soffits, trim).

Permanently Covered Soil—soil that has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as asphalt, pavement, or concrete. Grass, mulch, and other landscaping materials that are permeable are not considered permanent covering.

Person—any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, governmental body, including the state and the federal government and its agencies, or any other legal entity or their legal representatives, agents, or assignees.

Personal Protection Equipment (PPE)—specialized clothing and equipment including, but not limited to, respirators, masks, and gloves designed to protect workers against chemical and physical hazards.

Principal Instructor—the individual who has the primary responsibility for organizing and teaching a particular course.

Public Entity—the state, any of its political subdivisions, or any agency or instrumentality of either.

Recognized Laboratory—an environmental laboratory recognized by EPA, in accordance with Toxic Substances

Control Act (TSCA) Section 405(b), as being capable of performing an analysis for lead compounds in paint, soil, and dust.

Recognized Training Provider—a person approved by the department, in accordance with this Chapter, to provide training in lead-based paint activities.

Reduction—measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

Residential Dwelling—a detached single family dwelling unit, including attached structures such as porches and stoops, or a single family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

Risk Assessment—an on-site investigation conducted by an accredited risk assessor to determine the existence, nature, severity, and location of lead-based paint hazards and the provision of a report explaining the results of the investigation and providing options for reducing lead-based paint hazards.

Target Housing—any housing constructed prior to 1978, except housing for the elderly or persons with disabilities, unless any child who is 6 years of age or under resides or is expected to reside in such housing for the elderly or persons with disabilities, or any zero-bedroom dwelling.

Training Curriculum—an established set of course topics for instruction in a recognized training program for a particular discipline designed to provide specialized knowledge and skills.

Training Hour—at least 50 minutes of actual teaching including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and/or hands-on experience.

Training Manager—the individual responsible for administering a training program and monitoring the performance of the principal instructors and guest instructors.

Visual Inspection for Clearance Testing—the visual examination of the abatement site following an abatement action by an accredited inspector or accredited risk assessor for evidence that the abatement has been successfully completed, as indicated by the absence of visible residue, dust, and debris.

Visual Inspection for Risk Assessment—the visual examination by an accredited risk assessor to determine the existence of deteriorated lead-based paint or other potential sources of lead-based paint hazards.

Window Sill—the portion of the horizontal window ledge that protrudes into the interior of the room, adjacent to the window sash when the window is closed.

Window Trough—the portion of the horizontal window sill that receives the window sash when the window is closed, often located between the storm window and the interior window sash (sometimes called the window well). If there is no storm window, the window trough is the portion of horizontal window trim that receives both the upper and lower window sash when the sashes are closed.

XRF Analyzer—an instrument that determines the amount of lead in a given area using the principle of x-ray fluorescence.

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§2805. Recognition and Standards for Training Providers

A. Application Process. After March 20, 1998, a training provider shall not provide, offer, or claim to provide lead training courses for accreditation purposes without receiving recognition from the department. For a training provider to receive recognition for itself and its courses from the department, the following procedures shall be followed:

1. a training provider may seek recognition to offer initial and refresher training courses in the following disciplines: lead inspector, risk assessor, lead project supervisor, lead project designer, and lead worker;

2. a training provider seeking recognition shall submit to the department the appropriate fees, as required in LAC 33:III.223, and a written application containing the following information:

a. the training provider's name, address, and telephone number;

b. a list of initial and refresher training courses for which recognition is sought;

c. a statement signed by the training manager that certifies that the training provider meets the minimum requirements established in Subsection B of this Section;

d. a signed statement by the training manager certifying that each instructor meets the qualifications described in Subsection B.2 of this Section;

e. a statement signed by the training manager that certifies that the provider will use, if available, EPA-developed and EPA-authorized model training materials. Alternatively, if a training provider does not use EPA-developed and EPA-authorized training materials, its application for accreditation shall include a copy of the student and instructor manuals to be used for each course and a copy of the course agenda, which includes the time allocation for each course topic;

f. a copy of the test blueprint, which describes the proportion of course test questions devoted to each major course topic;

g. a description of the facilities and equipment available for lecture and hands-on training;

h. a description of the procedures for conducting the assessment of hands-on skills;

i. a copy of the quality control plan as described in Subsection B.10 of this Section; and

j. an example of numbered certificates, as described in Subsection B.8 of this Section, to be issued to students who successfully complete the training course;

3. the department shall approve or disapprove a request for recognition within 30 days of receiving the application from a training provider. Approved applicants will be notified in writing. Recognition will expire one year from the date on the approval letter. If the application is not approved, a letter describing the reasons for disapproval shall be sent to the applicant. The department may require submission of additional information, as needed. If a training provider's

application is disapproved, the provider may reapply for recognition at any time.

4. a training provider may seek recognition for additional initial or refresher training courses at any time as long as the provider can demonstrate that it meets the minimum requirements of Subsection B of this Section.

B. Requirements for the Recognition of Training Providers. For a training provider to obtain recognition from the department to offer lead-based paint activities courses, the provider shall demonstrate, through its application materials, that it meets the following requirements for each course for which the provider is seeking recognition:

1. the training provider shall employ a training manager who has the primary responsibility for ensuring that the provider complies with the requirements of this Chapter. The training manager shall have:

a. at least two years of experience, education, or training in teaching adults; or

b. a bachelor's or graduate degree in building construction technology, science, engineering, industrial hygiene, safety, public health, education, business administration, or program management; or

c. two years of experience in managing a program specializing in environmental hazards; and

d. at least one year of experience, education, or training in the construction industry, including lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene;

2. all lead courses shall be organized and taught by qualified principal instructors. The training provider shall employ qualified principal instructors for each course who have:

a. at least one year of experience, education, or training in teaching adults;

b. training in the lead courses they are teaching; and

c. at least one year of experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene;

3. the training manager may employ qualified guest instructors to provide instruction in specific areas of expertise, such as legal issues, health effects, insurance and technology, or equipment demonstrations;

4. the following documents shall be recognized by the department as evidence that training managers and principal instructors have the relevant education, work experience, training requirements, and demonstrated experience:

a. official academic transcripts or diploma, as evidence of meeting the educational requirements;

b. résumés, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements; and

c. certificates from train-the-trainer courses and lead-specific training courses, as evidence of meeting the training requirements;

5. the training provider shall provide adequate facilities for lecture, course tests, hands-on training, and assessment. This includes providing training equipment that reflects

current work practices and maintaining or updating the equipment and facilities as needed;

6. the training provider shall provide training courses that meet the following training hour requirements:

a. the lead inspector course shall consist of a minimum of 24 training hours, with a minimum of eight hours devoted to hands-on training. The minimum curriculum required for this course is established in Subsection C.1 of this Section;

b. the risk assessor course shall consist of a minimum of 16 training hours with a minimum of four hours devoted to hands-on training. The minimum curriculum required for this course is established in Subsection C.2 of this Section;

c. the lead project supervisor course shall consist of a minimum of 32 training hours, with a minimum of eight hours devoted to hands-on training. The minimum curriculum required for this course is established in Subsection C.3 of this Section;

d. the lead project designer course shall consist of a minimum of eight training hours. The minimum curriculum required for this course is established in Subsection C.4 of this Section; and

e. the lead worker course shall consist of a minimum of 24 training hours, with a minimum of eight hours devoted to hands-on training. The minimum curriculum required for this course is established in Subsection C.5 of this Section;

7. for each course offered, the training provider shall conduct a course test at the completion of the course. In addition, at the completion of the hands-on skills training the principal instructor(s) shall conduct assessment of each student's hands-on skills. The student must demonstrate proficiency at hands-on skills to the satisfaction of the instructor and score 70 percent or greater on the course test to pass any course:

a. the training manager is responsible for maintaining the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates the students' performance of the work practices and procedures associated with the course topics;

b. the training manager is responsible for maintaining the validity and integrity of the course test to ensure that it accurately evaluates the students' knowledge and retention of the course topics; and

c. the course tests shall be developed in accordance with the test blueprint submitted with the application;

8. training providers shall issue unique initial and refresher training course completion certificates to each individual who successfully completes the course requirements. The course completion certificate shall include:

- a. a unique certificate number;
- b. the name, social security number or unique equivalent identification number, and address of the individual;
- c. the name of the particular course that the individual completed;
- d. the dates of course completion/test passage;
- e. the name/address/telephone number of the training provider;

f. the following statement undersigned by the training manager:

"Under civil and criminal penalties of law for the making or submission of false or fraudulent statements or representations (R.S. 30:2025), I certify that this training complies with all applicable requirements of TSCA Title IV, 40 CFR 745, and LAC 33:III.2805"; and

g. the expiration date, which is one year from the course completion date;

9. the training provider shall submit rosters, including photographs of participants, to the department within 10 working days of course completion. For each course, the training provider shall provide three photographs of each student:

a. one 1" x 1¼" photograph for the trainee to submit to the department with the application for certification;

b. one 1" x 1¼" photograph for the class roster submitted to the department by the training provider; and

c. one 1" x 1¼" photograph for the training provider to keep on file;

10. the training manager shall develop and implement a quality control plan. The plan shall be used to maintain or improve the quality of the training program over time. This plan shall contain at least the following elements:

a. procedures for periodic revision of training materials and course tests to reflect innovations in the field; and

b. procedures for the training manager's annual review of instructor competency;

11. training providers shall offer courses that teach the appropriate standards for conducting lead-based paint activities contained in LAC 33:III.2811, and other such standards adopted by the department;

12. the training manager shall be responsible for ensuring that the training provider complies at all times with all of the requirements of this Section;

13. the training manager shall allow the department to audit the training provider at any time during normal working hours;

14. training providers must be recognized to offer the initial training courses in order to offer the corresponding refresher training course(s):

a. a recognized refresher training course shall address the following topics:

i. an overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline;

ii. current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline;

iii. current technologies relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline; and

iv. a review of the curriculum topics of the full-length course;

b. the annual refresher courses shall last a minimum of eight training hours;

c. for each course offered the training provider shall conduct a hands-on assessment, as applicable, and at the

completion of the course, a course test that the student must pass with a score of 70 percent or better; and

15. unannounced audits may be performed by the department to verify the certified statements, other contents of the application, and compliance with this Chapter.

C. Minimum Training Curricula Requirements. To obtain and maintain recognition training providers must ensure that their courses of study for the various lead-based paint activities disciplines cover the following subject areas. Passing students shall be provided with a course completion certificate.

Note: Listed requirements ending in an asterisk (*), for this Subsection only, indicate areas that require hands-on experience as an integral component of the course.

1. lead inspector:
 - a. role and responsibilities of lead inspector;
 - b. background information on lead and its adverse health effects;
 - c. background information on federal, state, and local regulations and guidance that pertains to lead-based paint and lead-based paint activities;
 - d. lead-based paint inspection methods, including selection of rooms and components for sampling or testing;*
 - e. paint, dust, and soil sampling methodologies;*
 - f. clearance standards and testing, including random sampling;*
 - g. preparation and submittal of the final inspection report;*
 - h. recordkeeping;
2. risk assessor (inspector course completion certificate required as prerequisite):
 - a. role and responsibilities of risk assessor;
 - b. collection of background information to perform a risk assessment;
 - c. sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food;
 - d. visual inspection for the purposes of identifying potential hazards associated with lead-based paint, lead-contaminated dust, and lead-contaminated soil;*
 - e. lead hazard screen protocol;
 - f. sampling for other sources of lead exposure;*
 - g. interpretation of lead-based paint and other lead sampling results;*
 - h. development of hazard control options, the role of interim controls, and operations and maintenance to reduce lead hazards; and
 - i. preparation of a final risk assessment report;
3. lead project supervisor:
 - a. role and responsibilities of lead project supervisor;
 - b. background information on lead and its adverse health effects;
 - c. background information on federal regulations that include 29 CFR 1926.62(1), state, and local regulations and guidance that pertain to lead-based paint abatement;
 - d. liability and insurance issues relating to lead-based paint abatement;
 - e. contract specifications, including conformance with building codes and cost estimation;
 - f. community relations;

- g. project management and supervisory techniques;
 - h. risk assessment and inspection report interpretation;*
 - i. development and implementation of an occupant and worker protection plan and abatement report;
 - j. lead hazard recognition and control;*
 - k. lead-based paint abatement and lead hazard reduction methods, including restricted practices;*
 - l. interior dust abatement/cleanup or lead hazard control and reduction methods;*
 - m. soil and exterior dust abatement or lead hazard control and reduction methods;*
 - n. clearance standards and testing;
 - o. cleanup and waste disposal; and
 - p. recordkeeping;
4. project designer (lead project supervisor course completion certificate required as a prerequisite):
 - a. role and responsibilities of project designer;
 - b. development and implementation of an occupant and worker protection plan for large-scale abatement projects;
 - c. lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects;
 - d. interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale abatement projects;
 - e. clearance standards and testing for large-scale abatement projects; and
 - f. integration of lead-based paint abatement methods with modernization and rehabilitation projects for large-scale abatement projects; and
 5. lead worker:
 - a. role and responsibilities of lead worker;
 - b. background information on lead and its adverse health effects;
 - c. background information on federal regulations that must include 29 CFR 1926.62(1), state, and local regulations and federal and state guidance that pertain to lead-based paint abatement;
 - d. lead-based paint hazard recognition and control;*
 - e. personal protection equipment and personal hygiene;*
 - f. lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices;*
 - g. interior dust abatement methods/cleanup/waste disposal or lead-based paint hazard reduction;*
 - h. soil and exterior dust abatement methods/cleanup/waste disposal or lead-based paint hazard reduction.*

D. Renewal of Training Provider's Recognition

1. A training provider seeking renewal of its recognition shall submit, along with the appropriate fees as required in LAC 33:III.223 and an application to the department, 60 days prior to its expiration date. If a training provider does not submit its renewal application by that date, the department cannot guarantee the application will be reviewed and acted upon before the end of the one-year period.
2. The training provider's application for renewal of recognition shall contain:

a. the training provider's name, address, and telephone number;

b. a list of courses for which it is applying for renewal of recognition;

c. a description of any changes or updates to the training facility, equipment, or course materials; and

d. a statement signed by the training manager that certifies that:

i. the course materials for each course meet the requirements in Subsection C.1-5 of this Section, as appropriate;

ii. the principal instructors and guest instructors meet the qualifications in Subsection B.2-3 of this Section;

iii. the training provider complies at all times with all requirements in Subsection B of this Section;

iv. the quality control program meets the requirements in Subsection B.10 of this Section; and

v. the recordkeeping and reporting requirements of Subsection G of this Section shall be followed.

3. A signed statement disclosing any violations of regulations governing training providers for which the applicant has been cited by any state or federal regulatory agency in the past year shall be submitted to the department. If no citation has been received during the previous year, that fact shall be stated. This disclosure shall include evidence that all penalties and fees assessed to the applicant are paid in full.

E. Notification Requirements. A training provider scheduling lead-based paint activities courses shall notify the department in writing as follows:

1. the written notification shall be received by the department at least 10 days before the start of initial training courses;

2. the written notification shall be received by the department at least five days before the start of refresher training courses;

3. the department shall be notified in writing of course location and time changes or cancellations within 24 hours of the initial class day;

4. in the notification, the training provider shall submit to the department the following information:

a. the name of the training course to be taught;

b. the dates and length of the training course;

c. the principal/guest instructors that will be teaching the course;

d. the name and telephone number of the training manager; and

e. the location where the course will be taught; and

5. the training course shall not start before the start date noted on the notification.

F. Suspension and Revocation of Recognized Training Providers

1. The department may suspend or revoke training provider recognition if a training provider has:

a. misrepresented the contents of a training course to the department and/or the student population;

b. failed to submit required information or notifications in a timely manner;

c. failed to maintain required records;

d. falsified records required by this Chapter, instructor qualifications, or other recognition information;

e. failed to comply with the training standards and other requirements of this Chapter;

f. failed to comply with federal, state, or local lead-based paint statutes or regulations; or

g. made false or misleading statements to the department, EPA, or another state in its application for recognition.

2. Suspension of training provider recognition shall be for no less than one year. Revocation of recognition shall be for no less than three years.

G. Training Provider Recordkeeping Requirements

1. Recognized training providers shall maintain, and make available to the department if requested, the following records:

a. all documents specified in Subsection B.4 of this Section that demonstrate the qualifications listed in Subsection B.1-3 of this Section of the training manager, principal instructors, and guest instructors;

b. current curriculum/course materials and documents reflecting any changes made to these materials;

c. the course test blueprint;

d. information on how the hands-on assessment is conducted including, but not limited to, who conducts the assessment, how the skills are graded, what facilities are used, and the pass/fail rate;

e. the quality control plan as described in Subsection B.10 of this Section; and

f. results of the student's hands-on skills assessments and course tests, and a copy of each student's course completion certificate and photograph.

2. Training providers may maintain records electronically.

3. The training provider shall retain these records at the location (e.g., address) specified on the training provider recognition application for five years.

4. The training provider shall notify the department 30 days prior to relocating its business or transferring its records.

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§2807. Accreditation of Individuals

A. Accreditation Requirements

1. Following the submission of an application and appropriate fees that meet the requirements of this Section and a determination by the department that an individual has met the applicable requirements to perform lead-based paint activities, the department shall accredit the applicant in one or more of the following disciplines:

a. lead inspector;

b. risk assessor;

c. lead project supervisor;

d. lead project designer; or

e. lead worker.

2. After March 20, 1998, individuals must be accredited by the department to engage in lead-based paint activities.

3. An individual seeking accreditation must have successfully completed the appropriate lead training course offered by a recognized training provider.

4. After September 30, 1998, individuals seeking accreditation in the lead inspector, risk assessor, lead project supervisor, or lead project designer disciplines must pass the applicable state examination given by the department or its proxy. Individuals must pass the state examination, with a score of 70 or above, within 30 days of receiving a course completion certificate. Individuals who fail the state exam will be allowed to take the exam a second time within the 30-day period. Individuals who fail the state examination twice must retake the initial course before they will be allowed to retake the state examination. Anyone who fails the test three times within a six-month period may not apply for testing in that category for 90 days.

5. In order to take the state examination for a particular discipline, an individual shall present the following:

- a. a valid course completion certificate for that discipline from a recognized training provider;
- b. photographic proof of identity; and
- c. documentation that the applicant meets the education and experience qualifications described in Subsection B of this Section.

6. An application for initial accreditation with the department shall include the following:

- a. a completed and signed application form;
- b. a copy of the initial course completion certificate and any subsequent refresher course completion certificates from recognized training providers in the discipline for which accreditation is sought, or a valid course completion certificate from another EPA-authorized state-recognized training provider. Workers who have received less than 24 hours of initial training must also submit proof of eight hours of training in 29 CFR 1926.62 (I);
- c. a 1" x 1¼" photograph of the applicant issued by the recognized training provider;
- d. proof of meeting the education and experience requirements listed in Subsection B of this Section; and
- e. the appropriate fees as required in LAC 33:III.223.

7. The following documents shall be recognized by the department as proof of meeting the requirements listed in Subsection B of this Section:

- a. official academic transcripts or diplomas;
- b. résumés, letters of reference, or documentation of work experience; and
- c. valid course completion certificates from recognized training providers.

8. Applications for accreditation or reaccreditation may be denied for:

- a. failure to submit the required documentation and fees;
- b. submission of inaccurate or falsified information; and
- c. failure to comply with this Chapter.

9. Upon meeting the provisions of this Section, the applicant will be issued an accreditation certificate by the department. The anniversary of the original issue date of the training certificate shall become the annual expiration/renewal

date of accreditation. The accreditation and training expiration dates shall be concurrent.

B. Education and Experience Requirements for the Lead Disciplines

1. To qualify for accreditation as a lead inspector, risk assessor, lead project supervisor, or lead project designer, an individual must:

- a. successfully complete an initial course in the appropriate discipline and receive a course completion certificate from a recognized training provider;
- b. pass the state lead certification examination in the appropriate discipline offered by the department or its proxy; and

c. meet or exceed the following experience and/or education requirements:

i. lead inspectors: a high school diploma (or equivalent);

ii. risk assessors: successful completion of a recognized training course for inspectors, and:

(a). a bachelor's degree and one year of experience in lead, asbestos, or environmental remediation work; or

(b). an associates degree and two years experience in lead, asbestos, or environmental remediation work; or

(c). certification as an industrial hygienist, professional engineer, or registered architect; or

(d). certification in an engineering, health, or environmental field (specifically, safety professional or environmental scientist); or

(e). a high school diploma (or equivalent), and at least four years of experience in lead, asbestos, or environmental remediation work;

iii. lead project supervisor: a high school diploma (or equivalent) and at least two years of experience in lead, asbestos, or environmental remediation work or in the building trades;

iv. project designers:

(a). bachelor's degree in engineering or architecture and one year of experience in building construction and design or a related field; or

(b). five years of experience in building construction and design.

2. To qualify for accreditation as a lead worker an individual must successfully complete an initial lead worker training course and receive a course completion certificate from a recognized training provider. There are no additional experience and/or education requirements.

C. Accreditation Based on Prior Training

1. Individuals in all disciplines who received lead-based paint activities training between January 1, 1995, and March 20, 1998, shall be eligible for accreditation by completing the following procedures:

- a. submit a completed and signed application form;
- b. submit the appropriate certificate from an EPA-model-curriculum course;

c. submit a 1" x 1¼" photograph of the applicant;

d. meet the requirements listed in Subsection B of this Section; and

e. submit the appropriate fees as required under LAC 33:III.223.

2. Individuals have until September 30, 1998, to apply for accreditation under the procedures in Subsection C.1 of this Section. After that date all individuals wishing to obtain accreditation must do so through the procedures described in Subsection A of this Section.

D. Reaccreditation

1. To maintain accreditation individuals must be annually recertified by the department.

2. To maintain continuous accreditation an individual shall:

a. successfully complete the appropriate refresher course given by a recognized training provider 60 days prior to the accreditation expiration date;

b. submit a copy of the refresher course completion certificate to the department;

c. submit a 1" x 1¼" photograph of the applicant issued by the recognized training provider;

d. submit a signed and completed application form; and

e. submit the appropriate fees as required in LAC 33:III.223.

3. If the individual seeking reaccreditation receives refresher training earlier than 60 days prior to expiration or any time after the expiration date on the accreditation certificate, then the individual will receive a new expiration date.

4. If the individual fails to receive refresher training within one year after the accreditation expiration date, the individual must retake the initial training course for the appropriate discipline to become recertified.

5. Any applicant who was accredited initially in accordance with Subsection C of this Section or prior to September 30, 1998, must pass the appropriate state examination prior to being reaccredited by the department.

6. The department shall require applicants to pass the state lead certification examination in the appropriate discipline every three years.

E. Suspension and Revocation of Accreditations of Individuals Engaged in Lead-Based Paint Activities

1. The department may suspend or revoke an individual's accreditation if an individual has:

a. obtained training documentation through fraudulent means;

b. gained admission to and completed a recognized training course through misrepresentation of admission requirements;

c. obtained accreditation through misrepresentation of accreditation requirements or related documents dealing with education, training, professional registration, or experience;

d. performed work requiring accreditation at a job site without having proof of accreditation;

e. permitted the duplication or use of the individual's own certificate or photo identification by another;

f. performed work for which accreditation is required, but for which appropriate accreditation has not been received;

g. failed to comply with state lead-based paint statutes or regulations; or

h. failed to comply with the appropriate work practice standards for lead-based paint activities.

2. When suspension of accreditation credentials occurs, it shall be for no less than one year. When revocation occurs, it shall be for no less than three years. Penalties may also be assessed according to R.S. 30:2351.25.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1669 (December 1997).

§2809. Licensure of Lead Contractors

A. Licensure Requirements

1. In order to bid and/or perform abatement activities, lead contractors must obtain a lead-based paint abatement and removal license from the State of Louisiana Licensing Board for Contractors. As of November 1, 1998, prior to obtaining an initial or renewal license, the lead contractor must submit an application for approval, along with the appropriate fees as required in LAC 33:III.223, to the department and certify to the department that the following criteria have been met:

a. each person who conducts lead-based paint activities for the lead contractor is annually accredited in accordance with the provisions of LAC 33:III.2807;

b. the lead contractor has access to at least one disposal site to receive lead-contaminated waste that may be generated by the lead contractor during the term of the license;

c. the lead contractor will incorporate the work practice standards in LAC 33:III.2811 so as to prevent the contamination or recontamination of the environment and protect the public health from the hazards of exposure to lead;

d. the lead contractor possesses a worker protection and medical surveillance program consistent with the requirements of the Occupational Safety and Health Administration (OSHA) and/or the state health officer;

e. an accredited lead project supervisor shall be present at all times during all of the lead contractor's abatements; and

f. the lead contractor shall maintain all records as required by this Chapter.

2. Once the person receives a letter of approval, he can apply to the State of Louisiana Licensing Board for Contractors to request a license, subject to its approval. The qualifying party must be accredited as a lead project supervisor.

3. Applications for approval may be denied for:

a. failure to submit the required documentation and fees;

b. submission of inaccurate or falsified information; or

c. failure to comply with any of the provisions of this Chapter.

4. Letters of approval shall be valid for one year from date of issuance. In order for lead contractors to be granted renewal, they must follow the procedures of this Subsection.

5. Lead contractors shall also submit to the department a signed statement disclosing any violations of state lead-based paint statutes or regulations for which the lead contractor may have been cited by the department or other

state or federal agencies. If no citations were received since issuance of the previous letter of approval, that fact shall be stated. The disclosure shall include evidence that all penalties and fees assessed to the lead contractor have been paid in full. The department must receive the statement within 30 days prior to the renewal date, and the statement must be signed by the owner or an officer of the lead contractor's business. The department will approve or disapprove the application within 30 days of receipt of the application.

B. Suspension and Revocation of Letters of Approval for Lead Contractors

1. The department may suspend and/or revoke a lead contractor's letter of approval if the lead contractor performed work requiring licensure at a job site under one or more of the following situations:

- a. with individuals who are not accredited and/or who have not successfully completed discipline-specific training in accordance with LAC 33:III.2807;
- b. failed to use disposal sites approved by the department to receive lead-contaminated waste that may be generated by the lead contractor during the term of the license;
- c. failed to follow work practice standards that adequately protect the environment and public health from the hazards of exposure to lead;
- d. failed to utilize a worker protection and medical surveillance program consistent with the requirements of the OSHA and/or the state health officer;
- e. failed to have an accredited lead project supervisor present during the abatement project; or
- f. failed to maintain required records.

2. In addition to the situations listed in Subsection B.1 of this Section, the department may suspend or revoke the letter of approval of lead contractors that have failed to comply with any of the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1671 (December 1997).

§2811. Work Practice Standards for Conducting Lead-Based Paint Activities for Target Housing and Child-Occupied Facilities

A. Applicability and Terms

1. All lead-based paint activities shall be performed in accordance with the work practice standards contained in this Section.

2. When performing an inspection, lead-hazard screen, risk assessment, or abatement, an accredited individual must perform that activity in compliance with the appropriate requirements contained in this Section.

3. Documented methodologies that are appropriate for this Section are found in the following: The U.S. Department of Housing and Urban Development (HUD) *Guidelines for the Evaluation and Control of Lead-based Paint Hazards in Housing* (HUD-006700); *Guidance on Identification of Lead-based Paint Hazards*; Notice (FR 47248, Volume 60, Number 175); the EPA *Residential Sampling for Lead: Protocols for Dust and Soil Sampling* (EPA report number

747-R-95-001); and other equivalent methods and guidelines approved by EPA and/or HUD.

4. Clearance levels that are appropriate for the purposes of this Section are listed as follows:

- a. dust wipes from floors/carpets: 100 $\mu\text{g}/\text{ft}^2$;
- b. dust wipes on window sills: 500 $\mu\text{g}/\text{ft}^2$;
- c. dust wipes on window troughs: 800 $\mu\text{g}/\text{ft}^2$;
- d. dust wipes from exterior surfaces: 800 $\mu\text{g}/\text{ft}^2$;
- e. lead-contaminated bare soil and lead-contaminated covered soil in areas expected to be used by children: 400 $\mu\text{g}/\text{g}$; and
- f. lead-contaminated covered soil in areas where contact by children is less likely or infrequent: 2000 $\mu\text{g}/\text{g}$.

5. If using X-ray Fluorescence Spectroscopy (XRF) to test for the presence of lead-based paint, XRF shall be used according to the manufacturer's procedures. The XRF must be licensed in accordance with regulations of the Louisiana Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division.

B. Inspection

1. An inspection shall be conducted only by an accredited inspector or an accredited risk assessor according to the procedures in this Subsection.

2. When conducting an inspection, the following locations shall be selected according to documented methodologies and tested for the presence of lead-based paint:

- a. in a residential dwelling and child-occupied facility, each component with a distinct painting history and each exterior component with a distinct painting history, except those components that the inspector or risk assessor determines to have been replaced after 1978 or to not contain lead-based paint; and
- b. in a multi-family dwelling or child-occupied facility, each component with a distinct painting history in every common area, except those components that the inspector or risk assessor determines to have been replaced after 1978 or to not contain lead-based paint.

3. Paint shall be sampled in the following manner:

- a. paint shall be analyzed to determine the presence of lead using documented methodologies that incorporate adequate quality control procedures; and/or
- b. all collected paint chip samples shall be analyzed by a recognized laboratory to determine the concentration of lead.

4. The accredited inspector or the accredited risk assessor shall prepare an inspection report that shall include the following information:

- a. date of each inspection;
- b. address of building;
- c. date of construction;
- d. apartment numbers (if applicable);
- e. name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;
- f. name, signature, and accreditation number of each inspector and/or risk assessor conducting testing;
- g. name, address, and telephone number of the licensed contractor employing each inspector and/or risk assessor, if applicable;

h. name, address, and telephone number of each recognized laboratory conducting an analysis of collected samples;

i. each testing method and device and/or sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any XRF device;

j. specific locations of each painted component tested for the presence of lead-based paint;

k. all sample data; and

l. results of the inspection expressed in terms appropriate to the sampling method used.

C. Lead Hazard Screen

1. A lead hazard screen shall be conducted only by an accredited risk assessor to determine the absence of a lead-based paint hazard in target housing and child-occupied facilities constructed after 1960. Lead hazard screens or similar lead hazard surveys shall not be used to determine the extent of lead-based paint hazards in target housing and child-occupied facilities.

2. If any dust sample collected during the screen contains a lead level greater than half of the applicable clearance level for the tested component; or any sampled paint that is found to be lead-based paint, then the lead hazard screen cannot be used to determine the extent of the lead-based paint hazard.

3. A lead hazard screen shall be conducted as follows:

a. background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children, age 6 years and under, shall be collected;

b. a visual inspection of the residential dwelling or child-occupied facility shall be conducted to:

i. determine if any deteriorated paint is present; and

ii. locate at least two dust sampling locations;

c. if deteriorated paint is present, each surface with deteriorated paint that is determined, using documented methodologies, to be in poor condition and to have a distinct painting history shall be tested for the presence of lead;

d. in residential dwellings two composite dust samples shall be collected, one from the floors and the other from the windows, in rooms, hallways, or stairwells where one or more children, age 6 years and under, are most likely to come in contact with dust; and

e. in multi-family dwellings or child-occupied facilities, in addition to the floor and window samples, the risk assessor shall also collect composite dust samples from common areas where one or more children, age 6 years and under, are most likely to come into contact with dust.

4. Dust samples shall be collected and analyzed in the following manner:

a. all dust samples shall be taken using documented methodologies that incorporate adequate quality control procedures; and

b. all collected dust samples shall be analyzed by a recognized laboratory to determine the concentration of lead.

5. Paint shall be sampled in the following manner:

a. paint shall be analyzed to determine the presence of lead using documented methodologies that incorporate adequate quality control procedures; and/or

b. all collected paint chip samples shall be analyzed by a recognized laboratory to determine the concentration of lead.

6. The risk assessor shall prepare a lead hazard screen report, which shall include the following information:

a. the information required in a risk assessment report as specified in Subsection D.11 of this Section. Additionally, any background information collected in accordance with Subsection D.3 of this Section shall be included in the risk assessment report; and

b. recommendations, if warranted, for a follow-up risk assessment and, as appropriate, any further actions.

D. Risk Assessment

1. A risk assessment shall be conducted only by an accredited risk assessor and, if conducted, must be conducted according to the procedures in this Subsection.

2. A visual inspection for risk assessment of the residential dwelling or child-occupied facility shall be undertaken to locate the existence of deteriorated paint, assess the extent and causes of the deterioration, and determine other potential lead-based paint hazards.

3. Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children, age 6 years and under, shall be collected.

4. Each surface with deteriorated paint that is determined, using documented methodologies, to be in poor condition and to have a distinct painting history shall be tested for the presence of lead. Each other surface determined, using documented methodologies, to be a potential lead-based paint hazard and having a distinct painting history shall also be tested for the presence of lead.

5. In residential dwellings dust samples (either composite or single-surface samples) from the window and floor shall be collected in all living areas where one or more children, age 6 years and under, are most likely to come into contact with lead-contaminated dust.

6. For multi-family dwellings and child-occupied facilities, the samples required in Subsection D.4 of this Section shall be taken. In addition, window and floor dust samples (either composite or single-surface samples) shall be collected in the following locations:

a. common areas adjacent to the sampled residential dwelling or child-occupied facility; and

b. other common areas in the building where the risk assessor determines that one or more children, age 6 years and under, are likely to come into contact with lead-contaminated dust.

7. For child-occupied facilities window and floor dust samples (either composite or single-surface samples) shall be collected in each room, hallway, or stairwell utilized by one or more children, age 6 years and under, and in other common areas in the child-occupied facility where the risk assessor

determines one or more children, age 6 years and under, are likely to come into contact with lead-contaminated dust.

8. Soil samples shall be collected and analyzed for lead concentrations in the following locations:

- a. exterior play areas where bare soil is present; and
- b. dripline/foundation areas where bare soil is present.

9. Any paint, dust, or soil sampling or testing shall be conducted using documented methodologies that incorporate adequate quality control procedures.

10. Any collected paint chip, dust, or soil samples shall be analyzed by a recognized laboratory to determine the concentration of lead.

11. The accredited risk assessor shall prepare a risk assessment report that shall include the following information:

- a. date of assessment;
- b. address of each building;
- c. date of construction of buildings;
- d. apartment number (if applicable);
- e. name, address, and telephone number of each owner of each building;
- f. name, signature, and accreditation of the accredited risk assessor conducting the assessment;
- g. name, address, and telephone number of the licensed contractor employing each accredited risk assessor, if applicable;
- h. name, address, and telephone number of each recognized laboratory conducting analysis of collected samples;
- i. results of the visual inspection;
- j. testing method and sampling procedure employed for paint analysis;
- k. specific locations of each painted component tested for the presence of lead;
- l. all data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device;
- m. all results of laboratory analysis on collected paint, soil, and dust samples;
- n. any other sampling results;
- o. any background information collected in accordance with Subsection D.3. of this Section;
- p. to the extent that they are used as part of the lead-based paint hazard determination, results of any previous inspections or analyses for presence of lead-based paint or other assessments of lead-based paint-related hazards;
- q. description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards; and
- r. description of interim controls and/or abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

E. Abatement

1. An abatement shall be conducted only by persons accredited by the department according to the procedures in this Section.

2. An accredited lead project supervisor must be present at all times for each abatement project, as described in the lead project notification.

3. The accredited lead project supervisor and the lead contractor employing that supervisor shall ensure that all abatement activities are conducted according to the requirements of this Section.

4. The lead contractor shall notify the department in writing of abatement activities.

a. Regular notification shall be made using a department-approved form and be postmarked or hand-delivered at least 10 working days prior to beginning any on-site work at the lead abatement project. The notification must be accompanied by the appropriate fees (LAC 33:III.223).

b. The project shall not start before the start date noted on the LPN. The department shall be notified if the operation will stop for a day or more during the project time noted on the LPN or if the project has been canceled or postponed. The firm shall also give notice 24 hours before the completion of a project. Notice should be submitted to the department with written follow-up and fax notification to the appropriate regional office.

c. Notifications of less than 10 working days constitutes an emergency notification and must be accompanied by the appropriate processing fees (LAC 33:III.223).

d. Failure to submit a complete and accurate notification or failure to submit appropriate fees will cause the notification to be rejected and constitutes a failure to notify.

5. A written occupant and worker protection plan shall be developed for all abatement projects and shall be prepared according to the following procedures:

a. the occupant protection plan shall be unique to each residential dwelling or child-occupied facility and be developed prior to the abatement. The occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards;

b. the worker protection plan shall describe the measures taken to ensure worker protection that are consistent with OSHA (29 CFR 1926.62) and/or the state health officer requirements; and

c. an accredited lead project supervisor or project designer shall prepare the occupant and worker protection plans.

6. The work practices shall be restricted during an abatement as follows:

a. open-flame burning or torching of lead-based paint is prohibited;

b. machine sanding or grinding or dry abrasive blasting or sandblasting of lead-based paint is prohibited unless used with attached High Efficiency Particulate Air (HEPA) vacuum-shrouded exhaust control, which removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency;

c. operating a heat gun on lead-based paint is permitted only at temperatures below 1100°F; and

d. dry scraping of lead-based paint is permitted only in conjunction with heat guns or adjacent to electrical outlets or when treating defective paint spots totaling no more than two square feet in any one room, hallway, or stairwell or totaling no more than 20 square feet on exterior surfaces.

7. For any exterior abatement of lead-based paint, pre-abatement composite soil samples following documented methodologies that incorporate adequate quality control procedures shall be taken by an accredited inspector or an accredited risk assessor next to the foundation or from the dripline below any exterior surface to be abated, unless this information is available from a current risk assessment. The samples shall be sent for analysis to a recognized laboratory capable of performing these analyses. When analysis results exceed 400 $\mu\text{g/g}$ and bare soil is present, the contractor will furnish a written copy of the analysis results to the owner/operator of the residential dwelling or child-occupied facility prior to abatement.

8. If conducted, soil abatement shall be conducted in one of the following ways:

a. if soil is removed the lead-contaminated soil shall be replaced with soil that is not lead-contaminated; or

b. if soil is not removed the lead-contaminated soil shall be permanently covered, as defined in LAC 33:III.2803.

9. The following post-abatement clearance procedures shall be performed only by an accredited inspector or an accredited risk assessor:

a. following an abatement, a visual inspection shall be performed to determine if deteriorated painted surfaces and/or visible amounts of dust, debris, or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris, or residue are present, these conditions must be eliminated prior to the continuation of the clearance procedures;

b. following the visual inspection and any required post-abatement cleanup, clearance sampling for lead-contaminated dust shall be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques;

c. dust samples for clearance purposes shall be taken using documented methodologies that incorporate adequate quality control procedures;

d. dust samples for clearance purposes shall be taken a minimum of one hour after completion of final post-abatement cleanup activities;

e. the following post-abatement clearance activities shall be conducted based upon the extent of abatement activities conducted in or to the residential dwelling or child-occupied facility:

i. after conducting an abatement with containment between abated and unabated areas, one dust sample shall be taken from one window (if available) and one dust sample shall be taken from the floor of at least four rooms, hallways, or stairwells within the containment area. In addition, one dust sample shall be taken from the floor outside the containment area. If there are fewer than four rooms, hallways, or stairwells within the containment area, then all rooms, hallways, or stairwells shall be sampled;

ii. after conducting an abatement with no containment, two dust samples shall be taken from at least four rooms, hallways, or stairwells in the residential dwelling or child-occupied facility. One dust sample shall be taken from one window (if available) and one dust sample shall be taken from the floor of each room, hallway, or stairwell selected. If there are fewer than four rooms, hallways, or stairwells within the residential dwelling or child-occupied facility then all rooms, hallways, or stairwells shall be sampled;

iii. following an exterior paint abatement, a visible inspection and sampling shall be conducted as follows. All horizontal surfaces in the outdoor living area closest to the abated surface shall be found to be cleaned of visible dust and debris:

(a). a visual inspection shall be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior surface abated. If paint chips are present they must be removed from the site and properly disposed of, according to all applicable federal and state requirements; and

(b). in addition, sampling shall consist of at least one sample taken from an adjacent exterior horizontal surface including, but not limited to, a patio, deck, porch, stoop, or common area and composite soil samples taken next to the foundation or from the dripline and any bare soil areas adjacent to the exterior abatement that children, age 6 years and under, frequent. When analysis results indicate that the post-abatement soil lead content exceeds the pre-abatement level, then the abatement contractor shall abate the soil according to Subsection E.8 of this Section;

iv. following soil abatement, at least two composite soil samples shall be taken from the abated area according to documented methodologies. When analysis results indicate that the post-abatement soil lead content exceeds the pre-abatement level, then the abatement contractor shall abate the soil according to Subsection E.8 of this Section;

f. the rooms, hallways, or stairwells selected for sampling shall be selected according to documented methodologies; and

g. the accredited inspector or the accredited risk assessor shall compare the residual lead level (as determined by the laboratory analysis) from each dust sample with applicable clearance levels for lead in dust on floors, carpets, and windows. If the residual lead levels in a dust sample exceed the clearance levels, all the components represented by the failed sample shall be recleaned and retested until clearance levels are met. Until all applicable clearance levels for lead in dust are met, the area shall not be cleared for reoccupancy.

10. In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted provided:

a. the accredited individuals who abate or clean the residential dwellings do not know which residential dwelling will be selected for the random sample;

b. a sufficient number of residential dwellings are selected for dust sampling to provide a 95 percent level of confidence that no more than 5 percent or 50 of the residential

dwellings (whichever is smaller) in the randomly sampled population exceed the appropriate clearance levels; and

c. the randomly selected residential dwellings shall be sampled and evaluated for clearance according to the procedures found in Subsection E.9 of this Section.

11. An abatement report shall be prepared by an accredited lead project supervisor or an accredited project designer. The abatement report shall include the following information:

- a. start and completion dates of the abatement;
- b. the name and address of each licensed contractor conducting the abatement and the name of each supervisor assigned to the abatement project;
- c. the occupant and worker protection plan;
- d. the name, address, and signature of each accredited risk assessor or accredited inspector conducting clearance sampling and the date of clearance testing;
- e. the results of clearance testing and all soil analyses (if applicable) and the name of each recognized laboratory that conducted the analyses;
- f. a detailed written description of the abatement, including abatement methods used, locations of rooms and/or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures; and
- g. information on the storage, transport, and disposal of any waste generated during the abatement.

12. All lead-contaminated waste and construction debris from abatement projects shall be disposed of in accordance with federal, state, and local requirements.

13. All modifications to residences or child-occupied facilities and to their component systems that may occur during the abatement shall be designed and performed in accordance with applicable state and municipal building codes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1672 (December 1997).

§2813. Recordkeeping Requirements for Lead-Based Paint Activities

All records, reports, and plans required by this Chapter for inspections, hazard screens, risk assessments, and abatements shall be maintained by the owner of the residence (target housing), owner or operator of a residential dwelling or child-occupied building, and the contractor or accredited individual who conducted the activities for not less than five years. The contractor or accredited individual shall provide copies of these reports to the owner/operator who contracted for its services. Any person who is required by this Chapter to maintain records may utilize the services of competent organizations such as industry trade associations and employee associations to maintain such records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1676 (December 1997).

§2815. Enforcement

For failure to comply with the regulations of this Chapter, knowingly submitting false or inaccurate information, or directing others in such actions, civil and criminal penalties may be assessed under R.S. 30:2025 and R.S. 30:2351.25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025, 2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1676 (December 1997).

§2817. Reciprocity

The department will develop reciprocity agreements with other states when those states have established recognition and accreditation requirements that are at least as stringent as those set forth in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1676 (December 1997).

§2819. Fees

Fees are defined in R.S. 30:2351.59 and listed in LAC 33:III.223.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1676 (December 1997).

Gus Von Bodungen
Assistant Secretary

9712#035

RULE

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

Permit Procedures (LAC 33:III.501, 509, 517); Emission Standards for Sulfur Dioxide (LAC 33:III.1503 and 1507); Control of Emission of Organic Compounds (LAC 33:III.Chapter 21); Emission Standards for the Nitric Acid Industry (LAC 33:III.2307); Biomedical Waste Incinerators; Crematories (LAC 33:III.2511); Standards of Performance for New Stationary Sources (NSPS) (LAC 33:III.3003)(AQ161*)

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.Chapters 5, 15, 21, 23, 25, and 30, (AQ161*).

This rule is identical to a federal law or regulation, 40 CFR Part 60, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the rule. Therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

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.

This rule updates LAC 33:III.Chapter 30 to incorporate without change 40 CFR Part 60 as revised July 1, 1996, and Part 60 standards promulgated by EPA in *Federal Register* notices during the period July 2, 1996 through June 30, 1997, and September 15, 1997. Upon final rulemaking, the state will receive delegated authority to implement the new and revised standards. Correction to regulatory references are also made in LAC 33:III.Chapters 5, 15, 21, 23, and 25. The basis and rationale for this rule are to maintain the delegation of authority from EPA to implement National Standards of Performance for New Stationary Sources (NSPS). To meet the 1996-97 EPA grant objectives, the state must promulgate the NSPS standards into the LAC exactly as promulgated by EPA.

Editor's Note: The proposed amended definition of *Reconstruction* in §2531, published on page 1363 of the October 1997 *Louisiana Register*, has been omitted from this final rule due to the fact that this definition was removed in the final rule, AQ155, published in the November 1997 *Louisiana Register* on pages 1508-1509.

Title 33 ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

* * *

[See Prior Text in A - B.3.b]

c. 40 CFR Part 60 AAA - Standards of Performance for New Residential Wood Heaters; or

d. regulations promulgated in accordance with the federal Clean Air Act under Section 112(r) - Prevention of Accidental Releases.

* * *

[See Prior Text in B.4 - C.9]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 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 by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997).

§509. Prevention of Significant Deterioration

* * *

[See Prior Text in A - A.2]

B. Definitions. For the purpose of this Part the terms below shall have the meaning specified herein as follows:

* * *

[See Prior Text]

Reconstruction—will be presumed to have taken place where the fixed capital cost of the new component exceeds 50 percent of the fixed capital cost of a comparable entirely new source. Any final decision as to whether reconstruction has occurred must be made in accordance with the provisions of 40 CFR 60.15(f).(1)-(3).

* * *

[See Prior Text in B. *Secondary Emissions* - 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).

§517. Permit Applications and Submittal of Information

* * *

[See Prior Text in A - D.16]

17. any information needed to assess and collect permit application and annual maintenance fees owed in accordance with LAC 33:III.Chapter 2; and

* * *

[See Prior Text in D.18 - G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:1375 (December 1994), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:405 (April 1997), LR 23:1677 (December 1997).

Chapter 15. Emission Standards for Sulfur Dioxide

§1503. Emission Limitations

As used in this Section, a *three-hour average* means the average emissions for any three consecutive one-hour periods (each commencing on the hour), provided that the number of three-hour periods during which the SO₂ limitation is exceeded is not greater than the number of one-hour periods during which the SO₂ limitation is exceeded.

A. Sulfuric Acid Plants—New and Existing. The emissions of sulfur dioxide and acid mist from new sulfuric acid production units which commence construction or modification after August 17, 1971, shall be limited to that specified in 40 CFR 60.82 and 60.83, e.g., 4.0 pounds/ton of 100 percent H₂SO₄ (2 kilograms/metric ton) and 0.15 pounds/ton of 100 percent H₂SO₄ (.075 kilograms/metric ton) respectively (three-hour averages). Emissions from existing units shall be limited as follows: SO₂—not more than 2000 ppm by volume (three-hour average); acid mist—not more than 0.5 pounds/ton of 100 percent H₂SO₄ (three-hour average).

B. Sulfur Recovery Plants—New and Existing. The emission of sulfur oxides calculated as sulfur dioxide from a new sulfur recovery plant which commences construction or modification after October 4, 1976, shall be limited to that specified in 40 CFR 60.104(a)(2). The emission of sulfur oxides calculated as sulfur dioxide from an existing plant shall be limited to a sulfur dioxide concentration of not more than 1,300 ppm by volume (three-hour average).

* * *

[See Prior Text in C - Table 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 by the Department of Environmental Quality, Office of Air Quality and

Radiation Protection, Air Quality Division, LR 18:374 (April 1992), LR 22:1212 (December 1996), LR 23:1677 (December 1997).

§1507. Exceptions

A. Start-Up Provisions

1. A four-hour (continuous) start-up exemption from the emission limitations of LAC 33:III.1503.A may be authorized by the administrative authority for plants not subject to 40 CFR 60.82 and 60.83 which have been shut down. A report in writing explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emission shall be submitted to the administrative authority within seven calendar days of the occurrence.

* * *

[See Prior Text in A.2 - B]

1. A four-hour (continuous) exemption from emission limitations of LAC 33:III.1503.A may be extended by the administrative authority to plants not subject to 40 CFR 60.82 and 60.83 where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emission shall be submitted to the administrative authority within seven calendar days of the occurrence.

* * *

[See Prior Text in B.2 - C]

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 by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), LR 23:1678 (December 1997).

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2108. Marine Vapor Recovery

* * *

[See Prior Text in A - E.1.b]

2. Vapor processing systems utilizing a flare stack to destruct the collected VOCs will be exempt from testing and must be designed and operated in accordance with 40 CFR 60.482-10(d).

* * *

[See Prior Text in E.3 - H.2]

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 14:704 (October 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 22:1212 (December 1996), LR 23:1678 (December 1997).

§2122. Fugitive Emission Control for Ozone Nonattainment Areas

* * *

[See Prior Text in A - A.5]

6. Applicable facilities as defined in Subsection A.1 of this Section which are subject to New Source Performance Standards, 40 CFR 60.480-489 (Subpart VV), 60.590-593

(Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V) may become exempt from this Section by:

a. submitting a written notice to the administrative authority* informing them of the facility's request to become exempt from this Section and how 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V) will be administered to obtain that exemption;

b. applying 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V) to leak limitations specified in Subsection C.1 of this Section rather than 10,000 ppm as specified in 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V);

c. including connectors as leak sources monitored and repaired using the restrictions in 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V) which apply to valves; and

d. increasing monitoring frequency only when the leaking sources monitored and repaired using the restrictions in 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V) which apply to valves equal or exceed 2 percent of the valves monitored at or above 10,000 ppm.

* * *

[See Prior Text in B - C.1.c]

d. Any pump or valve in heavy liquid service observed leaking by sight, sound, or smell shall be monitored within five days by the method specified in 40 CFR Part 60, appendix A (Method 21). If the pump or valve is determined to be leaking in excess of the applicable limits given in this Subsection, it shall be repaired according to Subsection C.3 of this Section.

* * *

[See Prior Text in C.2 - G.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1102 (October 1994), repromulgated LR 20:1279 (November 1994), amended LR 22:1129 (November 1996), LR 22:1212 (December 1996), repromulgated LR 23:197 (February 1997), amended LR 23:1678 (December 1997).

Subchapter B. Organic Solvents

§2123. Organic Solvents

* * *

[See Prior Text in A - E.5]

6. Performance test procedures described in 40 CFR 60.444;

* * *

[See Prior Text in E.7 - F.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 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997).

Subchapter J. Limiting Volatile Organic Compound (VOC) Emissions from Reactor Processes and Distillation Operations in the Synthetic Organic Chemical Manufacturing Industry (SOCMI)

§2147. Limiting VOC Emissions from SOCMI Reactor Processes and Distillation Operations

[See Prior Text in A - D.2]

3. The following methods in 40 CFR Part 60, appendix A shall be used to demonstrate compliance with the emission limit or percent reduction efficiency requirement listed in Subsection C.1.a of this Section.

[See Prior Text in D.3.a - e]

4. When a flare is used to comply with the control requirements of this Subchapter, the flare shall comply with the requirements of 40 CFR 60.18.

[See Prior Text in D.5 - Figure 1]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:380 (April 1995), amended LR 22:1212 (December 1996), LR 23:1508 (November 1997), LR 23:1510 (November 1997), LR 23:1679 (December 1997).

Subchapter N. Method 43—Capture Efficiency Test Procedures

§2156. Definitions

For purposes of this regulation, the following definitions and abbreviations apply:

BE—a building or room enclosure that contains a process that emits VOC. If a BE is to serve as a PTE or TTE, the appropriate requirements given in Procedure T (LAC 33:III.2160.F) must be met.

[See Prior Text]

PTE—a permanent total enclosure, which contains a process that emits VOC and meets the specifications given in Procedure T (LAC 33:III.2160.F).

TTE—a temporary total enclosure which is built around a process that emits VOC and meets the specifications given in Procedure T (LAC 33:III.2160.F).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1679 (December 1997).

§2157. Applicability

A. The requirements of LAC 33:III.2158 shall apply to all regulated VOC emitting processes employing a control system except as provided below.

B. If a source installs a PTE that meets the requirements in Procedure T (LAC 33:III.2160.F), and which directs all VOC to a control device, the capture efficiency is assumed to be 100 percent, and the source is exempted from the requirements described in LAC 33:III.2158. This does not exempt a source from performance of any control device efficiency testing required under these or any other

regulations. In addition, a source must demonstrate all criteria for a PTE are met during the testing for control efficiency.

[See Prior Text in C - C.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1679 (December 1997).

§2158. Specific Requirements

[See Prior Text in A - C]

1. Gas/Gas Method Using TTE. The specifications to determine whether a temporary enclosure is considered a TTE are given in Procedure T (LAC 33:III.2160.F). The capture efficiency equation to be used for this protocol is:

$$CE = \frac{Gw}{(Gw + Fw)}$$

where:

CE = capture efficiency, decimal fraction.

Gw = mass of VOC captured and delivered to control device using a TTE.

Fw = mass of fugitive VOC that escapes from a TTE.

Procedure G.2 (LAC 33:III.2160.D) is used to obtain Gw. Procedure F.1 (LAC 33:III.2160.A) is used to obtain Fw.

2. Liquid/Gas Method Using TTE. The specifications to determine whether a temporary enclosure is considered a TTE are given in Procedure T (LAC 33:III.2160.F). The capture efficiency equation to be used for this protocol is:

$$CE = \frac{(L - F)}{L}$$

where:

CE = capture efficiency, decimal fraction.

L = mass of liquid VOC input to process.

F = mass of fugitive VOC that escapes from a TTE.

Procedure L (LAC 33:III.2160.E) is used to obtain L. Procedure F.1 (LAC 33:III.2160.A) is used to obtain F.

3. Gas/Gas Method Using the Building or Room (BE) in which the Affected Source is Located as the Enclosure and in which G and F are Measured while Operating only the Affected Facility. All fans and blowers in the building or room must be operated as they would under normal production. The capture efficiency equation to be used for this protocol is:

$$CE = \frac{G}{G + F_B}$$

where:

CE = capture efficiency, decimal fraction.

G = mass of VOC captured and delivered to a control device.

F_B = mass of fugitive VOC that escapes from building enclosure.

Procedure G.2 (LAC 33:III.2160.D) is used to obtain G. Procedure F.2 (LAC 33:III.2160.B) is used to obtain F_B.

4. Liquid/Gas Method Using the Building or Room (BE) in which the Affected Source is Located as the Enclosure and in which L and F are Measured while Operating only the Affected Facility. All fans and blowers in the building or room must be operated as they would under normal production. The capture efficiency equation to be used for this protocol is:

$$CE = \frac{(L - F_B)}{L}$$

where:

CE = capture efficiency, decimal fraction.

L = mass of liquid VOC input to process.

F_B = mass of fugitive VOC that escapes from building enclosure.

Procedure L (LAC 33:III.2160.E) is used to obtain L. Procedure F.2 (LAC 33:III.2160.B) is used to obtain F_B.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1679 (December 1997).

§2159. Recordkeeping and Reporting

[See Prior Text in A - C]

D. A source utilizing a PTE must demonstrate that this enclosure meets the requirement given in Procedure T (LAC 33:III.2160.F) for a PTE during any testing of a control device.

E. A source utilizing a TTE must demonstrate that its TTE meets the requirements given in Procedure T (LAC 33:III.2160.F) for a TTE during testing of their control device. The source must also provide documentation that the quality assurance criteria for a TTE have been achieved.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997).

§2160. Procedures

The following are Procedures F.1, F.2, G.1, G.2, L, and T to be used with the test protocols above:

[See Prior Text in A - A.2.b.iii]

c. Temporary Total Enclosure. The criteria for designing a TTE are discussed in Procedure T (Subsection F of this Section).

[See Prior Text in A.3 - A.4.c.i.(d)]

d. Alternative Procedure. The direct interface sampling and analysis procedure described in 40 CFR Part 60, appendix A, Method 18, 7.2-7.2.5 may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

[See Prior Text in A.5 - C.4.c.iv]

d. Alternative Procedure. The direct interface sampling and analysis procedure described in 40 CFR Part 60,

appendix A, Method 18, 7.2-7.2.5 may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

[See Prior Text in C.5 - D.4.c.iv]

d. Alternative Procedure. The direct interface sampling and analysis procedure described in 40 CFR Part 60, appendix A, Method 18, 7.2-7.2.5 may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

[See Prior Text in D.5 - F.6.b.iii]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997).

Chapter 23. Control of Emissions for Specific Industries¹

Subchapter D. Nitric Acid Industry

§2307. Emission Standards for the Nitric Acid Industry

[See Prior Text in A - C.1]

a. A four-hour start-up exemption from emission regulations may be authorized by the administrative authority for plants not subject to 40 CFR Part 60, subpart G which have been shut down. It is recognized that existing nitrogen oxide abatement equipment is effective only at normal operating temperatures. This provision allows the necessary time to bring up a facility from a cold start to near steady state condition. A report in writing, explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emissions, shall be submitted to the administrative authority within seven calendar days of the occurrence.

[See Prior Text in C.1.b - C.2]

a. A four-hour exemption from emission regulations may be extended by the administrative authority to plants not subject to 40 CFR Part 60, subpart G where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to the administrative authority within seven calendar days of the occurrence.

[See Prior Text in C.2.b - H.2]

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 by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1680 (December 1997).

Chapter 25. Miscellaneous Incineration Rules

Subchapter B. Biomedical Waste Incinerators

§2511. Standards of Performance for Biomedical Waste Incinerators

[See Prior Text in A - A.2]

B. Definitions. The words and terms used in this Subchapter are defined in LAC 33:III.Chapter 51, and LAC 33:III.111 and 40 CFR 60.2 unless otherwise specifically defined as follows:

[See Prior Text in B. Antineoplastic Agents - L]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1098 (October 1994), amended LR 21:1081 (October 1995), LR 22:1212 (December 1996), LR 23:1680 (December 1997).

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference (IBR)

§3003. IBR 40 Code of Federal Regulations (CFR) Part 60

A. Except as modified in this Section, regulations at 40 CFR Part 60 as revised July 1, 1996, and specified below in Tables 1 and 1.A are hereby incorporated by reference as they apply to the state of Louisiana.

Table 1. 40 CFR Part 60	
40 CFR Part 60 Subpart	Subpart Heading
*** [See Prior Text in A - Ca]	
Cb	Emission Guidelines and Compliance Times for Municipal Waste Combustors that are Constructed on or before December 19, 1995
Cc	Emission Guidelines and Compliance Times for Municipal Solid Waste Landfill
Cd	Emission Guidelines and Compliance Times for Sulfuric Acid Production Units
*** [See Prior Text in D - E]	
Ea	Standards of Performance for Municipal Waste Combustors for which Construction is Commenced after December 20, 1989, and on or before September 20, 1994
Eb	Standards of Performance for Municipal Waste Combustors for which Construction is Commenced after September 20, 1994
*** [See Prior Text in F - H]	
I	Standards of Performance for Hot Mix Asphalt Facilities
*** [See Prior Text in J - SS]	
TT	Standards of Performance for Metal Call Surface Coating
*** [See Prior Text in UU - EEE]	
FFF	Standards of Performance for Flexible Vinyl and Urethane Coating and Printing
*** [See Prior Text in GGG - RRR]	

SSS	Standards of Performance for Magnetic Tape Coating Facilities
*** [See Prior Text in TTT - VVV]	
WWW	Standards of Performance for Municipal Solid Waste Landfills

[See Prior Text in Table 1.A. 40 CFR Part 60 Appendices]

B. Final regulations published in *Federal Registers* from July 2, 1996, through June 30, 1997 and September 15, 1997, and specified below in Table 2, are hereby incorporated by reference as they apply to the state of Louisiana.

Table 2. 40 CFR Part 60			
40 CFR Part 60 Subpart/Appendix	Subpart Heading/Appendix	Federal Register Citation	Date Promulgated
Subpart A	General Provisions	62 FR 8328	February 24, 1997
Subpart X	Standards of Performance for the Phosphate Fertilizer Industry; Granular Triple Superphosphate Storage Facilities	62 FR 18280	April 15, 1997
Subpart OOO	Standards of Performance for Nonmetallic Mineral Processing Plants; Amendments	62 FR 31359	June 9, 1997
Subpart A	General Provisions	62 FR 48379	September 15, 1997
Subpart Ce	Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators	62 FR 48379	September 15, 1997
Subpart Ec	Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for which Construction is Commenced after June 20, 1996	62 FR 48382	September 15, 1997

[See Prior Text in C - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997).

Gus Von Bodungen
Assistant Secretary

9712#036

RULE

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

**Stage II Vapor Recovery Systems
(LAC 33:III.2132)(AQ158)**

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.2132 (AQ158).

The rule clarifies test procedures for vacuum assist type vapor recovery systems. The test procedures were not yet finalized by the California Air Resources Board (CARB) at the time of original rule promulgation. LAC 33:III.2132.D is rewritten and restructured for clarity.

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**

Subchapter F. Gasoline Handling

**§2132. Stage II Vapor Recovery Systems for Control of
Vehicle Refueling Emissions at Gasoline
Dispensing Facilities**

A. Definitions. Terms used in this Section are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined as follows:

CARB—California Air Resources Board.

* * *

[See Prior Text]

Stage II Vapor Recovery System—a gasoline vapor recovery system that is CARB approved and recovers vapors during the refueling of motor vehicles.

B. Regulated Sector

1. The provisions of this regulation shall apply in the following parishes: Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge.

* * *

[See Prior Text in B.2-4]

a. facilities for which new construction commenced after November 15, 1990, must comply with these requirements not later than May 20, 1993;

b. facilities constructed before November 15, 1990, which have an average monthly throughput rate of 100,000 gallons or more of gasoline per month must comply prior to November 20, 1993;

c. facilities constructed before November 15, 1990, which have an average monthly throughput rate between 10,000 and 100,000 gallons of gasoline per month must comply not later than November 20, 1994; and

d. existing facilities previously exempted from, but which become subject to, the requirements of this regulation shall comply with the requirements of this regulation within one year from the date on which the facility becomes subject.

5. No owner or operator as described in Subsection B.1, 2, and 3 of this Section shall cause or allow the dispensing of motor vehicle fuel at any time unless all fuel dispensing operations are equipped with and utilize a CARB certified vapor recovery system that is properly installed and operated in accordance with the corresponding CARB executive order. The vapor recovery equipment must also be installed and operated within the guidelines of the National Fire Protection Association (NFPA) 30. The vapor recovery equipment utilized shall be certified by CARB or equivalent certification authority approved by the administrative authority* to attain a minimum of 95 percent gasoline vapor control efficiency. This certified equipment shall have coaxial hoses and shall not contain remote check valves. In addition, only CARB or equivalent approved aftermarket parts and CARB or equivalent approved rebuilt parts shall be used for installation or replacement use.

* * *

[See Prior Text in B.6-6.a]

b. plans to test for proper operation of the Stage II equipment in accordance with Subsection D.1.a of this Section or upon major system modification;

* * *

[See Prior Text in B.6.c-c.ii]

iii. the CARB or equivalent executive order number of the vapor recovery system to be utilized; and

* * *

[See Prior Text in B.6.c.iv-C.2]

D. Testing

1. The owner/operator of the facility shall have the installed vapor recovery equipment tested prior to the start-up of the facility. The owner or operator shall notify the department at least five calendar days in advance of the scheduled date of testing. Testing must be performed by a contractor that is certified with the Department of Environmental Quality. Compliance with the emission specification for Stage II equipment shall be demonstrated by passing the following required tests or equivalent for each type of system:

a. vapor balance system:

i. a static pressure test (CARB test procedure TP 201.3) shall be initially conducted and successfully passed after installation of the vapor recovery system and prior to initiating operation of the vapor recovery system and once every year thereafter;

ii. a dynamic pressure drop test (San Francisco Bay Area Dynamic Back Pressure Test Procedure ST-27) shall be initially conducted and successfully passed after installation of the vapor recovery system and prior to initiating operation of the vapor recovery system and once every year thereafter; and

iii. a liquid blockage test (San Diego Test Procedure TP-91-2) shall be initially conducted and successfully passed after installation of the vapor recovery system and prior to

initiating operation of the vapor recovery system and once every five years thereafter;

b. vacuum assist system:

i. a static pressure test (CARB test procedure TP 201.3) shall be initially conducted and successfully passed after installation of the vapor recovery system and prior to initiating operation of the vapor recovery system and once every year thereafter;

ii. an air to liquid volume ratio test (CARB test procedure TP 201.5) shall be initially conducted and successfully passed after installation of the vapor recovery system and prior to initiating operation of the vapor recovery system and once every year thereafter; and

iii. a liquid blockage test (San Diego Test Procedure TP-91-2) shall be initially conducted and successfully passed after installation of the vapor recovery system and prior to initiating operation of the vapor recovery system and once every five years thereafter.

2. The test methods used are contained in the Environmental Protection Agency document entitled, "Technical Guidance Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities, EPA-450-3-91-022b" and the CARB Stationary Source Test Methods, Volume 2, April 12, 1996, or latest revision.

3. The department reserves the right to confirm the results of the aforementioned testing at its discretion and at any time. Within 30 days after installation or major system modification of a vapor recovery system, the owner or operator of the facility shall submit to the department the date of completion of the installation or major system modification of a vapor recovery system and the results of all functional testing requirements.

E. Labeling. The facility owner/operator shall post operating instructions conspicuously on the front of each gasoline dispensing pump using a Stage II vapor recovery system. The instructions shall include:

1. a clear description of how to correctly dispense gasoline with the vapor recovery nozzles utilized at the site;

2. a warning that continued attempts at dispensing gasoline after the system indicates that the vehicle tank is full ("topping off") may result in spillage or recirculation of gasoline; and

3. a telephone number established by the department for use by the public to report comments, questions, or problems experienced with the system.

F. Inspection

1. The facility owner or operator shall maintain the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and free of defects that could impair the effectiveness of the system, including but not limited to:

a. absence or disconnection of any component required to be used on a certified or equivalent system;

b. crimped or flattened vapor hose such that the vapor passage is blocked or restricted;

c. a nozzle boot that is torn in one or both of the following ways:

i. a triangular-shaped or similar tear more than ½ inch on a side or a hole more than ½ inch in diameter;

ii. a slit more than 1 inch in length;

d. for balance nozzles a faceplate that is damaged such that the capability to achieve a seal with a fill pipe interface is affected for a total of at least one-fourth of the circumference of the faceplate;

e. for nozzles in vacuum assist type systems, a flexible cone for which a total of at least one-fourth of the cone is damaged or missing;

f. a nozzle shutoff mechanism that malfunctions in any manner;

g. vapor return lines, including such components as swivels, anti-recirculation valves, and underground piping, that malfunction, are blocked, or are restricted such that the pressure drop through the line exceeds by a factor of two or more the value as certified in the approved system;

h. a vapor processing unit that is inoperative;

i. a vacuum producing device that is inoperative;

j. pressure/vacuum valves, vapor check valves, or dry breaks that are inoperative;

k. a vapor guard that is missing or damaged such that a slit from the outer edge of the open end flange to the spout anchor clamp exists or that has an equivalent cumulative damage;

l. any equipment defect that is identified by the department as substantially impairing the effectiveness of the system in reducing refueling vapor emissions; or

m. any gasoline leaks as detected by sight, sound, or smell.

2. The owner or operator shall perform daily inspections and accurately record the results of the inspections.

3. Any equipment having a defect, as determined through daily visual inspections or other means, shall be tagged "out of order" by the facility owner or operator and shall not be used until it has been repaired or replaced.

4. Any equipment that has been tagged "out of order" by the department shall not be used until it has been repaired or replaced.

G. Recordkeeping. The facility owner/operator shall maintain the following records on the facility premises for at least two years and present them to an authorized representative of the department upon request:

1. application approval records;

2. certificate to operate;

3. system installation and testing results;

4. Stage II maintenance records, which shall include, but not be limited to, daily visual inspections for malfunctions;

5. inspection records;

6. compliance records; and

7. training certification.

H. Enforcement

1. Enforcement of these regulations, authorized under R.S. 30:2054, shall include, but not be limited to, the following penalties:

a. notices of violation;

b. warnings;

- c. cease and desist orders;
 - d. suspension of license or permit to operate;
 - e. revocation of license or permit to operate;
 - f. monetary fines; and
 - g. "red tagging" equipment to prevent its operation.
2. The administrative authority may consider requests from a small business stationary source for modification of:
- a. any work practice or technological method of compliance; or
 - b. the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source. No such modification may be granted unless it is in compliance with the applicable requirements of the Louisiana Environmental Quality Act and the Federal Clean Air Act, including the requirements of the applicable implementation plan. Where such applicable requirements are set forth in federal regulations, only modifications authorized in such regulations may be allowed.

I. Fees. The fees are defined in LAC 33:III.223.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:1254 (November 1992), repromulgated LR 19:46 (January 1993), amended LR 23:1682 (December 1997).

Gus Von Bodungen
Assistant Secretary

9712#034

RULE

**Department of Environmental Quality
Office of Waste Services
Hazardous Waste Division**

**Financial Assurance and Cleanup
(LAC 33:V.3719)(HW052)**

(Editor's Note: A portion of the following rule, published on pages 1510 through 1522 of the November 1997 Louisiana Register is being repromulgated to correct typographical errors.)

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Chapter 37. Financial Requirements

Subchapter F. Financial and Insurance Instruments

§3719. Wording of the Instruments

- A. ...
 - 1. ...
 - 2. ...
- B. - M.1. ...

Trust Agreement

Section 1. Definitions. As used in this Agreement:

The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by EPA.

2. ...

N.1. - 2. ...

[See Prior Text in N-N.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:686 (July 1985), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:47 (January 1990), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1514 (November 1997), repromulgated LR 23:1684 (December 1997).

H. M. Strong
Assistant Secretary

9712#058

RULE

**Department of Environmental Quality
Office of Waste Services
Solid Waste Division**

**Alternative Solid Waste Site
Selection (LAC 33:VII.523)(SW026)**

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 Solid Waste Division regulations, LAC 33:VII.523.D (SW026).

This rule amends past language requiring facilities seeking a solid waste permit to consider other potential sites for the location of the new facility. This action is required to adjust the past language in the solid waste regulations to correspond to the court-mandated "IT" Questions.

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 VII. Solid Waste**

Chapter 5. Solid Waste Management System

Subchapter C. Permit Application

§523. Part III: Additional Supplementary Information

The following supplementary information is required for all solid waste processing and disposal facilities. All responses and exhibits must be identified in the following sequence to facilitate the evaluation:

* * *

[See Prior Text in A-C]

D. a discussion of possible alternative sites that would offer more protection to the environment without unduly curtailing nonenvironmental benefits; and

* * *

[See Prior Text in E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Waste Services, Solid Waste Division, LR 23:1685 (December 1997).

H.M. Strong
Assistant Secretary

9712#031

RULE

**Office of the Governor
Office of Veterans Affairs**

State Aid Eligibility (LAC 4:VII.917)

In accordance with Act 1195 of the 1997 Regular Legislative Session, the Office of Veterans Affairs has amended LAC 4:VII.917.C and E pertaining to eligibility requirements for the State Aid Program.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 9. Veterans Affairs

Subchapter B. State Aid Program

§917. Eligibility

* * *

C. The veteran must be rated 90 percent or above service-connected by evaluation of the rating schedule. (Total rating on basis of individual unemployment or temporary ratings does not meet requirements.)

* * *

E. The qualified veteran must have been a resident of Louisiana for at least two years immediately preceding admission of the child into a training institution.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 7:485 (October 1981), amended LR 13:743 (December 1987), amended LR 19:1565 (December 1993), LR 23:1685 (December 1997).

John E. Caulking
Executive Director

9712#055

RULE

**Department of Health and Hospitals
Board of Veterinary Medicine**

**Certified Animal Euthanasia Technicians'
Renewal Deadline (LAC 46:LXXXV.1211)**

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.1211 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1558 et seq.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

**Chapter 12. Certified Animal Euthanasia Technicians
§1211. Renewal of Certificates**

A. All certificates of approval shall expire annually at midnight September 30. Certificates shall be renewed by completing a re-registration form which shall be provided by the board and by payment of the annual renewal fee established by the board.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 23:1685 (December 1997).

Charles B. Mann
Executive Director

9712#026

RULE

**Department of Health and Hospitals
Board of Veterinary Medicine**

**Internships and Residencies
(LAC 46:LXXXV.1105)**

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.1105 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 11. Preceptorship Program

§1105. Applicants

A. On and after the effective date of these provisions, every applicant for a license to practice veterinary medicine in the state of Louisiana must complete a preceptorship program during the senior year in an accredited school of veterinary medicine or after graduation. The board shall have the discretionary right to waive the compliance with the preceptorship program when the applicant has been licensed in another state or is eligible for license without examination.

B. The board may accept a completed clinical internship or residency of no less than 10 months at an accredited school of veterinary medicine in lieu of completion of a preceptorship program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 23:1686 (December 1997).

Charles B. Mann
Executive Director

9712#025

RULE

**Department of Health and Hospitals
Board of Veterinary Medicine**

**Prescriptions and Microchip Implantation
(LAC 46:LXXXV.705 and 713)**

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.Chapter 7 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LXXXV. Veterinarians**

Chapter 7. Veterinary Practice

§705. Prescribing and Dispensing Drugs

A. - F. ...

G. It shall be considered a violation of the rules of professional conduct, within the meaning of R.S. 37:1526(14), for a veterinarian to refuse to write a prescription when a veterinarian-patient-client relationship has been established, and the veterinarian has determined that the patient's life is not endangered without the immediate administration of the prescription medication, provided that, in the veterinarian's medical opinion, the prescribed substance is medically safe for in-home administration by the client. The veterinarian shall not be required under this rule to write a prescription for controlled substances.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980), amended LR 16:226 (March 1990), LR 19:1329 (October 1993), LR 20:1381 (December 1994), LR 23:1686 (December 1997).

§713. Microchip Implantation

The implantation of a microchip device into an animal shall be performed only by a licensed veterinarian or under the direct supervision of a licensed veterinarian, except that no unlicensed person may perform surgery, diagnosis, prognosis, or prescribe drugs, medicines, or appliances as stated in §702.A.2. The following are exempt from this provision:

1. an animal control agency which is operated by a state or local governmental agency; or

2. a 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.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 23:1686 (December 1997).

Charles B. Mann
Executive Director

9712#024

RULE

**Department of Health and Hospitals
Board of Veterinary Medicine**

**Registered Veterinary Technician
Certificate Renewals (LAC 46:LXXXV.811)**

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.811 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1549 et seq.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LXXXV. Veterinarians**

Chapter 8. Registered Veterinary Technicians

§811. Certificate Renewal; Late Charge

A. All certificates of approval shall expire annually at midnight September 30. Certificates shall be renewed by completing a re-registration form, which shall be provided by the board, and by payment of the annual renewal fee established by the board. Each year, 90 days prior to the expiration date of the certificate of approval, the board shall mail a notice to each registered veterinary technician stating the date his certificate will expire and providing a form for re-registration.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:26 (March 1990), amended LR 23:1686 (December 1997).

Charles B. Mann
Executive Director

9712#027

RULE

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

Long-Term Hospital Reimbursement Methodology

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

Rule

The Department of Health and Hospitals, Bureau of Health Services Financing establishes reimbursement for inpatient services provided by long-term care hospitals, excluding psychiatric services, at a per diem rate based on the thirtieth percentile facility by cost category as reported in the "as-filed" cost report for the hospital's fiscal year ending between July 1, 1995 and June 30, 1996. Cost categories include operating costs, movable equipment, and fixed capital. Subsequent year rates will be updated annually using the lower of the DRI Type Hospital Market Basket Index, the Consumer Price Index—All Urban Consumers, or the Medicare PPS Market Basket Index. This does not affect criteria for participation, service quality expectations, reporting requirements or alter the factors considered in setting rates and the calculations performed.

Bobby P. Jindal
Secretary

9712#079

RULE

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

**Pharmacy Program—Maximum
Allowable Overhead Cost**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions applicable to the Maximum Overhead Cost under the Pharmacy Program:

Maximum Allowable Overhead Cost

1. For state fiscal year 1997-98, the Maximum Allowable Overhead Cost will remain at the level established for state fiscal year 1994-95. This Maximum Allowable Overhead Cost was established by applying the 1993 indices to appropriate cost categories for a one-year period.

2. No inflation indices or any interim adjustments will be applied to the Maximum Allowable Overhead Costs for the time period July 1, 1997 through June 30, 1998.

Bobby P. Jindal
Secretary

9712#012

RULE

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

Substance Abuse Clinics

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act, and as directed by the 1997-98 General Appropriation Act.

This rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing revises the policy governing the provision of substance abuse clinic services under the Medicaid Program to:

1. establish a maximum service limit of 26 visits per year for recipients age 21 and older for individual and group counseling therapy;

2. limit the total number of persons in group counseling therapy to no more than six persons per group and reduce the reimbursement rate to \$10 per eligible recipient;

3. reduce the maximum service limit to 12 visits per year, per eligible recipient for family counseling therapy for recipients age 21 and older; and

4. terminate coverage for collateral counseling services under the Medicaid Program.

Bobby P. Jindal
Secretary

9712#078

RULE

**Department of Public Safety and Corrections
Office of the State Fire Marshal**

**Comprehensive Rule Revisions
(LAC 55:V.Chapters 1-23)**

In accordance with the provisions of R.S. 49:950 et seq., and R.S. 40:1651(B), relative to the authority of the Office of the State Fire Marshal to promulgate and enforce rules and regulations, the Office of the State Fire Marshal hereby amends the following rules:

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 1. Preliminary Provisions

§101. Request for Rule Change

Anyone petitioning the assistant secretary of the Department of Public Safety, Office of the State Fire Marshal, commonly known as the Louisiana State Fire Marshal, for the adoption of, or change of, any rule shall submit in writing to the fire marshal at 5150 Florida Boulevard, Baton Rouge, Louisiana 70806, an application containing the following basic information organized and captioned:

1. the name, address, and telephone number of the applicant. If the applicant is not the owner, the application must contain the owner's written statement giving the applicant authority to file the appeal on the owner's behalf. This written authorization shall include a certification that the individual, partnership, or corporation identified as the owner is, in fact, the owner of the property in question and that the owner is familiar with the basis and the facts upon which the appeal is made. The mailing address and telephone number of the owner must be included in the written authorization. The singular utilized herein refers as well to the plural;

2. a brief description of the facts supporting the applicant's request for the adoption of a rule or the change of a rule that has already been adopted;

3. suggested specific language or language setting forth the substance of the rule or rule change which is being requested;

4. an indication as to whether or not a public hearing is requested;

5. a copy of each and every document upon which the applicant bases his request for a rule or a citation of the information and where it can be easily obtained for review by this office;

a. whenever the fire marshal determines that a public hearing or public hearings should be held prior to the adoption of any rule or rule change, a notice of the meeting date and place and the agenda will be recorded in the *Louisiana Register*; however, whenever that is not possible, a copy of the meeting notice including the date, time, and place, and agenda of the meeting will be mailed to the official journals of the cities of Shreveport, Monroe, Lafayette, Lake Charles, Alexandria, New Orleans, and Baton Rouge, and any city or town in which the public hearing is to be held if it is not in one of the aforementioned major cities; and the same

information shall also be mailed to each individual who has notified the Fire Marshal of his desire to receive a notice of the adoption of or change of any rule;

b. within 90 days of the request for adoption of or change of a rule, the fire marshal will notify the applicant and each individual who request a copy of either his denial of the application or notice of intent to adopt the requested rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 4:465 (November 1978), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 6:71 (February 1980), LR 23:1688 (December 1997).

§103. General Provisions

A. It shall be the policy of the state fire marshal that in all instances or specifications provided in the statutes or in the codes referenced by the statutes, or by any specific references in administrative rulings by the state fire marshal, that the *National Fire Codes* published by the National Fire Protection Association and the *Standard Building Code* shall be used as the references and standards for determinations by the state fire marshal, as follows:

NFPA 10	1994 Edition	Standard for Portable Fire Extinguishers
NFPA 10R	1992 Edition	Recommended Practice for Portable Fire Extinguishing Equipment in Family Dwellings and Living Units
NFPA 11	1994 Edition	Standard for Low-Expansion Foam
NFPA 12	1993 Edition	Standard on Carbon Dioxide Extinguishing Systems
NFPA 12A	1992 Edition	Standard on Halon 1301 Fire Extinguishing Systems
NFPA 13	1996 Edition	Standard for the Installation of Sprinkler Systems
NFPA 13D	1996 Edition	Standard for the Installation of Sprinkler Systems in One and Two-Family Dwellings and Manufactured Homes
NFPA 13R	1996 Edition	Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories
NFPA 14	1996 Edition	Standard for the Installation of Standpipe and Hose Systems
NFPA 15	1996 Edition	Standard for Water Spray Fixed Systems for Fire Protection
NFPA 16	1995 Edition	Standard for the Installation of Deluge Foam-Water Sprinkler Systems
NFPA 16A	1994 Edition	Standard for the Installation of Closed-Head Foam-Water Sprinkler Systems
NFPA 17	1994 Edition	Standard for Dry Chemical Extinguishing Systems
NFPA 17A	1994 Edition	Standard for Wet Chemical Extinguishing Systems
NFPA 18	1995 Edition	Standard on Wetting Agents
NFPA 20	1996 Edition	Standard for the Installation of Centrifugal Fire Pumps

NFPA 24	1995 Edition	Standard for the Installation of Private Fire Service Mains and Their Appurtenances
NFPA 25	1995 Edition	Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems
NFPA 30	1996 Edition	Flammable and Combustible Liquids Code
NFPA 30A	1996 Edition	Automotive and Marine Service Station Code
NFPA 30B	1994 Edition	Code for the Manufacture and Storage of Aerosol Products
NFPA 31	1994 Edition	Standard for the Installation of Oil-Burning Equipment
NFPA 32	1996 Edition	Standard for Dry-Cleaning Plants
NFPA 33	1995 Edition	Standard for Spray Application Using Flammable or Combustible Materials
NFPA 34	1995 Edition	Standard for Dipping and Coating Processed Using Flammable or Combustible Liquids
NFPA 37	1994 Edition	Standard for the Installation and Use of Stationary Combustion Engines And Gas Turbines
NFPA 40E	1993 Edition	Code for the Storage of Pyroxylin Plastic
NFPA 43B	1993 Edition	Code for the Storage of Organic Peroxide Formulations
NFPA 43D	1994 Edition	Code for the Storage of Pesticides
NFPA 45	1996 Edition	Standard on Fire Protection for Laboratories Using Chemicals
NFPA 49	1994 Edition	Hazardous Chemicals Data
NFPA 50	1996 Edition	Standard for Bulk Oxygen Systems at Consumer Sites
NFPA 50A	1994 Edition	Standard for Gaseous Hydrogen Systems at Consumer Sites
NFPA 50B	1994 Edition	Standard for Liquefied Hydrogen Systems at Consumer Sites
NFPA 51	1997 Edition	Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes
NFPA 52	1995 Edition	Standard for Compressed Natural Gas (CNG) Vehicular Fuel Systems
NFPA 53	1994 Edition	Guide on Fire Hazards in Oxygen-Enriched Atmospheres
NFPA 54	1996 Edition	National Fuel Gas Code ANSI Z223.1-1996
NFPA 55	1993 Edition	Standard for the Storage, Use, and Handling of Compressed and Liquefied Gases in Portable Cylinders
NFPA 57	1996 Edition	Standard for Liquefied Natural Gas (LNG) Vehicular Fuel Systems
NFPA 58	1995 Edition	Standard for the Storage and Handling of Liquefied Petroleum Gases

NFPA 10	1994 Edition	Standard for Portable Fire Extinguishers
NFPA 59A	1996 Edition	Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)
NFPA 61	1995 Edition	Standard for the Prevention of Fires and Dust Explosion in Agricultural and Food Products Facilities
NFPA 68	1994 Edition	Guide for Venting of Deflagrations
NFPA 69	1997 Edition	Standard on Explosion Prevention Systems
NFPA 70	1996 Edition	National Electrical Code
NFPA 72	1996 Edition	National Fire Alarm Code
NFPA 75	1995 Edition	Standard for the Protection of Electronic Computer/Data Processing Equipment
NFPA 80	1995 Edition	Standard for Fire Doors and Fire Windows
NFPA 82	1994 Edition	Standard on Incinerators and Waste and Linen Handling Systems and Equipment
NFPA 88A	1995 Edition	Standard for Parking Structures
NFPA 88B	1991 Edition	Standard for Repair Garages
NFPA 90A	1996 Edition	Standard for the Installation of Air Conditioning and Ventilating Systems
NFPA 90B	1996 Edition	Standard for the Installation of Warm Air Heating and Air Conditioning Systems
NFPA 92A	1996 Edition	Recommended Practice for Smoke-Control Systems
NFPA 92B	1995 Edition	Guide for Smoke Management Systems in Malls, Atria, and Large Areas
NFPA 96	1994 Edition	Standard for Ventilation Control and Fire Protection of Commercial Cooking Operation
NFPA 97	1996 Edition	Standard Glossary of Terms Relating to Chimneys, Vents, and Heat-Producing Appliances
NFPA 99	1996 Edition	Standard for Health Care Facilities
NFPA 99B	1996 Edition	Standard for Hypobaric Facilities
NFPA 101	1997 Edition	Code for Safety to Life from Fire in Buildings and Structures
NFPA 101A	1995 Edition	Guide on Alternative Approaches to Life Safety
NFPA 102	1995 Edition	Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures
NFPA 105	1993 Edition	Recommended Practice for the Installation of Smoke-Control Door Assemblies
NFPA 110	1996 Edition	Standard for Emergency and Standby Power Systems
NFPA 111	1996 Edition	Standard on Stored Electrical Energy Emergency and Standby Power Systems
NFPA 150	1995 Edition	Standard on Fire Safety in Racetrack Stables

NFPA 170	1996 Edition	Standard for Fire Safety Symbols
NFPA 204M	1991 Edition	Guide for Smoke and Heat Venting
NFPA 211	1996 Edition	Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances
NFPA 220	1995 Edition	Standard on Types of Building Construction
NFPA 221	1994 Edition	Standard for Fire Walls and Fire Barrier Walls
NFPA 231	1995 Edition	Standard for General Storage
NFPA 231C	1995 Edition	Standard for Rack Storage of Materials
NFPA 231D	1994 Edition	Standard for Storage of Rubber Tires
NFPA 231E	1996 Edition	Recommended Practice for the Storage of Baled Cotton
NFPA 231F	1996 Edition	Standard for the Storage of Roll Paper
NFPA 232	1995 Edition	Standard for the Protection of Records
NFPA 303	1995 Edition	Fire Protection Standard for Marinas and Boatyards
NFPA 307	1995 Edition	Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves
NFPA 407	1996 Edition	Standard for Aircraft Fuel Servicing
NFPA 409	1995 Edition	Standard on Aircraft Hangars
NFPA 415	1997 Edition	Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways
NFPA 418	1995 Edition	Standard for Heliports
NFPA 430	1995 Edition	Code for the Storage of Liquid and Solid Oxidizers
NFPA 490	1993 Edition	Code for the Storage of Ammonium Nitrate
NFPA 491M	1991 Edition	Manual of Hazardous Chemical Reactions
NFPA 495	1996 Edition	Explosive Materials Code
NFPA 496	1993 Edition	Standard for Purged and Pressurized Enclosures for Electrical Equipment
NFPA 513	1994 Edition	Standard for Motor Freight Terminals
NFPA 701	1996 Edition	Standard Methods of Fire Tests for Flame-Resistant Textiles and Films
NFPA 703	1995 Edition	Standard for Fire Retardant Impregnated Wood and Fire Retardant Coating for Building Materials
NFPA 704	1996 Edition	Standard System for the Identification of the Hazards of Materials for Emergency Response
NFPA 705	1993 Edition	Recommended Practice for a Field Flame Test for Textiles and Films
NFPA 750	1996 Edition	Standard on Water Mist Fire Protection Systems

NFPA 10	1994 Edition	Standard for Portable Fire Extinguishers
NFPA 801	1995 Edition	Standard for Facilities Handling Radioactive Materials
NFPA 901	1995 Edition	Standard Classifications for Incident Reporting and Fire Protection Data
NFPA 902	1997 Edition	Fire Reporting Field Incident Guide
NFPA 903	1996 Edition	Fire Reporting Property Survey Guide
NFPA 904	1996 Edition	Incident Follow-Up Report Guide
NFPA 906	1993 Edition	Guide for Fire Incident Field Notes
NFPA 1123	1995 Edition	Code for Fireworks Display
NFPA 1124	1995 Edition	Code for the Manufacture, Transportation, and Storage of Fireworks
NFPA 1126	1996 Edition	Standard for the Use of Pyrotechnics Before a Proximate Audience
NFPA 1221	1994 Edition	Standard for the Installation, Maintenance, and Use of Public Fire Service Communication Systems
NFPA 1402	1997 Edition	Guide to Building Fire Service Training Centers
NFPA 1403	1997 Edition	Standard on Live Fire Training Evolutions
NFPA 2001	1996 Edition	Standard on Clean Agent Fire Extinguishing Systems
NFPA 8501	1992 Edition	Standard for Single Burner Boiler Operation
NFPA 8502	1995 Edition	Standard for the Prevention of Furnace Explosions/Implosions in Multiple Burner Boilers
NFPA 8506	1995 Edition	Standard on Heat Recovery Steam Generator Systems

B. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of the State Fire Marshal after May 31, 1998, will be made utilizing new construction requirements set forth in the 1997 Edition of the *Life Safety Code* of the National Fire Protection Association and Section 412—Special Provisions for High-Rise Buildings published in the 1994 Edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

C. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of the State Fire Marshal on or after January 5, 1995, will be made utilizing new construction requirements set forth in the 1994 Edition of the *Life Safety Code* of the National Fire Protection Association and Section 506—Special Provisions for High-Rise Buildings published by the 1991 Edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

D. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of the State Fire Marshal after May 31, 1992, will be made utilizing new construction requirements set forth in the 1991 Edition of the *Life Safety Code* of the National Fire Protection Association and Section 506—Special Provisions for High-Rise Buildings published by the 1988 Edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

E. With regard to buildings constructed or remodeled between February 19, 1989, and May 31, 1992, or whose construction was timely completed pursuant to plans submitted to the Office of the State Fire Marshal prior to May 31, 1992, inspections will be made utilizing the new construction requirements set forth in the 1988 Edition of the *Life Safety Code* of the National Fire Protection Association and Section 506—Special Provisions for High-Rise Buildings published by the *Standard Building Code* of the Southern Building Code Congress International, Inc. (1985 Edition).

F. All inspections of buildings constructed or remodeled between September 1, 1986, and February 19, 1989, will be made utilizing the requirements set forth in the 1985 Edition of the *Life Safety Code* of the National Fire Protection Association and Section 518—Special Provisions for High Rise of Chapter 4 of the 1985 Edition of the *Southern Building Code* Congress International, Inc.

G. All inspections of buildings constructed or remodeled between September 1, 1981, and September 1, 1986, will be made utilizing the requirements set forth in the 1981 Edition of the *Life Safety Code* of the National Fire Protection Association and Section 506—Special Provisions for High-Rise Buildings published by the *Standard Building Code* (1979 Edition) of the Southern Building Code Congress International, Inc.

H. All inspections of buildings constructed or remodeled between January 1, 1980, and September 1, 1981, will be made utilizing the requirements set forth in the 1976 Edition of the *Life Safety Code* of the National Fire Protection Association and Section 518—Special Provision for High-Rise of Chapter 4 of the 1974 amendments to the 1973 *Standard Building Code*.

I. With regard to buildings constructed or remodeled between January 1, 1975 and January 1, 1980, inspections of those buildings will be made on the basis of requirements that the buildings meet the minimum requirements set forth in the 1973 Edition of the *Life Safety Code* of the National Fire Protection Association and Section 518—Special Provision for High Rise of Chapter 4 of the 1974 amendments to the 1973 *Southern Standard Building Code*.

J. With regard to buildings constructed or remodeled prior to January 1, 1975, inspections by the Office of the State Fire Marshal shall be made utilizing the requirements set forth in the 1967 Edition of the *Life Safety Code* of the National Fire Protection Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:145 (February 1975), amended LR 5:468 (December 1979), LR 6:71 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981), LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:96 (February 1989), LR 17:1114 (November 1991), LR 23:1688 (December 1997).

§105. Required Inspections of Wiring, Gas Piping and Fire Extinguishers

A. In order to assure that the electrical wiring in any structure or movable will not cause a fire or explosion, the electrical wiring in any structure, watercraft or movable shall

be inspected and, if necessary, repaired by a licensed electrical contractor in accordance with the *National Electrical Code*.

B. In order to assure that any structure, watercraft or movable is safe from hazards caused by gas piping, all gas piping shall be inspected and, if necessary, repaired by a licensed plumber or mechanical contractor in accordance with the applicable *National Fuel Gas Code* of the National Fire Protection Association and the provisions of the Louisiana Revised Statutes.

C. The inspections required by this regulation for electrical wiring and gas piping shall be made at the time of the initial installation and thereafter as required based upon a visual inspection by the fire marshal or his designated representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 8:145 (March 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1691 (December 1997).

§107. Smoke and Fire Detection Systems

Educational Occupancies

1. In those educational facilities for which plans were reviewed prior to January 1, 1982, and in which deficiencies have been noted because of inadequate corridor separation, lack of smoke barriers, and lack of sprinkler protection in windowless classroom buildings, the state fire marshal will accept as equivalent compliance to the aforementioned requirements installation of a complete smoke detection system in the corridors and hazardous areas. This system must be capable of/and properly connected to sound the general fire alarm and shut down all central air handling systems.

2. Within 45 days after service on the owner and/or operator of an inspection report and order of correction citing the deficiencies listed therein, the owner and/or operator of the school must submit to the fire marshal a proposed plan of correction in accordance with §107.A.1. The accepted plan of correction then must be completed within the time specified by the fire marshal which shall not exceed 48 months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 8:236 (May 1982), amended LR 8:523 (October 1982), LR 8:625 (November 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1691 (December 1997).

Chapter 3. Buildings

§301. Building Permits

A. In accordance with the requirements set forth in R.S. 40:1574 that plans and specifications for any and all buildings to be constructed in the state must first be submitted to the Office of the State Fire Marshal for review before construction, renovation, remodeling, or repair, no governmental subdivision in the state of Louisiana shall issue any building permit until the plans and specifications, therefore, have been approved by the Office of the State Fire Marshal.

B. Accordingly, with the application for a building permit from any governmental subdivision of this state, a copy of the approval of the plans and specifications for which the building

permit is being requested shall be attached to the application. This ruling shall not apply to one and two family dwellings.

C. Plans and specifications submitted in violation of R.S. 37:155(4) will be rejected by the Office of the State Fire Marshal and deemed to be NOT IN COMPLIANCE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 4:465 (November 1978), repromulgated LR 6:72 (February 1980), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:1135 (December 1989), LR 16:320 (April 1990), LR 23:1691 (December 1997).

§303. Plans and Specifications for New Buildings

A. As of May 31, 1998, the plans and specifications for every structure built or remodeled in the state of Louisiana must be drawn in accordance with the requirements of the 1997 Edition of the *Life and Safety Code* of the National Fire Protection Association and, for all high-rise buildings, Section 506—Special Provisions for High-Rise Buildings of the *Standard Building Code* (1994 Edition) of Southern Standard Building Code Congress International, Inc.

B. NFPA 101 *Life Safety Code* requiring partitions for sleeping quarters shall not apply to any day care centers which operate only during daylight hours. Ratios of children to supervisors are set and enforced by the Department of Social Services, Division of Family Services.

C. All unsprinkled apartments, condominiums or townhouses within multiple dwellings shall be separated from one another by construction having a fire resistance rating of not less than one hour as required by the *Standard Building Code*.

D. Portable fire extinguishers shall be required in all occupancies. The location, maintenance, and installation shall be in accordance with NFPA Pamphlet Number 10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:143 (February 1975), amended LR 5:468 (December 1979), LR 6:72 (February 1980), amended by the Office of the State Fire Marshal, LR 7:344 (July 1981), LR 7:588 (November 1981), LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 12:116 (February 1986), LR 15:96 (February 1989), LR 17:1115 (November 1991), LR 23:1692 (December 1997).

§305. Insulation

The state fire marshal will accept and permit the use of insulation as permitted by the 1994 Edition of the *Standard Building Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 4:389 (October 1978), LR 6:72 (February 1980), LR 6:149 (April 1980), amended by the Office of the State Fire Marshal, LR 8:485 (September 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1692 (December 1997).

§307. Observation of Construction; Final Inspection

A. For a structure which by law may only be constructed with plans prepared and certified by a licensed architect or civil engineer, it shall be the duty of the owner of such a

structure to provide for periodic observation of the construction of the structure to determine if the work is proceeding in accordance with the plans and specifications as approved by the fire marshal. The observations shall be performed by a registered architect or a registered civil engineer.

B. Upon completion of such work, where the law requires the owner to engage an architect or registered civil engineer, the owner shall furnish to the fire marshal a certificate signed by a registered architect or registered civil engineer stating that the periodic observations have been made and that to the best of the architect's or engineer's knowledge, information and belief, the work was completed in accordance with those fire safety standards and regulations stipulated in the plans and specifications previously approved by the fire marshal. When the owner has not engaged an architect or registered civil engineer, and the same is not required by law, the owner must submit the certificate of completion when appropriate, but always under his signature.

C. Occupancy of a structure, watercraft or movable prior to furnishing a certificate to the fire marshal as required under this regulation is expressly forbidden by the fire marshal, unless and until a satisfactory inspection has been made by the fire marshal or his certified representative.

D. In order to comply with the requirements of §307.B, the owner must submit to the fire marshal the following certificate completed by the architect, civil engineer, or, if neither is required by law, the owner:

CERTIFICATE OF COMPLETION

Date:

TO: The Louisiana State Fire Marshal
5150 Florida Boulevard
Baton Rouge, Louisiana 70806

This is to certify that the _____
(name of project by title)
for _____ located at _____
(type of use) (street/number/name)

as periodically observed by me, by my consultants, and/or by others in my employ during construction and, to the best of my knowledge, information and belief, has been completed in accordance with the safety provisions which were shown in the plans and specifications previously approved by the fire marshal.

Under penalty of law for false statement,

I _____ License Number: _____

(name of architect/civil engineer
or owner if architect or engineer
is not required)

certify that all statements contained therein are, to the best of my knowledge, information and belief, true and correct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651 B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 3:498 (December 1977), repromulgated LR 6:73 (February 1980), amended by the Office of the State Fire Marshal, LR 8:523 (October 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1692 (December 1997).

§309. Requirements for Connection of Electrical Power

A. The installation and/or use of temporary or permanent electrical power in new construction shall be prohibited until plans and specifications for every structure built in the state of Louisiana are reviewed by the Office of the State Fire Marshal pursuant to R.S. 40:1574 and LAC 55:V.303.

B. Utility companies can comply with §309.A by providing the Office of the State Fire Marshal with a list of all new construction structures provided with temporary or permanent power within 30 days of electrical connection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 17:272 (March 1991), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1692 (December 1997).

Chapter 5. Manufactured Housing

§501. Definitions

In the regulations which follow, unless contract otherwise requires:

Act—the National Manufactured Home Construction and Safety Standards Act of 1974, as amended, the Housing and Community Development Act of 1974 (42 U.S.C. 01 et seq.).

Add-On—any structure (except a structure designed or produced as an integral part of a manufactured home) which, when attached to the basic home unit, increases the area, either living or storage, of the manufactured home.

Alteration—the replacement, addition, modification or removal of any equipment or installation after sale by a manufacturer to a dealer or distributor but prior to sale by a dealer to a purchaser which may affect the construction, fire safety, occupancy, plumbing, heat producing, or electrical system. It includes any modification made in the home which may affect the compliance of the home with the standards, but it does not include the repair or replacement of a component or appliance requiring connection to an electrical receptacle, where the replacement item is of the same configuration and ratings as the one being replaced. It also does not include an addition of an appliance requiring plug-in to an electrical receptacle, which appliance was not provided with the home by the manufacturer, if the rating of the appliance does not exceed the rating of the receptacle to which it is connected.

Certification Label—see *Label*.

Certification Report—the report prepared by the IPIA (see §501.A.Primary Inspection Agency.b) for each manufactured home manufacturing plant under 24 CFR Section 3282-362(b)(2) in which the IPIA provides a complete description of the initial comprehensive inspection of the plant; an evaluation of the quality assurance program under the approved quality assurance manual; and the identity of the DAPIA (See §501.A.Primary Inspection Agency.a) which approved the designs and quality assurance manual used in the plant. Where appropriate under 24 CFR Section 3282-362(b)(5), the certification report may be made by a DAPIA.

Component—any part, material or appliance which is built in as an integral part of the manufactured home during the manufacturing process.

Cost Information—information submitted by a manufacturer under Section 607 of the Act with respect to alleged cost increases resulting from action by the secretary, in such form as to permit the public and the secretary to make an informed judgment on the validity of the manufacturer's statements. Such terms include both the manufacturer's cost and the cost to retail purchasers.

Date of Manufacture—the date on which the label required by 24 CFR Section 3282-205(c) is affixed to the home.

Dealer—any person engaged in the sale, leasing, or distribution of new manufactured homes primarily to persons who in good faith purchase or lease home for purposes other than resale.

Defect—a failure to comply with an applicable federal manufactured housing safety and construction standard that renders the home or any part or component thereof not fit for the ordinary use for which it was intended, but does not result in an unreasonable risk of injury or death to occupants of the affected manufactured home. See related definitions of *Imminent Safety Hazard*, *Noncompliance*, and *Serious Defect*.

Design—drawings, specifications, sketches and the related engineering calculations, test and data in support of the configurations, structures and systems to be incorporated in homes manufactured in a plant.

Director—the director of the United States Office of Manufactured Housing and Construction Standards.

Distributor—any person engaged in the sale and distribution of manufactured housing for resale.

Failure to Conform—an imminent safety hazard related to the standards, a serious defect, or noncompliance and is used as a substitute for any of those terms.

HUD—the United States Department of Housing and Urban Development.

Imminent Safety Hazard—a hazard that presents an imminent and unreasonable risk of death or severe personal injury that may or may not be related to failure to comply with an applicable federal manufactured housing construction or safety standard. See related definitions of *Defect*, *Noncompliance*, and *Serious Defect*.

Joint Monitoring Team—a monitoring inspection team composed of personnel provided by the various state administrative agencies, or its contract agent, operating under a contract with HUD for the purpose of monitoring or otherwise aiding in the enforcement of the federal standards.

Label or *Certification Label*—the approved form of certification by the manufacturer that, under 24 CFR Section 3282-362(c)(2)(i), is permanently affixed to each transportable section of each home manufactured for sale to a purchaser in the United States.

Manufactured Housing—a structure, transportable in one or more sections, which in the traveling mode, is 8 body feet or more in width; or 40 body feet or more in length; or, when erected on site, 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained therein; except that the term shall include any structure which meets all the requirements of this Chapter 5, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of the United States Department of Housing and Urban Development and complies with the standard established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq.

Manufactured Housing Construction—all activities relating to the assembly and manufacture of a manufactured home, including, but not limited to, those relating to durability, quality, and safety.

Manufactured Housing Safety—the performance of a manufactured home in such a manner that the public is protected against unreasonable risk of the occurrence of accidents due to the design or construction of such home, or any unreasonable risk of death or injury to the user or to the public if such accidents do occur.

Manufacturer—any person engaged in manufacturing or assembling manufactured housing, including any person engaged in importing homes for resale.

Noncompliance—a failure of a home to comply with a federal manufactured housing construction or safety standard that does not constitute a defect, serious defect, or imminent safety hazard. (See related definition of *Defect*, *Imminent Safety Hazard*, and *Serious Defect*.)

Owner—any person purchasing a home from any other person after the first purchase of the home, in good faith, for purposes other than resale.

Primary Inspection Agency (PIA)—a state/or private organization that has been accepted by the secretary in accordance with the requirements of Subpart H of the Manufactured Homes and Procedural Regulation. There are two types of PIAs:

a. Design Approval PIA (DAPIA), which evaluates and approves or disapproves manufactured home designs and quality control procedures; and

b. Production Inspection PIA (IPIA), which evaluates the ability of manufactured home manufacturing plants to follow approved quality control procedures and provides ongoing surveillance of the manufacturing process. Organizations may act as one or both of these types.

Purchaser—the first person purchasing a manufactured home in good faith for purposes other than resale.

Quality Assurance Manual—a manual, prepared by each manufacturer for its manufacturing plants and approved by a DAPIA which contains: a statement of the manufacturer's quality assurance program; a chart of the organization showing, by position, all personnel accountable for quality assurance; a list of tests and test equipment required; a station-by-station description of the manufacturing process; a list of inspections required at each station; and a list by title of personnel in the manufacturer's organization to be held responsible for each inspection. Where necessary, the quality assurance manual used in a particular plant shall contain information specific to that plant.

Red Tag—to affix a notice to a home which has been found to contain an imminent safety hazard or a failure to conform with any applicable standard. A *red tag* is the notice so affixed to the manufactured home.

Secretary—the secretary of the United States Department of Housing and Urban Development.

Secretary's Agent—a party operating as an independent contractor under a contract with HUD.

Serious Defect—any failure to comply with an applicable federal manufactured housing construction and safety standard that renders the home or any part thereof not fit for

the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to occupants of the affected home.

Standards—the federal manufactured housing construction and safety standards promulgated under Section 604 of the Act, 42 U.S.C. 5403, Part 280, of these regulations.

State—includes each of the several states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

State Administrative Agency (SAA)—an agency of a state which has been approved or conditionally approved to carry out the state plan for enforcement of the standards pursuant to Section 623 of the Act, 42 U.S.C. 5422, and Subpart G of the Federal Manufactured Homes Procedural and Enforcement Regulations.

State Plan Application—the application of a state organization which is submitted to the secretary for approval as a state administrative agency under Subpart G of the Federal Manufactured Homes Procedural and Enforcement Regulation.

System—a set or arrangement of materials or components related or connected as to form an operating entity, e.g., heating, ventilating and air-conditioning systems, and evaporative coolers.

Title I—Title I of the National Housing Act, 12 U.S.C. 1701, which authorizes HUD to insure loans made for the purchase of manufactured homes that are certified as meeting HUD requirements for dwelling quality and safety.

United States District Courts—the federal district courts of the United States and the United States courts of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 8:16 (January 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1693 (December 1997).

§505. Inspections

The Uniform Standards Code for Mobile Homes, R.S. 51:911.32, allows employees and personnel under contract to the state fire marshal to enter, at a reasonable time, any factory, warehouse or establishment in which manufactured houses are manufactured, stored or held for sale, for the purpose of ascertaining whether housing construction and safety standards have been and are being met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 8:16 (January 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1694 (December 1997).

§507. Handling of Consumer Complaints

All complaints concerning units constructed in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974 shall be handled in compliance with Subpart I of the federal regulations established pursuant to the Act.

1. Upon receipt of a consumer complaint or other information indicating the possible existence of a failure to conform or imminent safety hazard, the state fire marshal will review the complaint or information to determine where the home was manufactured and if a problem exists. All complaints shall be referred to the manufacturer or dealer if a problem is indicated. When there is information to indicate that homes with the same failure to conform, or imminent safety hazard may have been manufactured in more than one state, the complaint will simultaneously be forwarded to HUD and the home manufacturer.

2. Where the complaint is forwarded to the manufacturer, the manufacturer will be requested, in writing, to investigate the complaint within 20 days of receipt of the complaint and make a report to the state fire marshal. In the event that it appears from the complaint that an imminent safety hazard exists, the state fire marshal will simultaneously contact the manufacturer by telephone and make its own investigation in addition to forwarding the complaint, in writing, in an effort to expedite investigation and any necessary correction by the manufacturer.

3. Where the manufacturer has determined and reports that no imminent safety hazard, serious defect, defect, or noncompliance exists and the state fire marshal is able to concur from all available information, he will consider the complaint closed and so inform the manufacturer and complainants; however, if the state fire marshal is unable to concur with the manufacturer's report, he will make an investigation and within 10 days of receipt of the manufacturer's report shall inform the manufacturer of the results of the investigation. If it is found that the manufacturer's report was correct, the state fire marshal will consider the matter closed.

4. Where, upon investigation, the state fire marshal determines that an imminent safety hazard, serious defect, defect or noncompliance may exist, he or his designated representative will notify the manufacturer to take necessary action. Where the manufacturer does not take action after notification by the state fire marshal and it appears that an imminent safety hazard or serious defect may exist, the state fire marshal will inform the manufacturer of its opinion and simultaneously forward to HUD documentation of the factual basis upon which such opinion was made, for administrative determination by HUD, pursuant to 24 CFR Section 3282.407(a). Where the manufacturer does not take action after notification by the state fire marshal, and it appears that a defect or noncompliance may exist, the manufacturer will be notified. The notice shall be sent to the manufacturer by certified mail and will include:

- a. the preliminary determination by the state fire marshal;
- b. the factual basis for the determination;
- c. the date on which the determination was made;
- d. the identifying criteria of the manufactured homes known to be affected;
- e. notice to the manufacturer that a hearing or presentation of views may be requested, pursuant to 24 CFR Part 3282, Subpart D, to establish that there is no such defect or noncompliance;

f. notice to the manufacturer that the preliminary determination of defect or noncompliance shall become final unless the manufacturer responds within 15 days after receipt of such notice and requests a hearing or presentation of views to rebut the state fire marshal's determination;

g. notice to the manufacturer that any information upon which the determination has been based, such as test results, records of inspection, etc., shall be available for inspection by the manufacturer.

5. Where the manufacturer requests a hearing or presentation of views, one shall be promptly provided in accordance with the procedures outlined in the Administrative Procedure Act, R.S. 49:950 et seq.

6. Where the manufacturer fails to respond to the notice of preliminary determination or if the state fire marshal's board of review decides that the views and evidence presented by the manufacturer are insufficient to rebut the preliminary determination, the state fire marshal may make a final determination that a defect or noncompliance exists and will notify the manufacturer to make a notification and submit a plan in accordance with 24 CFR Section 3282.409. Within 10 days after receipt of the notice of final determination, the manufacturer may appeal to the secretary of the United States Department of Housing and Urban Development.

7. The manufacturer's plan for notification and correction, including contents of notice, time for implementation and completion of acts and reports, shall be made in accordance with the provisions of 24 CFR Section 3282.409 through 3282.413. When the manufactured home is in the hands of a distributor or dealers, it shall be handled in accordance with 24 CFR Section 3282.414.

8. The state fire marshal shall be responsible through oversight and remedial actions that the provisions of 24 CFR Part 3282, Subpart I, are carried out and may make inspections of any manufacturer corrections to assure compliance with 24 CFR Part 3282, Subpart I.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 8:17 (January 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1694 (December 1997).

§509. Notification and Correction Procedure

A. **Manufacturer's Determination.** When a consumer complaint is referred to the manufacturer and the manufacturer determines that an imminent safety hazard, serious defect, defect or noncompliance may exist and the manufacturer does not correct the imminent safety hazard or failure to conform within 30 days of the date on which the manufacturer determined the existence of an imminent safety hazard or failure to conform, the manufacturer shall prepare and submit a plan as provided for in 24 CFR Section 3282.409, to the state fire marshal.

B. **Notification.** The plan, including a copy of the notice as required by 24 CFR Section 3282.410, shall be submitted to the state fire marshal by the manufacturer and shall provide for notification by mail, to the first purchaser (not including any dealer or distributor of the affected manufacturer) of each manufactured home containing an imminent safety hazard, serious defect, defect or noncompliance and any subsequent

purchaser to whom any warranty provided by the manufacturer or required by federal or state law has been transferred, to the extent feasible; by mail to any other person who is a registered owner of each manufactured home containing an imminent safety hazard, serious defect, defect or noncompliance and whose name has been returned to the manufacturer under the procedure of Record of Purchasers as provided for under 24 CFR Section 3282.410; by mail or other expeditious means to the dealers or distributors to whom such manufactured home was delivered. In the event the manufactured home has an imminent safety hazard or serious defect, the notification shall be forwarded by certified mail, if mailed.

C. Review

1. The state fire marshal will review the plan submitted by the manufacturer, including the contents of the notice, and either approve the plan as submitted or make modifications to the plan for compliance with the requirements of 24 CFR Section 3282.409 and notify the manufacturer of the approval or modification. The manufacturer may contest the modification within five days of the approval of the plan or modification.

2. If the state fire marshal does not accept the manufacturer's position as to the modification, it shall act as follows: if the manufacturer contends that the manufactured home contains a defect rather than an imminent safety hazard or serious defect as the state fire marshal contends, the state fire marshal shall refer the matter to the secretary for determination under 24 CFR Section 3282.407(a).

3. The formal notification requirements which would result from any determination by the manufacturer under 24 CFR Section 3282.404 may be waived by the state fire marshal that would otherwise approve the plan upon receipt of satisfactory assurances from the manufacturer that:

- a. the manufacturer has identified all possibly affected manufactured homes which have been sold to purchasers, dealers and distributors;
- b. the manufacturer has corrected, at the manufacturer's expense, all affected manufactured homes; and
- c. the repairs, in the state fire marshal's judgment, are adequate to remove the imminent safety hazard or failure to conform.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 8:18 (January 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1695 (December 1997).

§511. Oversight by the State Fire Marshal

Pursuant to 24 CFR Section 3282.405 and 3282.407, the state fire marshal will:

1. review plans submitted by manufacturers;
2. modify plans submitted by manufacturers where necessary for compliance with 24 CFR Section 3282.409;
3. notify the manufacturer of any modifications or necessary corrections;
4. approve plans submitted by manufacturers that comply with the requirements of 24 CFR Section 3282.409;
5. refer to the secretary of HUD any matter where:

a. the manufacturer contends that the manufactured home contains a defect rather than an imminent safety hazard or serious defect as determined by the state fire marshal;

b. the manufacturer contends that the number of manufactured homes affected is different from that determined by the state fire marshal;

c. the manufacturer contends that the contents of the notice or the correction are different from what the state fire marshal has determined;

d. the manufacturer and the state fire marshal agree that an imminent safety hazard or serious defect exists;

6. determine from records or otherwise that the time elements for implementation of the manufacturer's plan, as outlined in 24 CFR Section 3282.412, are carried out;

7. determine from records or otherwise that required correction of defects have been made by the manufacturer;

8. determine from records or otherwise that the manufacturer has complied with the requirements outlined in 24 CFR Section 3282.404(e) where the state fire marshal has waived the formal notification requirements that would result from any determination by a manufacturer to provide notification as outlined in 24 CFR Section 3282.404;

9. review reports submitted to it by manufacturers, DAPIA and IPIA to determine that the requirements outlined in 24 CFR Part 3382, Subpart I, are being complied with; and

10. review manufacturer records for incorrect determination, inadequate repairs or failure to make required repairs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 8:19 (January 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1696 (December 1997).

§513. Amendments

In amending these regulations, the state fire marshal shall follow the procedure specified in R.S. 49:950 et seq., the Administrative Procedure Act, and any amendments thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 8:19 (January 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1696 (December 1997).

§515. Appeals

Notwithstanding the provisions of 24 CFR Section 3282.152(f)(2) and (g)(2) relating to the conclusive effect of a final determination, any party, in a proceeding held at a SAA under this Chapter, including specifically the owners of affected manufactured homes, consumer groups representing affected owners and manufacturers (but limited to parties with similar substantial interest), may appeal to the SAA which is adverse to the interest of that party. This appeal on the record shall be made within 30 days of the date on which the final determination was made by the SAA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 8:19 (January 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1696 (December 1997).

§517. IPIA Fees

A. IPIA (In Plant Inspection Agency) fees for the inspection of the construction of manufactured housing within this state shall be as follows:

1. \$20 for each manufactured home constructed within Louisiana;

2. \$23 per hour for each hour that a field inspector monitors the manufactured housing construction within the Louisiana manufacturing facility;

3. \$30 per hour for each hour the administrative personnel (architect and/or engineer) monitors the manufactured home construction within the Louisiana manufacturing facility.

B. The fees required shall be paid to the Office of the State Fire Marshal, made payable to the Department of Public Safety, State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 8:19 (January 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1697 (December 1997).

Chapter 11. Modular Structures

§1101. Modular Structures Definition

A modular structure is any type of watercraft, movable or structure erected in the state of Louisiana which does not come within the definition of a mobile home as set forth in the Mobile Home Act, Act 281 of 1974, R.S. 51:911.21 et seq., but which contains hidden appliances, such as wiring, which are manufactured into the product at a factory rather than on-site and which are, therefore, impractical or impossible to inspect on-site when erected or constructed in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 5:363 (November 1979), repromulgated LR 6:76 (February 1980), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1697 (December 1997).

§1103. Applicability of the Fire Marshal's Act

All of the provisions of the Louisiana State Fire Marshal's Act, R.S. 40:1561 et seq., shall apply to modular structures. Accordingly, it shall be required that plans and specifications be submitted to the fire marshal's office for each and every modular structure prior to its erection or construction in the state of Louisiana. Failure to submit plans and specifications to the Office of the State Fire Marshal shall, upon detection, result in immediate closure and a cease and desist order from the use of said structure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 5:363 (November 1979), repromulgated LR 6:76 (February 1980), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1697 (December 1997).

§1105. Certificate of Manufacturer

Prior to erection or construction in the state of Louisiana of a modular structure containing hidden appliances, such as wiring, gas piping, or other items which are not available to visual inspection by a Louisiana state fire marshal deputy, the

owner of such structure shall furnish certification to the fire marshal that it was manufactured in accordance with those fire safety standards and regulations stipulated in the plans and specifications previously approved by the fire marshal. The certification must be made by an architect or engineer who observed the manufacture of the structure and who is registered in the state where such manufacture occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 5:363 (November 1979), repromulgated LR 6:76 (February 1980), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1697 (December 1997).

§1107. Local Authority Supersedure

This rule shall supersede the authority of local governmental subdivisions to require that the modular structures which are shipped into this state be torn down or disfigured in any fashion in order to make an on-site inspection of hidden appliances. Hereafter, any modular structures which are shipped into this state after having had the plans and specifications reviewed by the Office of the State Fire Marshal and which have been given a certificate of manufacture by a licensed architect or engineer that the hidden appliances meet the requirements of Louisiana state law, must be reviewed and must be permitted to be constructed and installed in the state without the need of tearing into or otherwise abridging the structure for the purpose of an on-site inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 5:363 (November 1979), repromulgated LR 6:76 (February 1980), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1697 (December 1997).

Chapter 13. Health Care Facilities; Hospitals

§1301. Emergency Generators for Health Care Facilities

In addition to the requirements of the *Life Safety Code* as set forth in previous regulations, all hospitals, skilled nursing facilities or any other facility utilizing life support systems on a 24-hour day basis shall comply with the following:

1. emergency power must be provided in conformity with NFPA Code 99;

2. if the source of fuel for the motor generator is gasoline, diesel, kerosene or other fuels that are supplied independent of the public utilities, a secondary source of fuel will not be necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 8:15 (January 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:95 (February 1989), LR 23:1697 (December 1997).

§1303. Hospital Fire Lanes

A. There shall be no parking or stopping of any kind in fire lanes designated by the state fire marshal or his deputy in and around hospitals, nursing homes, convalescence facilities and any other building used for the same or similar purposes.

B. After the fire marshal has designated the fire lanes, it shall be the responsibility of the above described institution to pay for and to erect suitable signs notifying everyone that there shall be no parking in the designated fire lanes by order of the state fire marshal; failure to obey this order shall subject the violator to a fine of \$1,000, or one year in jail, or both.

C. The fire marshal, his certified local authorities, or local law enforcement officials shall remove any vehicle parked in any fire lane in the state of Louisiana by any means necessary and shall assess the cost of removal against the owner of said vehicle by storing said vehicle and refusing to release said vehicle until all costs incident to the removal and storage of said vehicle have been paid by the owner.

D. Owners and occupants of the property on which fire lanes are located are hereby charged with the responsibility of notifying the fire marshal, his certified local authorities, or local law enforcement officials of the existence of any vehicles parked in those fire lanes; and in the event that they are unable to contact the fire marshal, his certified local authorities, or local law officials, the owner and occupant are hereby charged with the responsibility of and are hereby authorized to remove any vehicle parked in those fire lanes by any means necessary and to assess the cost of same against the owner of said vehicle by storing said vehicle and refusing to release said vehicle until all costs incident to the removal and storage of said vehicle have been paid by the owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:144 (February 1975), repromulgated LR 6:73 (February 1980), amended LR 6:659 (November 1980), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1697 (December 1997).

Chapter 15. Public and Governmental Facilities

§1501. Equal Access for Disabled Individuals

A. Buildings, structures, public facilities, governmental facilities and improved areas built between January 1, 1978 and August 14, 1995 shall be covered by the standards put forward in ANSI 117.1. Such entities built on or after August 14, 1995, shall be covered by the ADAAG guidelines to the Americans With Disabilities Act in effect on September 1, 1994.

B. Multi-family dwelling units of less than four stories with less than 49 units accessible at habitable grade levels are not required to comply with these regulations above such levels, except when an elevator is provided.

C. Multi-family dwelling units of 15 or more dwelling units must have at least 5 percent or one dwelling unit which meets these regulations. Such facilities with less than 15 dwelling units are not required to meet these regulations except that all exits and passageways to exits must be at least 32 inches in width.

D. Multi-family dwelling units shall comply with the requirements for dwelling units set forth in ANSI A117.1-1994 of the American National Standards Institute entitled *American National Standard Specifications for Making Buildings and Facilities Accessible to and Usable by*

Physically Handicapped People which can be purchased from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 4:465 (November 1978), repromulgated LR 6:74 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1598 (December 1997).

§1503. Smoking in Places of Public Assembly Prohibited

A. There shall be no smoking in the public assembly areas of any churches, schools and theaters; this shall not prohibit the owners and/or operators of these particular places of public assembly from creating and designating smoking areas which are constructed and maintained to safeguard the life and safety of the individuals utilizing the facilities in question.

B. There shall be no smoking where flammable materials and substances are being stored, manufactured, handled or dispensed.

C. There shall be no smoking in any areas which have been designated by the state fire marshal as hazardous and for which reasons he has posted or caused to be posted a sign specifically indicating that there shall be no smoking in that particular area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651 B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 6:74 (February 1980), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1698 (December 1997).

§1505. Overcrowding

A. There shall be no overcrowding in any auditorium or place of public assembly. In the future (after January 1, 1975), no contracts with the owners of auditoriums or places of public assembly shall allow the sale of tickets for the entry of any more individuals than can be seated in that auditorium or place of public assembly. All contracts for the use of said auditorium or place of public assembly shall provide that the owners of the auditorium or place of public assembly shall provide the tickets for the event for which the promoter of the event may be required to pay the cost.

B. There shall be no more individuals permitted in said auditorium or place of public assembly than can be accommodated by the number of seats and the arrangement of said seats as approved by the fire marshal or a certified local authority. Seating shall be in accordance with NFPA 101:31-2.4.1 (1994 Edition).

C. The promoters of any event in said auditorium or place of public assembly shall be required to pay the cost of additional security to assure that no more individuals enter said auditorium or place of public assembly than can be accommodated by the seating arrangement; furthermore, the promoters shall provide the owners, the municipalities and the state with adequate insurance to cover the damage, property or personal injuries, which can foreseeably be expected to occur as a result of the circumstances of this congregation of people.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:145 (February 1975), repromulgated LR 6:74 (February 1980), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1698 (December 1997).

§1507. Storage of Flammables in Places of Public Assembly

A. In pursuit of the requirements of R.S. 40:1575, it is hereby ordered that the storage of all flammable materials in all state buildings and all places of public assembly shall be made in fireproof containers, that all state buildings and places of public assembly shall be regularly policed to clean up and place in fireproof containers all flammable materials; and all places of storage shall be arranged and maintained in such a manner that exit from said places and access to said places for the purposes of firefighting is not in any way impeded.

B. Flammable materials include, but are not limited to, paper, cigarettes, food wrappings, cardboard container for paper, and office supplies. Flammable materials for the purpose of this regulation would not include furniture, clerical implements, and machinery while said articles are in use, unless said articles are located so as to be in a position of storage as opposed to active use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 4:388 (October 1978), repromulgated LR 6:75 (February 1980), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1699 (December 1997).

§1509. Shopping Centers Fire Lanes

A. Fire lanes shall be provided for all buildings that are set back more than 150 feet (45.75 meters) from a public road or exceed 30 feet (9.14 meters) in height and are set back over 50 feet (15.25 meters) from a public road in accordance with NFPA 1:3-5 (1992 Edition).

B. It shall be the responsibility of the owners and operators of shopping centers and similar facilities to pay for and erect suitable signs notifying everyone that there shall be no parking within the specified area by order of the state fire marshal.

C. The fire marshal, his certified local authorities, or local law enforcement officials shall remove any vehicle parked in any fire lane in the state of Louisiana by any means necessary and shall assess the cost of removal against the owner of said vehicle by storing said vehicle and refusing to release said vehicle until all costs incident to the removal and storage of said vehicle have been paid by the owner.

D. Owners and occupants of the property on which fire lanes are located are hereby charged with the responsibility of notifying the fire marshal, his certified local authorities, or local law enforcement officials of the existence of any vehicles parked in those fire lanes; and in the event that they are unable to contact the fire marshal, his certified local authorities, or local law officials, the owner and occupant are hereby charged with the responsibility of and are hereby authorized to remove any vehicle parked in those fire lanes by any means necessary and to assess the cost of same against the

owner of said vehicle by storing said vehicle and refusing to release said vehicle until all costs incident to the removal and storage of said vehicle have been paid by owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:144 (February 1975), repromulgated 6:73 (February 1980), amended LR 6:659 (November 1980), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1699 (December 1997).

Chapter 17. Prisons

§1701. Inspection of Prisons

All prisons in the state of Louisiana shall be inspected by the Office of the State Fire Marshal at least semiannually. When violations of the State Fire Marshal's Act are discovered, the appropriate authority responsible for the maintenance of the prison in question shall be given 30 days for complying with the order of the fire marshal to remedy the violations in question. After 30 days have elapsed from the initial inspection, the prison in question shall be reinspected. If upon reinspection the deputy state fire marshal is satisfied that the responsible authority is making an effort to comply with the original order of correction, an additional 30 days may be granted said authority for complete compliance. After 60 days have elapsed from the initial inspection, if compliance with the original order of correction has not been met, the matter will be turned over to the legal department of the Office of the State Fire Marshal which shall be instructed to immediately file suit for mandatory injunction in the appropriate district court to obtain immediate compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 4:388 (October 1978), repromulgated LR 6:75 (February 1980), amended by the Office of the State Fire Marshal, LR 7:12 (January 1981), LR 8:485 (September 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1699 (December 1997).

Chapter 19. Fireworks

§1901. Fireworks/Public Display

Pursuant to R.S. 51:655, any person, firm or corporation, or other legal entity desiring a permit for a public display may apply to either the Office of the State Fire Marshal, 5150 Florida Boulevard, Baton Rouge, Louisiana 70806 or to any certified local authority, which application shall contain the following information in the form of an affidavit sworn and subscribed by a duly licensed and qualified notary public:

1. the date, time and place of the public display including the length of time;

2. all fire prevention plans and provisions which will be present and in force and available to assure the public safety at the public display;

3. a copy of the license by the Office of the State Fire Marshal licensing the manufacturer, importer, distributor or jobber who will be supplying and/or conducting the public display or sufficient detail on the individual firm, corporation or other legal entity who will be supplying and/or conducting the public display to assure the state fire marshal or his certified local authority that the fireworks and the actual presentation and conduct of the public display will not

endanger the public safety; such facts required in lieu of a license include business history, including length of time in business; representative clients; references from public officials in fire safety; educational background of employees; and any and all other types of information which would assure the fire marshal or his certified authority that the public display will not endanger the public safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 4:388 (October 1978), repromulgated LR 6:75 (February 1980), amended by the Office of the State Fire Marshal, LR 7:12 (January 1981), LR 8:485 (September 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1699 (December 1997).

§1903. Licenses

Anyone applying for licenses under R.S. 51:656 shall set forth not only such information as may be required by the application attached hereto and made part hereof but all such information as shall be necessary for the fire marshal to determine that the manufacturing, importation, distribution and sale of the fireworks in question will not endanger the public safety; such facts shall include but are not limited to business history, including length of time in business; proof of taxes paid; representative clients; references from public officials in fire safety; educational background of employees; and any and all other types of information which would assure the fire marshal or his certified authority that the public display will not endanger the public safety. All of the information both on the form and any additional information must be sworn and subscribed before a duly licensed and qualified notary public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 7:642 (December 1981), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1700 (December 1997).

Chapter 21. Flammable and Combustible Liquids

§2101. Unattended Flammable Liquid Dispensing Systems

Unattended flammable liquid dispensing systems shall comply with the requirements of NFPA 30 and 30A, published by the National Fire Protection Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 3:498 (December 1977), repromulgated LR 6:75 (February 1980), amended by the Office of the State Fire Marshal, LR 8:523 (October 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1700 (December 1997).

§2103. Specification for Flammable and Combustible Liquid Containers

A. All flammable liquid (Class I) containers shall meet the requirements of NFPA 30 and/or 30A except as otherwise provided herein.

B. Nonreusable polyethylene containers made of DOT Type III plastic, treated, if necessary, to prevent permeation; having a minimum overall thickness of 0.010 inches; a rated

capacity not over 2.5 gallons; a 15 percent maximum outage over mark capacity meeting the closure and testing requirements of, and containing combustible products authorized by DOT Specification 2U, shall be acceptable for Class II and Class III fuels.

C. All containers must be labeled to verify ANSI-ASTM D 3435-78 for Class I liquids and DOT Specification 2U for Class II and Class III liquids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 9:691 (October 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1700 (December 1997).

Chapter 23. Boards Within the Office of the State Fire Marshal

§2301. Fire Marshal Board of Review

A. Any application to the board of review shall contain the following basic information set off in organized fashion with captions indicating that the paragraph in question contains the following basic information:

1. the name of the applicant;
2. a brief description of the facts;
3. a copy of the order of the fire marshal which is being appealed;
4. a reference to the section of the law or code being reviewed;
5. a brief description of why the applicant feels the requirements of the fire marshal are not within the fire marshal's authority, or brief description of why the interpretation of the fire marshal is incorrect, or what specific relief is required by the applicant;
6. a list of the individuals who will be appearing before the board and a brief description of the testimony or information they will be providing to the board;
7. a list of all documents which will be introduced or provided to the board along with a brief description of the documents, and, if possible, a copy of said documents;
8. a list of each exhibit except for documents, and a brief description of each exhibit;
9. written proof of authority signed by the owner if the applicant is not the owner.

B. Whenever possible, a copy of the meeting notice including the date, time and place, and agenda of the meeting of the board will be published in the official notices of the official state journal; furthermore, whenever possible, a press release containing the same information will be mailed to the official journals of the cities of Shreveport, Monroe, Lafayette, Lake Charles, Alexandria, New Orleans, and Baton Rouge and any city or town in which the meeting of the board is to be held if it is not one of the aforementioned major cities; and the same information shall be mailed to each individual who has notified the fire marshal of his desire to receive a notice of such appeal.

C. A copy of the determination of the board, as prepared by the chairman, will be mailed to each individual who requests a copy of that specific determination as well as to the applicant.

D. The time delays for filing an appeal shall be those specified in R.S. 40:1577 and 40:1578.1(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 4:257 (July 1978), amended LR 6:517 (August 1980), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1700 (December 1997).

Thomas H. Normile
Undersecretary

9712#077

RULE

Department of Public Safety and Corrections Office of State Police

Out-of-State Inspection Stations (LAC 55:III.808)

In accordance with R.S. 32:1301 et seq., the Department of Public Safety and Corrections, Office of State Police is exercising the provisions of the Administrative Procedure Act to adopt a rule pertaining to the implementation of the 1997 Regular Session amendments to R.S. 32:1301 and R.S. 32:1305 authorizing the establishment of motor vehicle inspection stations by any business owning more than 40 motor vehicles registered pursuant to the International Registration Plan in Louisiana and operating at least one vehicle repair and maintenance shop. The 1997 amendment authorizes the establishment of such inspection stations within or without the state of Louisiana.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 8. Vehicle Inspection

Subchapter D. Appointment as an Inspection Station

§808. Out-of-State Inspection Stations

A. All inspections of motor vehicles registered in Louisiana pursuant to the International Registration Plan, if conducted outside the state of Louisiana, shall be conducted during the months of October, November, and December.

B. All inspection reports shall be received by the Safety Enforcement Section no later than January 31 of the year following the date the motor vehicle was inspected at the out-of-state inspection station. The reports shall be mailed to the Office of State Police, Safety Enforcement Section at Post Office Box 66614, Baton Rouge, Louisiana 70896; or hand delivered at the Safety Enforcement Section headquarters at 265 S. Foster Drive, Baton Rouge, Louisiana 70806.

C. Prior to issuing a certificate of appointment authorizing an out-of-state inspection station, the applicant shall provide the full name, telephone number (including area code), complete mailing and physical addresses of two contact persons. One contact person shall be located inside the state of Louisiana, and one contact person shall be located at the site of the out-of-state inspection station.

D. All mechanic inspectors shall be trained in Louisiana by a safety enforcement officer.

E. All inspection certificates shall be mailed directly to the mailing address of the contact person located at the out-of-state inspection station.

F. It shall be the responsibility of the contact person located at the out-of-state inspection station, upon receipt of the inspections certificates, to notify the Safety Enforcement Section of the receipt of the inspection certificates. The contact person shall verify the audit numbers of the certificates received and include a statement of this verification in the notice to the Safety Enforcement Section required in this Subsection. The notification required by this Subsection shall be in writing, but may be sent by facsimile to the Safety Enforcement Section headquarters in Baton Rouge, LA. If the notice required by this Subsection is sent by facsimile, the person shall contact headquarters to verify the telephone number for receiving facsimiles prior to sending the facsimile.

G. The inspection log books shall be sent to the applicant's Louisiana contact, who shall have the responsibility of forwarding the log books to the out-of-state inspection station.

H. All lost or stolen inspection stickers shall be reported to the Safety Enforcement Section and to a law enforcement agency having criminal jurisdiction over the location of the out-of-state inspection station. The notice required by this Subsection shall be in writing and shall be sent to the Safety Enforcement Section headquarters in Baton Rouge, LA. The Safety Enforcement Section headquarters shall also be provided, by the out-of-state contact person, with a copy of the police report completed by a commissioned member of the agency contacted regarding the loss or theft of the inspection stickers.

I. Each out-of-state inspection station shall only purchase the number of stickers needed to inspect the number of commercial motor vehicles registered in Louisiana that use that location. The inspection stickers are sold in books of 25. Each out-of-state inspection station may purchase an additional 10 percent of its projected allotment to account for fluctuations in fleet numbers. The allotment for each out-of-state inspection station shall be determined by the Safety Enforcement Section based on information provided by the applicant. Any requests for additional stickers shall be in writing and shall include an explanation as to why additional stickers are needed. Inspection stickers issued to one out-of-state inspection station shall not be transferred or assigned to another inspection station without prior written approval by the Safety Enforcement Section. The request for such approval shall be in writing and shall state the reasons for requesting such transfer or reassignment of stickers. If such transfer or reassignment is approved, all inspection stations involved in such transfer or reassignment of stickers shall maintain detailed records so as to provide a clear audit trail for the stickers.

J. Each out-of-state inspection station shall place inspection reports in numerical order prior to submitting the reports to the Safety Enforcement Section headquarters in Baton Rouge, LA. All inspection stickers shall be accounted for, and any missing inspection stickers shall be documented by the lost or stolen report required in this Section. Any inspection sticker remaining unused at the end of the calendar

year shall be destroyed or returned to the Safety Enforcement Section. In either case, a record of the disposition of the remaining stickers shall be submitted to the Safety Enforcement Section.

K. All out-of-state inspection stations are subject to unannounced inspection of their facilities by safety enforcement officers between 8 a.m. central time and 4:30 p.m. central time. All out-of-state inspection station employees shall cooperate fully with the Safety Enforcement Section personnel conducting the inspection. All out-of-state inspection stations are subject to inspections at other times if the station is in operation at the time of the safety enforcement inspection. All records relating to motor vehicle inspections located at the out-of-state inspection station shall be made available immediately upon request by personnel of the Safety Enforcement Section. All such records are subject to seizure in connection with such investigation, unless the safety enforcement officer in charge of the inspection determines that accurate and acceptable copies can be obtained. The applicant shall have the burden of providing such copies.

L. All personnel assigned to the Safety Enforcement Section are authorized to conduct, or assist in the conduct of, any investigation of an out-of-state inspection station. The deputy secretary of the Department of Public Safety and Corrections, Public Safety Services may assign personnel from other offices, divisions, or sections of the department to conduct, or assist in the conduct of, any investigation, and any such personnel shall have the same authority as personnel of the Safety Enforcement Section. Safety enforcement officers may conduct an investigation of any complaint concerning the condition of any motor vehicle inspected by an out-of-state inspection station. Any complaint arising from a motor vehicle condition report, an accident report from any law enforcement agency located inside or outside Louisiana, or written complaint from a member of the public may be investigated by personnel of the Safety Enforcement Section.

M. All out-of-state inspection stations shall adhere to all Louisiana laws governing the Motor Vehicle Inspection Program, as well as all rules and regulations in the most current *Motor Vehicle Inspection Manual*. It is the responsibility of the permittee to maintain a current manual at any inspection station and to make all inspectors aware of the contents of the manual.

N. The operator, as well as each appointed out-of-state inspection station, shall comply with all orders issued by the Safety Enforcement Section or its personnel or any other employee of the department acting under the direction of the deputy secretary of the department, as provided in this Section.

O. Any violation of any rule regarding motor vehicle inspections, any statute regarding motor vehicle inspections, or any order issued by, or on behalf of, the Safety Enforcement Section may serve as grounds to initiate an administrative proceeding to impose a sanction. The sanctions which may be imposed as a result of an administrative proceeding include the suspension, revocation, or cancellation of any or all certificates of appointment authorizing the operation of an inspection station or stations, or the imposition of a fine or other penalty, as is appropriate in each case.

P. The Safety Enforcement Section may impose conditions, restrictions, or limitations on any permit without regard to whether any violation has occurred.

Q. The Safety Enforcement Section, any employee of the Safety Enforcement Section, or any employee of the department assigned by the deputy secretary to assist the Safety Enforcement Section, may issue written orders to any inspection station or permittee in connection with the enforcement of the motor vehicle inspection statutes or rules. Any order issued in connection with an onsite inspection is effective immediately, whether or not the order is in writing. The permittee may seek a hearing to review any order, but any order issued in connection with an onsite inspection is not automatically stayed by the submission of a hearing request.

R. The operator, as well as any employee of the operator participating in any violation of these rules, the state statute regarding motor vehicle inspections, or any order by or on behalf of the Safety Enforcement Section, are subject to the administrative penalties of this Section.

S. Any business entity domiciled in Louisiana, or any foreign business entity authorized to do business in Louisiana, already permitted to operate a fleet inspection station or whose commercial vehicles are registered in Louisiana and who wishes to operate an out-of-state inspection station shall make a written request to the Office of State Police, Safety Enforcement Section, Box 66614, Baton Rouge, LA 70896.

T. All applications for a certificate of appointment to operate an out-of-state inspection station and for a mechanic inspector at such out-of-state inspection station shall be subject to an investigation of the background of the applicant. The background investigation shall consist of a review of the same requirements as are contained in §807 for appointment of inspection stations and approval of mechanic inspectors, except that a mechanic inspector need only possess the appropriate class driver's license for the type of vehicle he inspects, issued from the state in which he resides or works. The Safety Enforcement Section shall maintain a list of all applicants for certificates of appointments to operate inspection stations and all applicants seeking to be mechanic inspectors at an inspection station. The listing shall indicate those persons and entities which have been approved and those persons and entities which have not been approved.

U.1. The operator shall be responsible for the reimbursement of the actual costs incurred by the department in administering the out-of-state inspection program. The costs shall include the expenses incurred for travel, meals, lodging, and other related expenses incurred in connection with the application for a certificate of appointment, the initial inspection in connection with commencement of operation of the out-of-state inspection station, and any subsequent inspection or investigation of the out-of-state inspection station to insure all requirements of state statutes, the rules regarding motor vehicle inspections, any order issued by or on behalf of the Safety Enforcement Section are met.

2. The travel expenses incurred in connection with any out-of-state travel shall comply with the travel policies established by the Division of Administration in the Governor's Office. The manner in which travel to the site of an out-of-state inspection station is accomplished shall be at

the sole discretion of the department, subject to the policies of the Division of Administration.

V. The provisions of §807 govern all aspects of regulation of out-of-state inspection stations including applications for appointment or approval, training, inspection requirements, and reporting requirements, except as expressly provided in this Section and except in the instance of conflict between the provisions of §807 and §808, in which case the provisions of §808 shall apply.

W. Only those inspection stations which qualify as fleet stations are eligible for appointment as out-of-state inspection stations, except that the fleet must consist of at least 40 motor vehicles registered in Louisiana pursuant to the International Registration Plan.

X. Any request for an administrative hearing shall be made, in writing, to the Safety Enforcement Section headquarters at Post Office Box 66614, Baton Rouge, LA, 70896 within 30 days of the date of the issuance of the notice of administrative action on a violation, the date of issuance of an order issued by or on behalf of the Safety Enforcement Section, or the date of issuance of any other action of the Safety Enforcement Section.

Y. Unless specified otherwise, in writing, and except as provided above, a request for an administrative hearing shall stay the enforcement of any action or order of the Safety Enforcement Section.

Z. Any person seeking a declaratory order or ruling regarding the application or interpretation of any statute or rule, as it may apply to motor vehicle inspections or regarding the validity of any rule as it may apply to motor vehicle inspections, shall make such request in writing. Any request for a declaratory order or ruling shall be mailed to the Safety Enforcement Section at Post Office Box 66614, Baton Rouge, LA 70896. Such request shall be typed, printed, or written legibly and shall include the full name, mailing address, physical address, and daytime telephone number of the person making the request. Such request shall include citations to legal authorities the person believes to be relevant to the issue or which the person wishes to be considered in connection with such declaratory order or ruling. If the matter over which the person seeking the declaratory order or ruling involves a person(s) other than the one making the request, then the person requesting the order or ruling shall notify the involved person(s) by certified mail, return receipt requested, prior to submitting the request to Safety Enforcement. The failure to comply with these requirements shall be grounds to refuse to render an order or ruling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 23:1701 (December 1997).

Thomas H. Normile
Undersecretary

9712#072

RULE

Department of Revenue Sales Tax Division

Sales Tax on Lease or Rental Payments (LAC 61:I.4303)

Under the authority of R.S. 47:302(B) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Sales Tax Division amends LAC 61:I.4303.B, pertaining to the sales tax on rental or lease payments, to clarify the tax due when property is leased within Louisiana for use both within and without the state.

Title 61

REVENUE AND TAXATION

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

Chapter 43. Sales and Use Tax

§4303. Imposition of Tax

* * *

B. Tax on Lease or Rentals

1. General Rule

a. Revised Statute 47:302(B) provides that the Louisiana lease tax shall be paid on leases "within this state" and R.S. 47:301(7) defines *lease* or *rental* as "the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter, for consideration, without transfer of the title of such property." Therefore, the Louisiana lease tax is due when a lessee possesses or uses leased tangible personal property within Louisiana, regardless of where the lessor and lessee entered into the lease contract or where the lessor transferred possession of the leased property to the lessee.

b. *Lease* also means *rental* for the purposes of this Subsection.

c. Lease payments on leases within Louisiana are subject to the tax rate provided in Title 47 of the Revised Statutes. The tax rate must be applied to each payment, whether made monthly or according to some other schedule.

d. A lessor of leased property, as a *dealer* and agent for the Department of Revenue (department), shall collect the lease tax from the lessee of the leased property. The lessor must report lease payments on a cash-receipt basis, as provided in R.S. 47:306(A)(2).

e. Gross proceeds derived from the lease of tangible personal property within Louisiana are subject to the lease tax whether the leasing of tangible personal property is the established business of the taxpayer or is only incidental to the taxpayer's established business. Operating expenses and maintenance costs for keeping leased property in repair cannot be deducted from gross proceeds in arriving at the taxable base.

2. Exceptions to the General Rule

a. Revised Statute 47:305(E)(1) provides that:

"nor is it the intention of this Chapter [Chapter 2 of Title 47 of the Revised Statutes] to levy a tax on bona fide interstate commerce."

The lease tax imposed under R.S. 47:302(B) is a tax levied under Chapter 2 of Title 47 of the Revised Statutes. Therefore, the lease tax is not due on the lease of tangible personal property for those periods of time that it is used in bona fide interstate commerce, whether the use in bona fide interstate commerce is in Louisiana or outside of Louisiana.

b. If the lessee used the leased tangible personal property both in bona fide interstate commerce (whether within or without Louisiana) and in intrastate commerce in Louisiana, the lease tax is due only on the portion of the lease payments attributable to operational usage in Louisiana in intrastate commerce. What constitutes *operational usage* shall be based on industry custom and the type of property at issue (e.g., flight time, vehicle miles). If average operational usage in Louisiana intrastate commerce is equal to or less than 10 percent of total operational usage during a lease payment billing period, the leased property shall be deemed to be used exclusively in interstate commerce, and no lease tax shall be due for that period. Average operational usage in Louisiana intrastate commerce shall be determined by a ratio, the numerator of which is total Louisiana intrastate operational use, and the denominator of which is total operational use (both intrastate and interstate). If average operational usage in Louisiana intrastate commerce is equal to or greater than 90 percent of total operational usage during a lease payment billing period, the leased property shall be deemed to be used in Louisiana intrastate commerce, and lease tax shall be due on the entire lease payment for that period. Average operational usage in bona fide interstate commerce shall be determined by a ratio, the numerator of which is total bona fide interstate operational use, and the denominator of which is total operational use (both intrastate and interstate). Nothing in this Subparagraph shall be construed to prohibit the department from imposing a lease tax on leased property stored in Louisiana for use in intrastate commerce in Louisiana.

c. The lease tax is not due if the leased property is leased for use and actually used in an offshore area beyond the territorial limit of Louisiana. In order for this exclusion to apply, the leased property may not be used within Louisiana and the lessee must complete an LGST-9B sales tax exemption certificate stating that the leased property will be used in a specific offshore area. The definition of *use*, for the purposes of Paragraph 2, is found in R.S. 47:301(4)(d)(ii).

d. The department shall authorize lessees, who are registered with the department on a form to be provided by the department, and who used leased property in whole or in part outside Louisiana and/or in whole or in part in bona fide interstate commerce (whether within or without Louisiana), to issue exemption certificates to the lessors of the leased property for such use. A lessor receiving such an exemption certificate shall not be required to collect the lease tax for such leases, and lessees issuing such exemption certificates shall be responsible for reporting lease payments and paying the lease

tax to the department for leases in accordance with the provisions of this regulation.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:302.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 13:107 (February 1987), amended LR 19:1033 (August 1993), amended by the Department of Revenue, Sales Tax Division, LR 23:1703 (December 1997).

John Neely Kennedy
Secretary

9712#001

RULE

Department of Revenue Severance Tax Division

Severance Tax on Timber, Pulpwood, and Minerals Other Than Gas and Oil (LAC 61:I.2901)

Under the authority of R.S. 47:631 and 633 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Severance Tax Division has amended LAC 61:I.2901 to reflect changes to the severance tax statutes.

Act 40 of the 1997 Regular Legislative Session amended R.S. 47:631 and repealed R.S. 47:633(17), effective August 15, 1997, to repeal the \$0.06 per ton severance tax on gravel. Act 460 of the 1975 Regular Legislative Session amended R.S. 47:633(3), effective December 1, 1975, to change the way timber is taxed to a percentage of the market value rather than the species. Amendments to the severance tax regulations are to reflect these statutory changes.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered By the Secretary of Revenue

Chapter 29. Natural Resources: Severance Tax §2901. Severance Tax on Timber, Pulpwood, and Minerals Other Than Gas and Oil

A. In General

1. The *severance tax* imposed by R.S. 47:631 is an excise tax upon the privilege of severing any natural resources from the soil or water. All resources found in a natural state which are of any commercial value whatsoever are natural resources and are subject to the severance tax.

2.a. *Severance* means the separation of the natural resource from the soil or water, or its removal from its natural position.

For example: the dredging of sand from a river; the cutting of timber; or the mining or removal of a mineral from its natural location.

b. Severance does not refer to the refinement of a natural resource after its removal.

3. *Severer* means any person engaged in the operation of severing natural resources from the soil or water, whether that person is the owner of the soil or water; or other person

severing from the soil or water of another; or the owner of a natural resource severing from the soil or water of another.

4. The tax is due by the severer, whether the natural resource is used by him or sold to another. If it is used by the severer, the tax is due by the severer. If it is sold, the tax is due by the severer; or by the purchaser, if for any reason it is not paid by the severer. If the natural resource is sold to the state or to the federal government, the tax is still due because the liability for the tax falls primarily on the severer and not on the purchaser. The tax is due on all natural resources removed from the state after severance and must be paid to the state of Louisiana. There is no provision of the law to exempt the parish, municipality, nor any board or agency of the state of Louisiana from the payment of this tax. However, the tax is not due or owed by a town, parish, or other political subdivision of the state which engages in severing sand or any other natural resource for its own use. Among the resources included are all forms of timber, pulpwood, and minerals such as sulphur, salt, coal, lignite, and ores; also marble, stone, sand, shells, and other natural deposits; and the salt content in brine.

B. Reports and Payment of Tax

1. By Severers

a. Every person severing any natural resource from the soil or water of the state must file a report, on forms obtained from the Department of Revenue, on or before the last day of the month following the month during which the natural resource is severed. It is necessary that the report be filed in duplicate. The tax due shall become delinquent after the last day of the month in which the tax is due and payable. For example, the tax due for products severed in October will become delinquent on the first day of December if not paid on or before November 30. Delinquent reports and tax shall be subject to penalties, interest, and other additional costs. The report, together with payment for the tax due thereon, is required to be delivered (by mail or in person) to the cashier's division of the Department of Revenue showing the following information in the spaces provided therefor:

- i. parish in which resource is severed and the month during which severed;
- ii. the name and address of the person or corporation making the report;
- iii. the product severed, the quantity and amount of tax;
- iv. all the information in the schedules on the reverse side of the report form, where applicable.

b. In cases where there were no operations during the month, a report must be filed indicating "no operations." Each report must be signed by the reporting taxpayer or officer of the corporation under declaration that it is made under the penalties imposed for perjury.

2. By Purchasers. On or before the last day of the month following the month to which the tax is applicable, purchasers and other persons dealing in any natural product severed from the soil or water in Louisiana shall deliver to the cashier's division of the Department of Revenue a monthly report on forms procured from the department. The report must be signed under the declaration that is made under the penalties imposed for perjury and must show on the reverse side the names and addresses of all persons from whom they

have purchased any natural product during the month, together with the total quantity of each natural product. At the time of making the report, the purchaser or other dealer shall pay to the secretary the amount of tax deducted or withheld at the time of the purchase. If, for example, the seller had paid the severance tax, none would be due by the purchaser; however, the purchaser must file a monthly report showing the name and address of each person from whom the purchases were made, as well as the quantity and kind of product purchased.

C. Types of Product and Tax Rates

1. Timber. Severance tax must be paid on all trees and timber severed from the soil or water in Louisiana. Timber may be cut in Louisiana and transferred to another state to be made into lumber or other products, but the severance tax must be paid to the state of Louisiana regardless of the use after severance. In cases where the timber is cut by private interests in national forests, the usual practice is to scale and pay for the timber prior to cutting, and the purchaser or severer is thus liable for the severance tax. Whether the timber is scaled before or after cutting, the severance tax is collected from the purchasers on timber cut by them in national forests located in Louisiana. The rate, per ton, is established by applying the statutory tax rate to the average stumpage market value determined annually by the Louisiana Forestry Commission and the Louisiana Tax Commission. Because of the fluctuating market from year to year, it is necessary that the taxpayer use the proper report form applicable to the year for which his monthly report is being filed.

2. Pulpwood. The severance tax must also be paid on all trees and timber classified as pulpwood, both hardwood and pine. The rate per ton is established by applying the statutory tax rate to the annual average market value as determined by the Louisiana Forestry Commission and the Louisiana Tax Commission. Like timber, the pulpwood severance tax must be reported on the proper form for the year in which the monthly report is filed.

3. Sand

a. Sand is a noncohesive granular material consisting of particles finer than 10 mesh, 2.00 mm, but coarser than 200 mesh, 0.074 mm in size. For taxable purposes, sand is divided into three categories:

- i. washed sand;
- ii. river sand; and
- iii. other sand.

b. Sand contained in a sand-clay gravel mixture or pit-run gravel mixture is specifically excluded from those three categories and the provisions applicable thereto. In the case of materials which have been blended from two or more sources, the determination as to whether the blended materials constitute sand, as defined below, must be made separately on the basis of the materials severed from each source. The severance tax rate on sand is \$0.06 per ton of 2,000 pounds. If production records as well as sales records are kept on a cubic-yard basis, it would be necessary to convert cubic yards to tons for the purpose of reporting and paying the severance tax. The official conversion factors are based on 2,700 pounds per cubic yard, and the factors for the three categories of sand are shown below:

	Cubic Yards to Tons Conversion Factor
Washed Sand	1.35
River Sand (8% by weight allowance included)	1.24
Other Sand (8% by weight allowance included)	1.24

Computation of tax:
cubic yards x conversion factor = tax

c. Washed Sand. In the case of washed sand, the entire weight will be considered to be taxable without any allowance for foreign substances.

d. River Sand. River sand or fill material removed from the Mississippi River, or batture, or other rivers and bodies of water will be deemed to be taxable in the absence of the submission of written proof that more than 15 percent by weight of such material consists of foreign substances (silt and other foreign matter). An exclusion from the tax of 8 percent of the entire weight severed will be allowed for silt without the necessity of supporting such allowance with representative samples or other proof. However, an exclusion in excess of 8 percent by weight will not be allowed without submission of proof that the foreign substances contained in the material severed exceeds 8 percent by weight.

e. Other Sand

i. Other sand will be considered to be subject to tax if it constitutes 85 percent by weight or more of the materials extracted, as defined under "sand" above. An exclusion from the tax of 8 percent of the entire weight severed will be allowed for foreign substances without the necessity of supporting such allowance with representative samples or other proof. However, an exclusion in excess of 8 percent by weight will not be allowed without submission of proof that the foreign substances contained in the material severed exceeds 8 percent by weight.

ii. It is the responsibility of the severer, purchaser, and user, to establish, to the satisfaction of the secretary, that soil on which the sand severance tax is not being paid does not constitute sand, as defined above. For this purpose, the secretary may require the submission of representative samples from each separate source and such other data as he may consider appropriate. It is also the responsibility of the severer, purchaser, and user to maintain adequate records as to the quantity, quality, and taxable status of such materials by source.

4. Shells. The two principal kinds of shell are clam and reef or oyster. The shells shall be reasonably free from objectionable matter such as sticks, mud, clay lumps, or other foreign materials. Severance tax on shells shall be paid on actual weight including moisture and foreign matter up to, but not in excess of, 12 percent. The rate of tax is \$0.06 per ton of 2,000 pounds. For the purpose of reporting and paying the severance tax, where the production and sales records are kept on a cubic-yard basis, it is necessary to utilize the conversion table shown below.

	Conversion Factor
Shells (reef or oyster) 1500 lbs. per cu. yd.	.75
Shells (clam) 1750 lbs. per cu. yd.	.875
Computation of tax: cubic yards x conversion factor = tons x rate = tax	

5. Stone. Generally, crushed stone is recognized as consisting of clean, tough, sound, durable particles of stone. The severance tax rate on stone is \$0.03 per ton of 2,000 pounds. Where production and sales records are kept on a cubic-yard basis, it is necessary to convert to tons for severance tax reporting and paying purposes. The conversion table is shown below:

	Conversion Factor
Stone (crushed) 2700 lbs. per cu. yd.	1.35
Computation of tax: Cubic yards x conversion factor = tons x rate = tax	

6. Marble. Generally, marble is defined as any limestone, granular to compact in texture, capable of taking polish or of being used for fine architectural work. Marble (proper) differs from common limestone in being more or less crystallized by metamorphism. The severance tax rate on marble is \$0.20 per ton of 2,000 pounds.

7. Minerals. There is a severance tax on the salt content in brine (commonly referred to as salt brine) extracted or produced in solution from the soil or water, when the same is used in the manufacture of other products and is not marketed as salt. The severance tax rates for the minerals in this Section are as follows:

Sulphur	\$1.03 per long ton of 2,240 pounds
Salt	\$0.06 per ton of 2,000 pounds
Salt content in brine	\$0.005 per ton of 2,000 pounds
Coal	\$0.10 per ton of 2,000 pounds
Lignite	\$0.12 per ton of 2,000 pounds
Ores	\$0.10 per ton of 2,000 pounds

AUTHORITY NOTE: Adopted in accordance with R.S. 47:631 and 633.

HISTORICAL NOTE: Adopted by the Department of Revenue and Taxation, Severance Tax Section, October 1970, promulgated LR 13:111 (February 1987), amended by the Department of Revenue, Severance Tax Division, LR 23:1704 (December 1997).

John Neely Kennedy
Secretary

9712#023

RULE

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

Family Independence Temporary Assistance Program (FITAP)—Earned Income Deductions (LAC 67:III.1149 and 1163)

The Department of Social Services, Office of Family Support has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP), which has replaced the Aid to Families with Dependent Children (AFDC) Program.

Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, empowered the state to establish a cash assistance program for the expenditure of federal funds for the Temporary Assistance to Needy Families Block Grant. The 1997 Regular Session of the Louisiana Legislature established an earned income deduction which will be applied in determining eligibility and benefits. This rule effects these regulations and repeals §1163 which is obsolete.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 11. Application, Eligibility and Furnishing Assistance

Subchapter C. Need and Amount of Assistance

* * *

§1149. Earned Income Deductions

Each individual in the income unit who has earned income is entitled to a standard deduction, a \$900 time-limited deduction, and in certain circumstances, to a deduction for dependent care. The following deductions are applied, and no other deductions are allowed:

1. Standard Deduction. The standard deduction is \$120.
2. \$900 Time-Limited Deduction. This deduction is applied for six months when a recipient's earnings exceed the \$120 standard deduction. The months need not be consecutive nor within the same certification periods. The deduction is applicable for a six-month lifetime limit for the individual.
3. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:460.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), amended LR 10:1030 (December 1984), amended by the Department of Social Services, Office of Eligibility Determinations, LR 15:629 (August 1989), amended by the Department of Social Services, Office of Family Support, LR 18:869 (August 1992), amended LR 23:1707 (December 1997).

§1163. Extension of \$30 Disregard

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 98-369, PL 100-485, F.R. 49:35586 et seq., and R.S. 46:460.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), amended by Department of Social Services, Office of Eligibility Determinations, LR 15:629 (August 1989), repealed by the Department of Social Services, Office of Family Support, LR 23:1707 (December 1997).

Madlyn B. Bagneris
Secretary

9712#075

RULE

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

Family Independence Temporary Assistance Program (FITAP)—Eligibility and Exceptions (LAC 67:III.Chapters 9, 11, and 13)

The Department of Social Services, Office of Family Support has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP), which has replaced the Aid to Families with Dependent Children (AFDC) Program.

Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, empowered the state to establish a cash assistance program for the expenditure of federal funds for the Temporary Assistance to Needy Families Block Grant. The 1997 Regular Session of the Louisiana Legislature adopted laws which establish FITAP as Louisiana's program. Subsequently, this rule effects new regulations regarding controlled substance convictions and domestic violence, respectively in §§1118 and 1126, and other revised regulations.

Additionally, whereas the Family Independence Project promulgated in Chapter 13 has been supplanted by FITAP regulations, this rule continues and relocates the eligibility conditions of the project in Chapter 11, new §§1114, 1120, 1122 and 1124. The regulation in §1129 is relocated to §1115. Some sections are repealed due to obsolescence.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 9. Administration

§901. Authority

The Family Independence Temporary Assistance Program (FITAP) has been established in accordance with applicable federal and state laws.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231 and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991), amended LR 23:1707 (December 1997).

Chapter 11. Application, Eligibility and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1114. Time Limits

A. The Office of Family Support shall deny FITAP cash benefits to families if the parent has received FITAP for at least 24 months during the prior 60-month period. Only months of FITAP receipt after the January 1, 1997 date of implementation count toward the 24-month limit. This provision does not apply in the following situations (in two parent households, both parents must meet at least one of these criteria):

1. the parent is incapacitated or disabled;
2. the parent has been actively seeking employment by engaging in job-seeking activities and is unable to find employment;
3. factors relating to job availability are unfavorable;
4. the parent loses his job as a result of factors not related to his job performance; or
5. an extension of benefits of up to one year will enable the adult to complete employment related education or training.

B. Eligibility for cash assistance under a program funded by Part IV of the Social Security Act is limited to a lifetime limit of 60 months. No cash assistance will be provided to a family that includes an adult who has received assistance for 60 months (whether or not consecutive). Any month for which such assistance was provided will be disregarded with respect to the individual, if the individual was:

1. a minor child; and
2. not the head of a household or married to the head of a household.

C. Assistance is not denied to an incapacitated or disabled individual in an assistance unit/household which is subject to the time limitation provisions. Assistance for the incapacitated or disabled individual continues as long as the family continues to meet all other FITAP eligibility requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:231.6 and HCR 31, Regular Session, 1997.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:1708 (December 1997).

§1115. Resource Limit

A. - B.2. ...

3. One burial plot and one funeral agreement per family member shall be exempt from the FITAP resource limitation. Real property which the family is making a good faith effort to sell shall also be exempt for nine months, provided the family agrees to repay the FITAP benefits received during that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:443.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), amended by the Department of Social Services, Office of Family Support, LR 19:1340 (October 1993), LR 23:1708 (December 1997).

§1118. Individuals Convicted of a Felony Involving a Controlled Substance

An individual convicted under federal or state law of any offense which is classified as a felony by the law of the

jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C.802[6]) shall be disqualified from receiving cash assistance for a period of one year, commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall not apply to convictions occurring on or before August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:233.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:449 (April 1997), amended LR 23:1708 (December 1997).

§1120. Immunization

Failure to follow the schedule of immunizations as promulgated by the Louisiana Office of Public Health for any child under 18 years of age, without good cause, shall result in the child's removal from the FITAP grant until the child has received the required immunizations, or, in the case of an immunization that requires a series of injections, has begun to receive the injections. No person is required to comply with this provision if that person or his/her parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his/her parent or guardian objects to the procedure on religious grounds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:231.4.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:1708 (December 1997).

§1122. School Attendance

At redetermination, a child who has missed more than 15 days of school without good cause during the previous six-month period shall be placed in a probationary status. If during the probationary period a child is absent from school for more than three days in a given calendar month without good cause, the child's needs shall be removed from the FITAP grant until documentation that the child's attendance meets the requirements is provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:231.3.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:1708 (December 1997).

§1123. Retrospective Budgeting/Monthly Reporting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, P.L. 100-485 (Section 402), 45 CFR 205-206,233-234, and R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), repealed by the Department of Social Services, Office of Family Support, LR 23:1708 (December 1997).

§1124. Sanctions for Refusal to Accept a Job

Eligibility for FITAP shall be terminated for three months if a parent in the assistance unit declines or refuses the opportunity for full-time employment without good cause. The three-month sanction period counts as months of FITAP receipt when applying the 24-month time limit. Assistance is not denied to an incapacitated or disabled individual in an assistance unit/household which is subject to sanction for

refusal to accept full-time employment. Assistance for the incapacitated or disabled individual continues as long as the family continues to meet all other FITAP eligibility requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:231.6.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:1708 (December 1997).

§1125. Monthly Reporting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 98-369, F.R. 49:35586 et seq. and R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), repealed by the Department of Social Services, Office of Family Support, LR 23:1709 (December 1997).

§1126. Domestic Violence

A. The secretary shall waive, for as long as necessary, pursuant to a determination of good cause, any public assistance program requirement that will create obstacles for a victim of domestic violence to escape a domestic violence situation, including but not limited to, time limits on receipt of assistance; work, training, or educational requirements; limitations on TANF assistance to noncitizens; child support or paternity establishment cooperation requirements; residency requirements; and any other program requirements which will create obstacles for such victim to escape violence or penalize that victim for past, present, and potential for abuse.

B. Any information obtained pursuant to this Section regarding a victim of domestic violence shall be used solely for the purposes provided for in this Section or for referral to supportive services and shall not be released to any third party, including a governmental agency, unless such agency is authorized to obtain such information by another provision of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.4 (Act 1248 of the 1997 Regular Session).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:1709 (December 1997).

§1129. Resource Exclusions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 98-369, F.R. 49:35586 et seq. and R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), repealed by the Department of Social Services, Office of Family Support, LR 23:1709 (December 1997).

Subchapter G. Work Programs

§1189. Exemption in Non-Win Parishes

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 233.10 (a)(1)(ii)(B) and R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:115 (February 1986), repealed by the Department of Social Services, Office of Family Support, LR 23:1709 (December 1997).

§1191. Work or Work Registration Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, P.L. 100-485 (Section 402), 45 CFR 205-206, 233-234 and R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), repealed by the Department of Social Services, Office of Family Support, LR 23:1709 (December 1997).

§1193. Work Registration Requirements for Pregnant Women

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 98-369, F.R. 49:35586 et seq. and R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), repealed by the Department of Social Services, Office of Family Support, LR 23:1709 (December 1997).

Chapter 13. Reserved (formerly Special Conditions of Eligibility)

Subchapter A. Reserved (formerly Family Independence Project)

§1301. Reserved (formerly Terms and Conditions)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:231.2, R.S. 46:447.3, 46:460, 46:474, 46:477, 46:239, 46:459 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:1232 (December 1996), amended LR 23:449 (April 1997), repealed LR 23:1709 (December 1997).

Madlyn B. Bagneris
Secretary

9712#076

RULE

Department of Social Services Office of Family Support

Food Stamps—Collection Methods and Penalties (LAC 67:III.2005)

The Department of Social Services, Office of Family Support has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 3, Food Stamps.

Pursuant to Public Law 104-134, the Debt Collection Improvement Act of 1996, delinquent food stamp recipient claims will now be referred to the Department of the Treasury for possible collection from certain federal payments. Collections made by the Financial Management Service (FMS), Department of the Treasury will result in the individual owing the delinquent claim being responsible for payment of an administrative fee charged by FMS. Fees have previously been assessed only on collections made through federal tax refund offsets. Under the Debt Collection Act, the Department of the Treasury assumes responsibility for federal tax refund and salary offsets and for administrative offset, and fees will be charged for collection in these areas.

Title 67
Social Services
Part III. Office of Family Support
Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households
Subchapter P. Recovery of Overissued Food Stamp Benefits

§2005. Collection Methods and Penalties

* * *

D. The agency may collect any type of overissuance by using means other than allotment reduction or cash repayment.

1. One of these means is the referral of delinquent food stamp claims to the Department of the Treasury for collection through the Federal Tax Refund Offset Program, the Federal Salary Offset Program, and the Administrative Offset Program. Administrative offset is the withholding of other funds payable by the federal government which may include, but not be limited to, federal retirement payments, military retirement, contractor/vendor payments, Railroad Retirement and Social Security payments. The Financial Management Service of the Treasury Department will charge an administrative fee for all collection services, and this fee will be added to the claim and deducted with any federal offset.

* * *

AUTHORITY NOTE: Promulgated in accordance with F.R. 48:6837 et seq., P.L. 97-35, 97-253, 101-624 §1746, and 102-237 §911, 7 CFR 272, 273, 276 and 277, P.L.103-66, P.L. 104-193, P.L. 104-134, 7 CFR 3 Subpart B.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 18:1133 (October 1992), LR 20:391 (April 1994), LR 20:780 (July 1994), LR 20:899 (August 1994), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:189 (February 1995), LR 22:584 (July 1996), LR 23:83 (January 1997), LR 23:1710 (December 1997).

Madlyn B. Bagneris
Secretary

9712#073

RULE

Department of Social Services
Office of Family Support

Food Stamps—Disqualification
(LAC 67:III.1988)

The 1997 Regular Session of the Louisiana Legislature adopted laws which affect policy pertaining to the Food Stamp Program. Subsequently, the Department of Social Services, Office of Family Support has amended LAC 67:III.1988 to change the disqualification period from permanent to a one-year period for those persons convicted of crimes that involve the possession, use, or distribution of a controlled substance.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households
Subchapter J. Determining Household Eligibility and Benefit Levels

§1988. Eligibility Disqualification of Certain Recipients

A. ...

B. An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802[6]), shall be disqualified from receiving food stamp benefits for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall not apply to convictions occurring on or before August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:233.1 (Act 1351 of the 1997 Regular Session).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:449 (April 1997), amended LR 23:1710 (December 1997).

Madlyn B. Bagneris
Secretary

9712#074

RULE

Department of the Treasury
Board of Trustees of the State
Employees' Retirement System

Emergency Refunds (LAC 58:I.1301 and 1305)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System (LASERS) amends the rules revising LAC Title 58, Part I, Chapter 13. The rules set forth the procedures for the emergency refund of employee contributions.

These rules comply with statutory law administered by LASERS and are enabled by R.S. 11:515.

No preamble regarding these rules is available.

Title 58

RETIREMENT

Part I. Louisiana State Employees'
Retirement System (LASERS)

Chapter 13. Emergency Refunds

§1301. Conditions Giving Rise to an Emergency Refund

A. A refund of accumulated employee contributions may be made in less than 30 calendar days after the date of separation from state service in the following situations:

1. the refund results from the death of the member; or
2. the member has significant expenses for medical care for himself, spouse, or child; or
3. an emergency situation of the member, which shall

consist of the foreclosure on a member's domicile, repossession of the member's vehicle, or eviction of the member from his or her apartment.

B. The member shall provide a written request detailing the emergency situation and the executive director shall approve or disapprove the request based on this written request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537(B).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 21:373 (May 1996), amended LR 23:1710 (December 1997).

§1305. Responsibility for Overpayment of a Refund

If the amount that is refunded is greater than the amount actually due the individual, the agency paying the contributions shall be responsible for recouping any overpayment from the individual who was overpaid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and 11:537(B).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:1711 (December 1997).

James O. Wood
Executive Director

9712#003

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Turkey Hunting Season—1998

(Editor's Note: Portions of the following rule, published on pages 1535 through 1538 of the November 1997 Louisiana Register, are being republished to correct typographical errors.)

1998 Turkey Hunting Season Schedule

* * *

1998 Turkey Hunting Season

Open Only in the Following Areas

Area A

March 21-April 26

* * *

Portions of the following parishes are also open:

* * *

Vernon: That portion east of Hwy. 171 from the Sabine Parish line to the junction of Hwy. 111, south of Hwy. 111 westward to Hwy. 392, and south of Hwy. 392 westward to the Sabine Parish line.

* * *

Area B

April 11-April 26

All of the following parishes are open:

* * *

Ouachita: East of LA 143 from Union Parish line to Bayou Darbonne, north of Bayou Darbonne to the Ouachita River, west of the Ouachita River from the mouth of Bayou Darbonne northward to the Union Parish line.

* * *

Area C

March 21-March 29

* * *

1998 Wildlife Management Area Turkey Hunting Regulations

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 23:1535 (November 1997), repromulgated LR 23:1711 (December 1997).

Daniel J. Babin
Chairman

9712#021

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of the Commissioner

Agricultural Commodity Dealer and Warehouse Law (LAC 7:XXVII.101-149) and Self-Insurance Program (LAC 37:IX.101-123)

Editor's Note: All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner proposes to amend regulations governing the Agricultural Commodities Commission to reflect changes necessary due to the passage of Act 1034 of the Regular Session of 1997.

The proposed amendments correct technical and typographical errors and integrate necessary changes in the existing rules to reflect the passage of Act 1034 of 1997 to include "cotton" as a regulated "agricultural commodity" and "cotton merchant" as a regulated entity under the Agricultural Commodity Dealer and Warehouse Law. Additionally, changes to Title 37, Insurance, Part IX, "Agricultural Commodity Commission" require revisions to reflect the addition of "cotton merchants" as possible participants in the "Agricultural Commodity Commission Self-Insurance Program."

Title 7

AGRICULTURAL AND ANIMALS

Part XXVII. Agricultural Commodity Dealer and Warehouse Law

Chapter 1. Agricultural Commodities Commission

Subchapter A. General Provisions

§101. Definitions

* * *

Agricultural Commodities—sugar, all agricultural products commonly classed as grain (rice, corn, wheat, oats, rye, soybeans, barley, milo, and grain sorghum), and any other agricultural commodity which the commission may declare to be an agricultural commodity subject to regulation under the Act.

* * *

Cotton Agent—every person, firm, corporation, association, or other legal entity which purchases or contracts to purchase cotton grown or to be grown by producers in this state for or on behalf of a cotton merchant and which is required to be a party to a notarized written agency agreement.

Cotton Merchant—every person, firm, corporation, association, or other legal entity which purchases or contracts

to purchase, either directly or through a cotton agent, cotton grown or to be grown by producers in this state.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3403, R.S. 3:3404, R.S. 3:3406 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:287 (May 1983), amended LR 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1299 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§103. Administration of the Affairs of the Commission

A. The officers of the commission shall be a chairman and a vice-chairman, who shall serve for terms concurrent with the commissioner, but may be elected for an indefinite number of terms.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3403, R.S. 3:3404, R.S. 3:3406 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:287 (May 1983), amended LR 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§105. Agricultural Commodities and Other Farm Products Regulated by the Commission

A. The following agricultural commodities shall be regulated by the commission at all times.

* * *

3. Cotton

* * *

D. Warehouses storing cotton are not required to be governed by these regulations.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3402 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:288 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1300 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

Subchapter B. Application for Warehouse, Cotton Merchant, and Grain Dealer License

§107. Application for License (Initial and Renewal); Time for Filing; Contents; Fees; Style of Document

A. Applications for renewal of warehouse, cotton merchant and grain dealer licenses must be filed no later than April 30 of each year. Applications for initial license may be filed at any time during the year. For both initial and renewal licenses, the following information must be furnished on the application form provided by the commission:

* * *

25. Cotton applicants only:
- a. name and written, notarized agency agreements of cotton agents buying cotton in the state.
 - b. application for acceptance into the self-insurance fund, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3408, R.S. 3:3409, R.S. 3:3410, R.S. 3:3411 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:289 (May 1983), amended LR 10:75 (February 1984), LR 11:229 (March 1985), LR 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1300 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§109. Grounds for Refusal to Issue or Renew a Warehouse, Cotton Merchant, or Grain Dealer License

A. The commission may refuse to issue or renew a warehouse, cotton merchant, or grain dealer license in any of the following circumstances:

3. the applicant cannot demonstrate a \$100,000 net worth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3412, and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:293 (May 1983), amended LR 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§141. Records Required to be Maintained

Each grain dealer, cotton merchant and warehouse shall maintain the following records, when applicable to the commodity stored or traded, on a current basis in the company's principal office in this state at all times:

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3419, R.S. 3:3414.3 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:309 (May 1983), amended LR 12:288 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§145. Access Requirements

B. The warehouseman, cotton merchant, or grain dealer shall provide the necessary assistance required for any inspection, examination, and/or audit made in accordance with the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3406, R.S. 3:3414.3, R.S. 3:3405 and R.S. 3:3419.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:310 (May 1983), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§149. Adjudication Required Prior to Suspension/Revocation of License or Imposition of Other Penalties; Amount of Penalties; Surrender of License

I. Whenever the commission suspends or revokes a warehouse, cotton merchant, or grain dealer license, the former licensee must immediately surrender the original and all copies of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3422.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:312 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1303 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

Title 37

INSURANCE

Part IX. Agricultural Commodity Commission

Chapter 1. Self-Insurance Fund

§101. Definitions

As used in this Part:

Applicant—any person, firm, corporation, or other legal entity seeking the issuance of a warehouse license, cotton merchant, or grain dealer license from the commission or a renewal thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1303 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§105. Purpose

The self-insurance fund is established to guarantee the faithful performance of all duties and obligations of licensed grain dealers, cotton merchants, and licensed warehouses to agricultural producers and holders of state warehouse receipts for agricultural commodities and previous holders of state warehouse receipts released in trust in order to have commodity shipped (open storage), included but not limited to Commodity Credit Corporation, banks and lien holders, provided however that this fund does not apply to federal warehouses with regard to the requirements for federal warehouse license and bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1303 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§107. Fees

* * *

B. Each applicant for a warehouse license and/or cotton merchant and/or a grain dealer license who participates in the self-insurance fund shall be assessed an annual fee for participation in the self-insurance program. Said fee must accompany the application for a license, and is not refundable unless the license application or renewal is denied and, in that event, the fee will be refunded on a pro rata basis with the commission retaining a proportionate amount for any period during which coverage was provided to the applicant.

* * *

D. The amount of the annual fee shall be \$500 for a grain dealer or cotton merchant licensee. The annual fee for a warehouse licensee shall be determined first by calculating the amount of bond required of a license under R.S. 3:34010(C) and (D). If the required bond is \$25,000, then the fee shall be \$135. If the required bond is over \$25,000, then the fee shall be \$135 plus \$4 per each additional \$1,000 of coverage required.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1304 (October 1993), amended by the Department of Agriculture, Office of the Commissioner, LR 24:

§109. Insurance Coverage

* * *

1. Each licensed grain dealer or cotton merchant shall be insured in the total aggregate amount of \$50,000 for all claims in each licensed year;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§123. Prohibited Acts; Criminal Penalties

* * *

B. Any warehouse, cotton merchant or grain dealer licensee who intentionally provides the commission with false information regarding a claim, or regarding any other matters pertaining to the self-insurance program, shall be subject, upon conviction, to penalties for perjury established under R.S. 14:123.

C. Any warehouse, cotton merchant, or grain dealer licensee who intentionally provides the commission with false information regarding a claim, or regarding any other matters pertaining to the self-insurance fund, shall be subject to a fine of up to \$10,000, imprisonment for not more than 10 years, or both, for each occurrence proven at a hearing conducted in accordance with Chapter 13 of Title 49 of the Revised Statutes.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1305 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

All interested persons may submit written comments on the proposed rules through February 24, 1998 to Bill Boudreaux, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Agricultural Commodity Dealer and
Warehouse Law; Self-Insurance Program**

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

The proposed amendments correct technical and typographical errors and integrate necessary changes in the existing rules to reflect the passage of Act 1034 of 1997 to include "cotton" as a regulated "agricultural commodity" and "cotton merchant" as a regulated entity under the Agricultural Commodity Dealer and Warehouse Law. Additionally, changes to Title 37, Insurance, Part IX, "Agricultural Commodity Commission" require changes to reflect the addition of "cotton merchants" as possible participants in the "Agricultural Commodity Commission Self-Insurance Program."

The Department of Agriculture and Forestry will incur an additional \$100,000 of expenses a year. The additional monies will come from existing Louisiana Agricultural Commodities Commission self-generated funds for FY 97-98 and from the state general fund for subsequent years. There will be no additional costs or savings to any local governmental units.

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

There will be an indeterminable amount of revenue collections for the department. The department operates a self-insurance fund for certain participants which will now include cotton merchants under the proposed rule change. The department collects fees from the participants that go into the fund, but it is not known how many cotton merchants will participate. The department will also collect an additional \$100 per new cotton merchant licensee. There are estimated to be 29 additional licensees that would generate \$2,900. These monies will help defray some of the costs of implementing the proposed rule changes.

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

Additional costs are anticipated for persons or nongovernmental groups due to additional regulations and requirements of the law. These costs cannot be accurately determined at present. There will be an economic benefit to the cotton merchants as they will be able to participate in the department's self-insurance fund.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effects on competition or employment are anticipated from these regulations.

Skip Rhorer
Assistant Commissioner
9712#068

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of the Commissioner**

Registration Fee Rebates (LAC 7:I.101-105)

Editor's Note: All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner proposes to amend regulations governing rebates of registration fees on pesticides for pesticide manufacturers.

The commissioner finds that in order to promote and protect Louisiana agriculture and products it is appropriate and expedient to permit pesticide manufacturers to apply for a rebate of the pesticide registration fee and to receive such rebate under those circumstances provided for in these rules.

Title 7

AGRICULTURE AND ANIMALS

Part I. Administration

Chapter 2. Rebates of Registration Fees

§201. Findings

The commissioner of Agriculture and Forestry has the duty and authority to promote, protect, and advance Louisiana agriculture and to promote the building of Louisiana using Louisiana products. The constitution and laws of Louisiana grant the commissioner this authority both generally and particularly. Among the particular subject matters entrusted to the commissioner for the foregoing objectives is the regulation of pesticides. The preservation of a safe supply of pesticides and of the local capacity to manufacture pesticides is essential to maintain agricultural production year after year while some pestilences subside as new ones arise. Although registering labels of pesticides serves the above stated objectives, the pesticide registration fees the Department of Agriculture and Forestry charges for such registration may in some cases impose a burden that impairs the above stated objectives. The commissioner finds that in order to promote and protect Louisiana agriculture and Louisiana products it is appropriate and expedient to permit pesticide manufacturers to apply for a rebate of the pesticide registration fee and to receive such rebate under those circumstances provided for in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. 4 §10; and R.S. 3:2(A), 3(B), 14(B), 1652, 1732, and 3203 (A).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Commissioner's Office, LR 24:

§203. Application

A pesticide manufacturer having paid the pesticide registration fee required by R.S. 3:3221(A) may make written application to the Department of Agriculture and Forestry on a form provided by said department for a rebate of not more than 50 percent of each pesticide registration fee paid by the pesticide manufacturer. This application must be submitted:

1. at the time of registration; or
2. at any time on or before December 31 of the year of registration, or
3. prior to July 1, 1998 where the application is for a rebate of a pesticide registration fee paid in 1997.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. 4 §10; and R.S. 3:2(A), 3(B), 14(B), 1652, 1732, and 3203(A).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 24:

§205. Issuance of Rebates

Upon receipt of a written application for a rebate of the pesticide registration fee, the commissioner may grant a rebate of not more than 50 percent of each pesticide registration fee and thereafter may rebate same to the pesticide manufacturer if the commissioner finds, based upon the application submitted by the pesticide manufacturer, public records and facts subject to official notice, that:

1. the pesticide registration fee is likely to impose a hardship or undue burden on the pesticide manufacturer; and
2. the operations of the pesticide manufacturer substantially benefit the economy of Louisiana and employment therein; and
3. the pesticide manufacturer maintains and utilizes an active Environmental Protection Administration pesticide producer establishment number which shall be exhibited on each label of pesticide for which a rebate is being requested; and
4. the pesticide manufacturer registered 20 or more products in the current year or registered the same number of products as in the previous year plus two or more new registrations.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. 4 §10; and R.S. 3:2(A), 3(B), 14(B), 1652, 1732, and 3203(A).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 24:

All interested persons may submit written comments on the proposed rules through January 26, 1998 to Larry LeJuene, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above.

Bob Odom
Commissioner

9712#065

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Registration Fee Rebates**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is estimated to be a reduction of revenues by up to \$20,000 per year under the commissioner's discretion. Rebates up to an aggregate of \$20,000 per year may be given to pesticide manufacturers that qualify for a rebate under the proposed regulations. Rebates will be limited to a total of \$20,000 a year regardless of how many manufacturers apply for rebates.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be a savings up to \$20,000 per registration year for directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The rebates, when granted, are to benefit the economy and employment of Louisiana. No specific fiscal impact can be determined at this time because it is unknown how many pesticide manufacturers will apply for or qualify for such rebates.

Skip Rhorer
Assistant Commissioner
9712#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Marketing
Market Commission**

**Meat, Poultry and Seafood Grading and
Certification (LAC 7:V.Chapter 16)**

Editor's Note: All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Marketing, Market Commission proposes to adopt regulations governing certification and inspection of all meat, poultry and seafood products at state institutions and local school districts. These proposed rules comply with and are enabled by R.S. 3:3101 et seq.

No preamble concerning the proposed rules is available.

**Title 7
AGRICULTURE AND ANIMALS
Part V. Meat, Poultry and Seafood
Procurement Standards**

**Chapter 16. Meat, Poultry and Seafood Grading and
Certification Program**

§1601. Authority

The Market Commission adopts the following regulations under the authority of R.S. 3:405 and R.S. 3:410 for the purpose of implementing the provisions of R.S. 39:2101 enacted by Act 749 of the Louisiana Legislature, 1997 Regular Session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:

§1603. Definitions

The terms defined in §1603 have the meaning given to them herein, for purposes of these regulations, except where the context expressly indicates otherwise.

Certification—a document or a stamp applied to any package containing any meat, poultry or seafood food product, which verifies that the food product meets the specification requirements established by the department.

Commission—the State Market Commission.

Commissioner—commissioner of the Department of Agriculture and Forestry.

Department—the Department of Agriculture and Forestry.

Food Product—any edible item which includes, 3 percent or more by weight, meat, poultry or seafood, and, regardless of whether it is raw, precooked or fully cooked, is capable of use as human food.

Food Service Facility—any place where a food product is prepared, packaged or served in portions designed for individual consumption by people. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food.

Grade—the combined group of standards that a food product must meet to be in accordance with the appropriate certification requirements.

Local School District—any elementary or secondary school system operated by any parish, city or other public school board and any public charter school or any other independent public school authorized by the Louisiana Department of Education.

Meat—any part of any cattle or other bovine, swine, sheep, or goat capable of use as human food.

Person—any individual, corporation, partnership, association, or any other legal entity, whether for profit or nonprofit, who, through contract with the state of Louisiana, any state agency, any state institution or local school district operates a food service facility that supplies, provides or serves food products available for consumption by any student, resident, patient or inmate of any state agency, state institution or local school district.

Poultry—any part of any chicken, turkey, duck, goose or other domesticated fowl, quail, pheasant, ostrich, emu, or other ratites, or any other type of bird, eggs and domesticated rabbits capable of use as human food.

Public Entity—any state agency, state institution, local school district or person operating one or more food service facility that supplies, provides or serves food products available for consumption by any student, resident, patient or inmate of any state agency, state institution or local school district.

Seafood—any fresh or salt water finfish, farm-raised catfish, shrimp, crawfish, lobsters, oysters and all other edible shellfish, crustaceans, and mollusks, alligators, frogs, turtles and any other form of edible aquatic animal life regardless of whether farm raised or caught in privately owned waters or public waters including the sea, streams and lakes.

State Agency—any board, commission, department, agency, special district, authority or other entity performing a state function.

State Institution—any university, college or center of higher learning, hospital, clinic, veterans or geriatric home, mental institution, juvenile facility, prison or any other facility operated by a state agency, or through a contract with the state of Louisiana or any state agency, by any private, whether for profit or nonprofit, individual, corporation, association or other legal entity for the purpose of teaching, treating, incarcerating, maintaining or housing students, residents, patients or inmates.

Vendor—any individual, corporation, partnership, association or other legal entity that sells any type of food product to any state agency, state institution, local school district or person operating a food service facility, as defined herein, that supplies, provides or serves food products available for consumption by any student, resident, patient or inmate of any state agency, state institution or local school district.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:

§1605. Use of Certified Food Products; Issuance of Certification; Exemptions

A. All public entities shall utilize only the following food products:

1. meat and meat products governed by the grading and certification requirements set out in Title 7, Part V, Chapter 5 of the *Louisiana Administrative Code*;

2. poultry and eggs governed by the grading and certification requirements set out in Title 7, Part V, Chapter 9 of the *Louisiana Administrative Code*;

3. all other food products that meet the certification standards set out in these regulations.

B. Any public entity may request from the department the authority to conduct the inspection and certification (self-certification) required by these regulations of food products received by that public entity.

C. The department shall inspect and certify food products subject to these regulations purchased or received by a public

entity unless that public entity has authorization from the department to conduct self-certification.

D. Neither the department nor any public entity shall certify any food product unless and until the food product meets all the requirements for certification under these regulations.

E. Meat and meat products governed by the grading and certification requirements set out in Title 7, Part V, Chapter 5 of the *Louisiana Administrative Code* and poultry and eggs governed by the grading and certification requirements set out in Title 7, Part V, Chapter 9 of the *Louisiana Administrative Code* are exempt from the provisions of these regulations.

F. These regulations shall not affect or change any other grading or certification program operated by the department under any other provision of law or any other regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:

§1607. Grading and Certification Standards and Specifications

A. Meat and meat food products, other than those governed by the grading and certification requirements set out in Title 7, Part V, Chapter 5 of the *Louisiana Administrative Code* shall meet the following grading and certification standards and specifications:

1. fresh meat should not have any offensive odor or be slick to the touch;
2. frozen meat should be hard frozen at the time of delivery; and
3. the bid specifications or purchase order issued by the public entity.

B. Eggs shall meet the following grading and certification standards and specifications:

1. The following information must be on all egg cases if eggs are packed loose and on all cartons when eggs are packed in cartons:
 - a. name of producer or packer;
 - b. grade and size;
 - c. date of pack;
 - e. Louisiana license number [La 001];
 - f. keep refrigerated 45°F or below.

2. Eggs cannot be used if more than 30 days of age from pack date. Pack date can be either Julian or calendar date.

3. Eggs must be delivered in refrigerated trucks capable of maintaining an ambient temperature of 45°F stored in coolers that maintain an ambient temperature of 45° F.

4. If eggs are not USDA or state graded, or if more than 10 days have elapsed between the time of inspection and delivery, the public entity must ascertain that the eggs meet all requirements set forth in Title 7, Part V, Chapter 9 of the *Louisiana Administrative Code*.

C. Poultry and poultry food products, other than those governed by the grading and certification requirements set in Title 7, Part V, Chapter 9 of the *Louisiana Administrative Code*, shall meet following grading and certification standards and specifications:

1. frozen poultry must be hard frozen at time of delivery;

2. fresh poultry should not have any offensive odors and should not be slick to the touch;
3. if grade is implied or stated, the USDA shield must be used; and
4. the bid specifications or purchase order issued by the public entity.

D. Seafood food products shall meet one or more of the following grading and certification standards and specifications:

1. United States Department of Commerce standards for any type of aquatic animal life defined as seafood in these regulations;
2. State of Louisiana, Division of Administration, State Purchasing general requirements for fish and fishery product;
3. standards and specifications set by the appropriate division of the department's grading and certification service for the particular seafood product;
4. the bid specifications or purchase order issued by the public entity;
5. fresh seafood shall not have any offensive odors or be slick to the touch.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:

§1609. Procurement of Food Products

A. No public entity shall procure any food products unless and until it has fully complied with the provisions of R.S. 38:2184 and R.S. 38:2251-2261.

B. Neither the department nor any public entity shall issue a certification for any food product purchased by such public entity unless and until the public entity provides proof of full compliance with the provisions of R.S. 38:2184 and R.S. 38:2251-2261.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S.3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:

§1611. Inspection and Certification by a Public Entity; Procedures

Any public entity that has authorization from the department to conduct self-certifications under these regulations shall do so in the following manner:

1. All food products shall be inspected and certified by the public entity at the time of delivery.
2. The public entity shall provide sufficient trained or experienced personnel to ensure that all products are inspected and certified in accordance with these regulations.
3. The public entity shall maintain certification logs, in a form acceptable to the department, showing the self-certification of all food products received by the public entity. Each delivery of a food product shall be logged at the time of self-certification. Each log book shall be made available for inspection when requested by authorized representatives of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:

§1613. Inspection and Certification by the Department; Procedures

Inspections and certifications performed by the department under these regulations shall proceed in the following manner.

1. Vendors, both in state and out of state, shall make all food products available to the department's grading and certification service in an approved facility for certification prior to shipment to the place of final destination, except for out-of-state shipments made directly to a storage facility owned and operated by a public entity. Such direct out-of-state shipments shall be inspected at the receiving storage facility before distribution to any food service facility.

2. Any vendor, public entity needing certification services shall notify the department at least 24 hours in advance of need and shall provide such services as necessary to expedite the examination and certification of the food product and the taping of containers, including providing the necessary tape.

3. The department shall receive a purchase order at least seven working days prior to the department's inspection for the purposes of issuing a final certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:

§1615. Fees and Costs

A. The commission may collect fees for the inspection and certification of food products. The fees shall not exceed the actual cost necessary to provide for the proper inspection, grading, classification and certification of the food products.

B. Any vendor delivering a food product inspected and certified under these regulations shall pay an inspection fee of \$.025 per pound for each such meat, poultry or seafood product, or in the case of eggs, a fee of \$.025 per dozen. All fees and costs shall be immediately due and payable to the department upon presentation to the vendor by the department of the statement for services rendered.

C. Any public entity performing self-certification under these regulations shall receive compensation from the department for such services in the amount of \$.02 per pound for each meat, poultry or seafood product, or in the case of eggs, a fee of \$.02 per dozen for each food product inspected and certified by the public entity. Payment to the public entity shall be made by the department promptly upon the department's receipt of payment from the vendor.

D. Any vendor, state agency, state institution, local school district or person needing certification services from the department and failing to notify the department at least 24 hours in advance of need shall be subject to a penalty of \$50, regardless of the time required for the services or the fees assessed by the department.

E. Fees charged and collected by the department under any other grading or certification program operated by the department shall not be affected by these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:

§1617. Enforcement

A. The department or its authorized representative shall have the right to enter any place where any food product is kept to inspect the food product and to inspect any records pertaining to the sale, procurement, movement, distribution, preparation or serving of any food product subject to self-certification under these regulations.

B. If the department finds that a public entity authorized to inspect and certify food products under these regulations is not inspecting and certifying each delivery of food products received by the public entity or if the department finds that the public entity has, on three or more occasions, improperly inspected or certified food products then the department may, by written order, take over inspection and certification duties from the public entity until the department determines that the public entity will properly inspect and certify food products in accordance with these regulations.

C. If a vendor is found to be out-of-compliance more than three times during a given quarter, then that vendor's products must be inspected for compliance by the Louisiana Department of Agriculture before delivery of any product. Once the vendor has proven to the satisfaction of the department that his product will be in compliance, then the vendor may deliver directly to the institution for certification by the institution.

D. The department or its authorized representative may, while enforcing the provisions of these regulations, issue and enforce a written, printed or stamped stop order to prevent the purchase, procurement, movement, distribution, preparation or serving of any food product if:

1. authorized representative of the department has been refused the right to enter the premises where the food product is kept or the right to inspect the food product or records;
2. the food product does not meet the grading and certification standards established by these regulations; or
3. the food product was procured in violation of §1609.A.

E. Upon issuance of a stop order the department may cause the food product to:

1. remain where it is located at the time the stop order is issued; or
2. be returned to the distributor or vendor of the food product.

F. The stop order may be released by the commissioner when:

1. the food product is found to meet the certification standards set out in these rules if the stop order was issued because the department had not certified the food product;
2. proof of compliance with §1609.A is furnished to the department if the stop order was issued because of noncompliance or failure to produce proof of compliance;
3. authorized representative of the department has been allowed to enter the premises where the food product is stored and inspect the food product or the records if the stop order was issued based on refusal to allow entry or inspection;

4. written proof acceptable to the department is supplied showing that the food product has been returned to the distributor or seller and that the full purchase price of the food product has been refunded to the purchaser; or

5. the department determines that circumstances warrant the release of the stop order, upon such terms and conditions that the department deems necessary or proper.

G. Nothing in these regulations shall prevent the commissioner or the department from seizing, selling or destroying the food product if the department finds that the food product violates any other state law or regulation allowing any such action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, 410, 413 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:

§1619. Penalty for Violations; Injunctive Relief; Costs; Notification

A. Whoever violates R.S. 39:2101 or the regulations promulgated thereunder shall be fined not less than \$25 nor more than \$500 or imprisoned for not less than 10 days nor more than six months, or both as provided by R.S. 3:419.

B. Each violation of these rules and regulations, any stop order or other orders issued by the commissioner in the enforcement of these rules and regulations and every day of a continuing violation shall be considered a separate and distinct violation chargeable under these rules and regulations.

C. The commission, through the commissioner, may apply for injunctive relief restraining violations of R.S. 39:2101 or the regulations promulgated thereunder or institute necessary actions for failure to pay accounts due the commission. The person condemned in any such proceeding shall be liable for the costs of court and for any additional costs incurred by the commission in gathering the necessary evidence, including reasonable attorney fees and expert witness fees.

D. In addition to the penalties stated in §1619.A and B the commission may withhold certification services from any vendor, or the right of a public entity to conduct self-certification based on an adjudicatory hearing held in accordance with the Administrative Procedure Act and presided over by a hearing officer appointed by the commissioner.

E. If any food product cannot be certified by the department for any reason or if certification services are withheld then notification of the noncertification or withholding of the services and the reasons therefor shall be sent by the department to all appropriate entities including, but not limited to, the affected public entity, the purchasing agent, appointing authority, Division of Administration, inspector general, legislative auditor or district attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, 410, 413 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:

All interested persons may submit written comments on the proposed rules through January 26, 1998, to James Pruitt, Department of Agriculture and Forestry, 5825 Florida

Boulevard, Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Meat, Poultry and Seafood
Grading and Certification**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no appreciable implementation costs as existing personnel will be utilized. It is anticipated that there will be a savings to local school and state institutions in food cost because improvement of quality should result in less loss.
- 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.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
These grading and certification costs will remain the same as before. These grading and certification costs are only imposed when there are violations of the standards and requirements and the product must be used.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Skip Rhorer
Assistant Commissioner
9712#067

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Structural Pest Control Commission**

Wood Destroying Insect Report (LAC 7:XXV.121)

Editor's Note: All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

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 proposes to amend regulations regarding completing the Wood Destroying Insect Report form. These rules comply with and are enabled by R.S. 3:3370.

This amendment changes the word "adjacent" to a definitive "12" inches around a structure being inspected. The minimum specifications now require that wood infested with wood destroying insects under or within 12 inches of the structure be noted on the form.

No preamble regarding these proposed rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§121. Wood Destroying Insect Report

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

13. Make no marks in this section.

a. If any of the conditions listed in this paragraph on the WDIR (LPCA-142) are present under or to within 12 inches of the inspected structure(s), list them in section #10 of this report.

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 24:

Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through January 26, 1998 at 5825 Florida Boulevard, Baton Rouge, LA 70806.

A public hearing will be held on these proposed rules on January 26, 1998 at 9 a.m. at the address listed above. 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: Wood Destroying Insect Report**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No costs or savings are anticipated for any state or local governmental units.
The proposed amendments change the word "adjacent" to a definitive "12" inches around a structure being inspected. The minimum specifications now require that wood infested with wood destroying insects under or within 12 inches of the structure be noted on the form.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections are anticipated for any governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No costs are anticipated for any person or nongovernmental group.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition or employment is anticipated from these regulations.

Skip Rhorer
Assistant Commissioner
9712#066

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Rewards and Recognition

The Civil Service Commission proposes to adopt the following rule:

Rule 6.16.1 Rewards and Recognition

Subject to the provisions of Rule 6.29, an appointing authority may, at his discretion, implement a program of rewards and recognition for individual employees or for employee groups for significant achievement. Such rewards may be either monetary or nonmonetary. If monetary, such rewards shall not exceed a total of 4 percent of the employee's base salary within a fiscal year. Monetary rewards shall not be a part of the employee's base pay, but rather shall be a lump sum reward. Such reward and recognition programs shall be implemented in accordance with written policies and procedures established by each department. Such policies must receive advance approval from the Civil Service Commission and shall be posted in a manner that assures their availability to all employees. Such policies shall also include the public posting of all reward recipients.

Explanation: This rule is designed to provide appointing authorities with the flexibility to design and implement reward and recognition programs for employees or employee groups for significant achievement in a manner that is pertinent to the organization. As always, all other state laws, rules, and regulations apply.

The Civil Service Commission will hold a public hearing on January 7, 1998 to consider the rule proposal. The hearing will begin at 9 a.m. in the Department of Civil Service's Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

Persons interested in making comments relative to this proposal may do so at the public hearing or by writing to the director of Civil Service at Box 94111, Baton Rouge, LA 70804-9111. If any accommodations are needed, notify this office prior to the meeting.

Allen Reynolds
Director

9712#030

NOTICE OF INTENT

Department of Economic Development Board of Architectural Examiners

Continuing Education (LAC 46:I.1117)

(Editor's Note: The opening paragraph pertaining to continuing education published in the October 20, 1997 issue of the Louisiana Register on page 1333 is being republished to correct typographical errors.)

Under the authority of R.S. 37:144(C), and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated to amend LAC 46:I.1117 pertaining to continuing education and accreditation therefor.

The board proposes to make continuing architectural education mandatory for all architects practicing architecture in Louisiana. Beginning with license renewals effective January 1, 1999, all architects practicing architecture in Louisiana must show compliance with the educational requirements of these rules.

(Note: There is no change in the text of the proposed rule.)

Mary "Teeny" Simmons
Executive Director

9712#099

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1196—Food and Nutrition Programs—Sale of Snack Concessions

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 1196, Section 4.19. The bulletin is referenced in LAC 28:I.913. The amendment concerns the sale of snack food concessions during the lunch period.

4.19 Competitive Foods

Grades K-6. Reimbursement for lunch, special milk, and/or breakfast may be withheld from schools if concessions, canteens, snack bars, or vending machines are operated on a profit basis before the end of the lunch period. Such services are operated for profit if the income is not deposited to the nonprofit school food service program, and expended only for the purpose of the Child Nutrition Program(s).

Grades 7-12. Reimbursement for lunch, breakfast, and/or special milk may be withheld from schools if concessions, canteens, snack bars, vending machines or other food sales are operated on a profit basis before the last 10 minutes of each lunch period. The official school schedule shall indicate the time for each lunch period and should allow sufficient time for each student to receive and consume a meal. Such services are operated for profit if the income is not deposited to the nonprofit school food service program account, and expended only for the purpose of the Child Nutrition Program(s).

However, grades 7-12 (not allowed in K-6) with multiple lunch periods may operate concessions, canteens, snack bars, vending machines, or other food sales between lunch periods if the following guidelines are implemented:

1. No food item shall be sold before the last 10 minutes in each lunch period.
2. Lunch periods shall be divided by a period of time so that students from one period do not come into contact with students from another period.
3. A system shall be in place to ensure that students do not have access to competitive foods before the last 10 minutes of each lunch period.

The School Food Authority shall be required to reimburse the School Food Service account for any funds withheld for violation(s) of the Competitive Foods Policy. Under no

circumstances can foods in competition be sold to children in food service areas during the lunch periods(s).

This policy will be managed and monitored by both the local school food service director as well as the state.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 24:

Interested persons may submit comments until 4:30 p.m., January 10, 1998 to Jeannie Stokes, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1196—Food and Nutrition Programs—Sale of Snack Concessions

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

Local food service expenditures could decrease:

1. if student participation in the Food Service programs decreases as a result of expanded concession food sales;

2. secondary to forced labor reduction resulting from number one above;

3. secondary to reduced cost of goods sold resulting from number one above.

There is no way to estimate what this local expenditure decrease might be.

The State Department of Education will incur approximately \$200 for printing and postage to disseminate this policy. BESE estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$60. Funds are available.

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

The cost of implementation of the proposed rule change to state and local governmental units cannot be specifically determined because a multitude of factors may occur simultaneously and will affect participation in school lunch and breakfast. These other factors may include the amount of time free of competitive food sales which is allotted to food service, the number of lunch periods and serving lines, the extent of extra sales being offered in the cafeteria, the variety and extent of competitive foods offered outside of the cafeteria, a variation in marketing for either school meals or competitive foods, whether the campus is open or closed, and the variety and quality of school meals. The decreases presented in this impact statement are based on an educated guess drawn from the data collected in a sample of individual schools. This sample is detailed on page 7 (of the fiscal statement worksheet).

The adoption of this proposed rule could cost the Department of Education approximately \$30,000 in decreased federal funds for administrative costs associated with the child nutrition programs in fiscal year 1999-2000. Local school system federal revenues from the child nutrition programs could decrease by approximately \$5,500,000 per fiscal year due to decreased participation. Local school system Minimum Foundation Program (MFP) revenues may decline due to a reduction in participation in the school nutrition programs by students who would be eligible to receive free or reduced price meals.

Local funds to school systems will increase approximately \$126,000 per year due to an estimated 10 percent increase in concession sales.

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

1. Expanded concession sales may result in fewer students participating in the school nutrition programs. Fewer students participating in such programs will reduce federal and state revenues to local school systems, which may necessitate an increase in the price charged to participants for lunches.

2. Costs to children and parents may increase because meals purchased from concession areas tend to be more expensive than school meals.

3. With a decrease in school lunch participation, there is a corresponding effect on local businesses. Producers, wholesalers, and retailers in related industries such as food, paper products, and cleaning chemicals may be negatively affected.

4. With an increase in concession sales, concession food vendors may experience an increase in profits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition between foods offered through the cafeteria and through concession sales will increase. The effects on local business may ultimately include employment reductions in local school food service programs. Increased vendor sales may also increase employment of and by vendors.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9712#092

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Bylaws of the Advisory Committee to the
Student Financial Assistance Commission

The Louisiana Student Financial Assistance Commission (LASFAC), the statutory body created by R.S. 17:3021, et seq., in compliance with §952 of the Administrative Procedure Act, advertises its intention to adopt bylaws to govern the Advisory Committee to the commission, its meetings, officers and executive staff, order of business, committees, communications to the commission, rights, duties and responsibilities of the executive staff, responsibilities of commission members, amendment or repeal of bylaws, rules and regulations.

Article I. Purpose and Authority Section 1. Purpose of the Committee

The purpose of the advisory committee shall be to consider those matters relating to student financial assistance programs that, from time to time, shall be referred to it by the Louisiana Student Financial Assistance Commission (LASFAC) or its executive staff, and to provide technical advice and recommendations to the commission and its staff on such matters. In establishing the committee, the commission seeks to ensure that its programs are administered to the maximum

benefit of Louisiana's students and institutions of higher education, both public and private.

Section 2. Authority of the Committee

The advice and recommendations of the committee are only advisory in nature and are not binding upon the commission, its members or officers. All such advice and recommendations offered by the committee shall, insofar as possible, represent the consensus of the Louisiana Association of Student Financial Aid Administrators (LASFAA).

Article II. Meetings

Section 1. Regular Meetings

The committee shall hold regular meetings which are limited in number to six per year. All regular meetings shall be held at the meeting place designated by the executive director of the Office of Student Financial Assistance (OSFA). Proxy voting shall be permitted provided that the proxy holder is an officer or employee of the organization represented by the appointed member and that a proxy does not represent the appointed member at more than two of the meetings scheduled annually.

Section 2. Special Meetings

Special meetings of the committee may be called by the executive director of the Office of Student Financial Assistance at any time, provided the purposes of the meeting are specified, the members notified at least three calendar days before the time of the meeting, and sufficient members to form a quorum confirm their planned attendance.

Section 3. Compensation

Members of the committee shall be reimbursed for their travel expenses incurred in attending meetings, in accordance with applicable state travel regulations. No other compensation is authorized.

Section 4. Quorum

Five voting members of the committee shall constitute a quorum for the transaction of business and a simple majority of the members present at any meeting voting for or against a particular item shall be the recommendation of the committee.

Article III. Membership and Officers of the Committee

Section 1. Membership

The committee shall be composed of 10 members, eight of whom shall be appointed by the Louisiana Association of Student Financial Aid Administrators (LASFAA) from its membership, subject to confirmation by the Louisiana Student Financial Assistance Commission. The criteria for LASFAA's selection of members shall be defined by that organization but said criteria shall ensure that appointees adequately represent LASFAA's membership. The term of all members appointed by LASFAA and confirmed by the commission shall be for two years and members may not serve two consecutive terms. Beginning in October 1997, 50 percent or four of the non-ex officio members of the committee shall be appointed annually to provide for staggered terms of the regular membership. The executive director of the Office of Student Financial Assistance shall be an ex officio, nonvoting member of the committee. The president of LASFAA shall be an ex officio, voting member.

Section 2. Chairman and Vice-Chairman

The committee chairman shall be designated annually by the president of LASFAA, from among the serving or newly

appointed committee members. The committee shall annually elect a vice-chairman from its membership. The chairman of the committee shall preside over all meetings of the committee, serve as ex officio member of all subcommittees, designate the duties of the vice-chairman, appoint the membership of all subcommittees, and present the committee's recommendations to the commission for its consideration. The vice-chairman shall perform the duties of the chairman in the chairman's absence.

Section 3. Ex Officio Member, the Executive Director of the Office of Student Financial Assistance (OSFA)

The executive director of the Office of Student Financial Assistance shall:

- a. ensure that the functions of the committee promote the purpose for which it was established and that the committee is in conformity with all applicable statutes and rules and regulations of the commission;
- b. prepare the business agenda;
- c. provide administrative support to the committee within the resources of his/her office allocated for that purpose;
- d. approve the travel of committee members;
- e. in the absence of the committee chairman or vice-chairman, present the recommendations of the committee to the commission; and
- f. in conjunction with the chairman, schedule meetings of the committee.

Article IV. Business Rules

Section 1. Rules of Order

When not in conflict with any of the provisions of these bylaws, *Roberts' Rules of Order* shall constitute the rules of parliamentary procedure applicable to all meetings of the committee.

Section 2. Order of Business

The order of business of regular meetings of the committee shall be as follows:

- a. roll call;
- b. corrections and approval of minutes of the preceding regular meeting and of all special meetings held subsequent thereto;
- c. reports and recommendations of subcommittees;
- d. unfinished business; and
- e. new business.

Section 3. Meetings

Meetings shall be conducted in accordance with the state law governing public bodies. It shall be the policy of the committee that all meetings are open to the public and that parties with interest in the proceedings are encouraged to attend.

Section 4. Agenda

Prior to each regular or special meeting of the committee, the executive director of OSFA shall prepare a tentative agenda and forward it to each member of the committee at least five working days prior to such meeting. With the concurrence of its members, all matters supportive of the purpose of the committee may be discussed even though not scheduled on the agenda. The agenda shall be used to focus the committee's deliberations on issues of importance to the commission and it is not intended to inhibit discussion of

issues of importance to members that fall within the committee's purpose.

Section 5. Minutes

At a minimum, the minutes of the committee shall record official motions or recommendations that are voted on by the committee. The minutes may contain a summary of reports and pertinent discussion of issues. Each recommendation shall be reduced to writing and presented to the committee before it is acted on. The minutes of meetings of the committee become official when approved by the committee at its next scheduled meeting but, prior to such occurrence, the minutes may be presented to the commission by the chairman, vice-chairman, or executive director as the unofficial action of the committee.

Section 6. Meeting Attendance

Members unable to continue their service on the committee shall so notify the chairman and the president of LASFAA and request that a replacement be named. Members who fail to regularly attend meetings without just cause, as determined by the chairman, may be removed from membership by the president of LASFAA, upon the recommendation of the chairman.

Section 7. Subcommittees

Subcommittees may be appointed by the chairman to perform specific functions defined by the committee. The membership, chairmanship, and function of subcommittees shall be determined by the chairman. Generally, the business rules defined herein shall be applicable to subcommittees.

Article V. Approval and Amendment of Bylaws

Section 1. Approval of Bylaws

To receive the commission's consideration, committee bylaws must be favorably recommended by the committee and the executive director of OSFA. Bylaws become effective upon approval by the commission.

Section 2. Amendments to Bylaws

The committee, at any of its scheduled regular meetings, may recommend the amendment or repeal of the provisions herein upon a simple majority vote of the entire membership of the committee.

Interested persons may submit written comments on the bylaws until 4:30 p.m., January 20, 1998, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

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

**RULE TITLE: Bylaws of the Advisory Committee to the
Louisiana Student Financial Assistance Commission**

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

The implementation cost associated with publishing the bylaws in the *Louisiana Register* is approximately \$360. The projected cost of adding a member to the advisory committee is not expected to exceed \$800 per year.

**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 nongovernmental 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
9712#045

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Tuition Trust Authority
Office of Student Financial Assistance**

**Student Tuition Assistance and Revenue Trust
(START) Saving Program—1997 Enrollment Period
(LAC 28:VI.301)**

The Louisiana Tuition Trust Authority (LATTA) advertises its intention to revise the Student Tuition Assistance and Revenue Trust (START) Saving Program 1997 enrollment period. Section 301.B.1 of the Student Tuition Assistance and Revenue Trust (START) Saving Program (LAC 28:VI.301) is revised to read as follows.

**Title 28
EDUCATION**

**Part VI. Student Financial Assistance—Higher
Education Savings**

**Chapter 3. Education Savings Account
§301. Education Assistance Account (EAA)**

B. Program Enrollment Period

1. All eligible beneficiaries during 1997 may be enrolled between July 1 and December 1, 1997. Thereafter, all eligible beneficiaries may be enrolled between July 1 and November 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:

Interested persons may submit written comments on the proposed manual until 4:30 p.m., January 20, 1998, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

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

**RULE TITLE: Student Tuition Assistance and Revenue Trust
(START) Saving Program—1997 Enrollment Period**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The only cost associated with this rule change is the routine charge to publish by the *Louisiana Register*, which is a total of \$40 for the publication of the notice of intent and the final rule.
- 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.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Since the START Saving Program did not begin accepting applications until 30 days after the beginning date of the authorized enrollment period, it is in the best interests of the public and the state of Louisiana to extend the enrollment period for an additional 30 days. Residents of Louisiana will have additional time to enroll in the state's college savings program and enrollments will increase to achieve budgetary projections.
- 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
9712#044

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Hazardous Air Pollutants for Source
Categories (LAC 33:III.5122)(AQ160*)**

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 gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.Chapter 51.Subchapter C (AQ160*).

This proposed rule is identical to a federal law or regulation, 40 CFR Part 63, Subpart S, which is applicable in Louisiana.

For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the proposed rule. Therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4). This proposed 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. This proposed rule establishes Maximum Achievable Control Technology (MACT) for the pulp and paper industry and is identical to the federal rule 40 CFR Part 63, Subpart S adopted November 14, 1997. The federal rule is expected to be published in the *Federal Register* as a final regulation in January 1998. The *Federal Register* citation and date promulgated will be added to the proposed rule upon promulgation. Per LAC 33:III.5105.B.8, a MACT determination for the pulp and paper industry source category was required to be established and proposed by December 20, 1997. The basis and rationale for this proposed rule are to mirror the federal regulation 40 CFR Part 63, Subpart S, with the exception of 63.440(d)(1). Rulemaking to add this paragraph with a statutorily required compliance date will be initiated at a later date.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

**Chapter 51. Comprehensive Toxic Air Pollution
Emission Control Program**

**Subchapter C. Incorporation by Reference of 40 CFR
Part 63 (National Standards for
Hazardous Air Pollutants for Source
Categories) as it Applies to Major
Sources**

**§5122. Incorporation by Reference of 40 CFR Part 63
(National Standards for Hazardous Air
Pollutants for Source Categories) as it Applies
to Major Sources**

* * *

[See Prior Text in A]

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Federal Register* as promulgated from July 2, 1996, through July 1, 1997, and on [To be inserted], and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the State of Louisiana.

40 CFR 63	Federal Register Citation	Date Promulgated	Subpart/Appendix Heading
*** [See Prior Text in Subpart B-R]			
Subpart S	[To be inserted upon promulgation]	[To be inserted]	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry [exclusive of paragraph 63.440(d)(1)]
*** [See Prior Text in Subpart U-JJJ]			
Appendix A	62 FR 2793	January 17, 1997	Test Methods
	62 FR 12546	March 17, 1997	
	[To be inserted upon promulgation]	[To be inserted]	
*** [See Prior Text in Appendix C]			

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 24:

A public hearing will be held on January 26, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ160*. Such comments must be received no later than January 26, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. The comment period for this rule ends on the same date as the public hearing.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaereg.htm>.

Subpart S of 40 CFR Part 63 can be accessed through DEQ's Internet site.

Gus Von Bodungen
Assistant Secretary

9712#038

NOTICE OF INTENT

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

Open Burning (LAC 33:III.1109)(AQ166)

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 gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.1109 (AQ166).

Acts 276 and 1275 of the 1997 Regular Session of the Louisiana Legislature provide for local governments to enact ordinances to require, prohibit, or regulate the destruction, disposal, or burning of trash, leaves, limbs, and branches. The basis and rationale for this rule are to mirror requirements on open burning as provided for in Acts 276 and 1275 of the 1997 Regular Legislative Session.

This proposed 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 11. Control of Emissions of Smoke
§1109. Control of Air Pollution from Outdoor Burning**

[See Prior Text in A]

B. Outdoor Burning Prohibited. No person shall cause or allow the outdoor burning of waste material or other combustible material on any property owned by him or under his control except as provided in Subsections C and D of this Section.

C. Statutory Exceptions. The following activities are not subject to the prohibition created in Subsection B of this Section:

1. the burning of leaves, grass, twigs, branches, and vines by a private property owner on his own property for noncommercial purposes in parishes with a population of 300,000 or less, provided the property owner attends the burning of yard waste at all times. This exception shall not apply in the parish of East Baton Rouge;
2. the burning of trees, brush, grass, or other vegetable matter in any parish having a population of 90,000 or less, provided the location of the burning is not within the territorial limits of a city or town or adjacent to a city or town

in such proximity that the ambient air of the city or town will be affected by smoke from the burning;

3. the burning of trees, branches, limbs, or other wood as a bonfire that is specifically authorized by ordinance in the parishes of St. James, St. John the Baptist, or St. Charles;

4. the burning of agricultural by-products in the fields in connection with the planting, harvesting, or processing of agricultural products;

5. the controlled burning of cotton gin agricultural wastes in connection with cotton gin operations;

6. the controlled burning in connection with timber stand management; and

7. the controlled burning of pasture land or marshland in connection with trapping or livestock production.

D. Exceptions to Prohibition Against Outdoor Burning. Outdoor burning of waste material or other combustible material may be conducted in the situations enumerated below if no public nuisance is or will be created and if the burning is not prohibited by and is conducted in compliance with other applicable laws and with regulations and orders of governmental entities having jurisdiction, including air control regulations and orders. The authority to conduct outdoor burning under this regulation does not exempt or excuse the person responsible from the consequences of or the damages or injuries resulting from the burning:

1. outdoor burning in connection with the preparation of food;

2. campfires and fires used solely for recreational purposes or for ceremonial occasions;

3. outdoor burning in a rural park or rural recreation area of trees, brush, grass, and other vegetable matter for game management purposes in accordance with practices acceptable to Louisiana Parks and Recreation Commission and Louisiana Wildlife and Fisheries Commission;

4. small fires, by tradesmen and contractors, in such activities as street repair, installation or repair of sewer, water, electric, telephone mains, and services;

5. the operation of contrivances using open flames such as welding torches, blow torches, portable heaters, and other flame making devices;

6. outdoor burning, in other than rural park or rural recreation area, of trees, brush, grass, and other vegetable matter from such area in land clearing and right-of-way maintenance operations if the following conditions are met:

a. prevailing winds at the time of the burning must be away from any city or town, the ambient air of which may be affected by smoke from the burning;

b. the location of the burning must be at least 1,000 feet (305 meters) from any dwelling other than a dwelling or structure located on the property on which the burning is conducted;

c. care must be used to minimize the amount of dirt on the material being burned;

d. heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any materials other than plant growth which produce unreasonable amounts of smoke may not be burned; nor may these substances be used to start a fire;

e. the burning may be conducted only between the hours of 8 a.m. and 5 p.m. Piles of combustible material

should be of such size to allow complete reduction in this time interval; and

f. the burning must be controlled so that a traffic hazard as prohibited by Subsection E of this Section is not created;

7. fire purposely set as a part of an organized program of drills for the training of fire fighting personnel or for testing fire fighting materials or equipment if the following conditions are met:

a. the duration of the burning held to the minimum required for such purposes;

b. the burning is conducted only between the hours of 8 a.m. and 5 p.m.; and

c. the burning is controlled so that a traffic hazard as prohibited by Subsection E of this Section is not created;

8. outdoor burning of waste hydrocarbon products (from petroleum exploration, development or production operations, natural gas processing, such as, but not limited to, basic sediments, oil produced in testing an oil well, and paraffin) may be conducted at the site of origin when it is not practicable to transport the waste products for sale or reclamation, or to dispose of them lawfully in some other manner. In addition, hydrocarbons spilled or lost from pipeline breaks or other transport failure which cannot practicably be recovered or be disposed of lawfully in some other manner may be outdoor burned at the site where the spill occurred or at another appropriate place due to safety considerations. Except when the immediate or continuous burning of hydrocarbon spills is reasonably necessary to abate or eliminate an existing or imminent threat of injury to human life or significant damage to property, the outdoor burning shall be conducted under the following conditions:

a. the location of the burning must not be within or adjacent to a city or town or in such proximity thereto that the ambient air of the city or town may be affected by smoke from the burning;

b. the burning is conducted only between the hours of 8 a.m. and 5 p.m.; and

c. the burning is controlled so that a traffic hazard as prohibited by Subsection E of this Section is not created; and

9. special situations approvable for exemption by the administrative authority prior to initiation of burning operation, as follows:

a. outdoor burning of explosives, pyrophoric, or any other materials where there is no practicable or safe method of disposal;

b. experimental burning for purposes of data gathering and research; and

c. nonrecurring unusual circumstances or any condition not covered above.

E. Traffic Hazards Prohibited. The emission of smoke, suspended particulate matter or uncombined water or any air contaminants or combinations thereof which passes onto or across a public road and creates a traffic hazard by impairment of visibility, as defined in LAC 33:III.111, or intensifies an existing traffic hazard condition is prohibited.

F. Exclusion from Application of this Section. Outdoor burning pursuant to and in compliance with the terms of a

variance granted by the administrative authority is excluded from the application of this Section.

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 by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1081 (October 1995), LR 24:

A public hearing will be held on January 26, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ166. Such comments must be received no later than February 2, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaereg.htm>.

Gus Von Bodungen
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Open Burning**

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

Acts 276 and 1275 provide that nothing in the Environmental Quality Act or rules adopted pursuant thereto prohibits the noncommercial burning of yard waste on private property in certain parishes; and provide for local governments to enact ordinances to require, prohibit, or regulate the destruction, disposal, or burning of trash, leaves, limbs and branches. Should local governmental units choose to enact these provisions, the costs associated with rule enactment and with enforcement of such rules would be borne by the local governmental units. There are no additional costs or savings to state governmental units.

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

Should local governmental units promulgate and enforce rules, proceeds from enforcement actions may increase revenues. There are no anticipated changes in the collection of state revenues.

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 individuals or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Gus Von Bodungen
Assistant Secretary
9712#040

Richard W England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**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)**

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 gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.509 (AQ164).

The proposed rule will correct language which mandates that the administrative authority make available preconstruction or modification information available at site-specific locations. Public participation is maintained through newspaper notification, the provision for citizens to request public hearings from the department secretary, and availability, upon request, to view these documents at the nearest departmental regional office. The Office of Air Quality and Radiation Protection receives approximately 10 to 15 permit applications and permit modifications annually. The requirement to provide copies at the same locations where the administrative authority made available original documents is redundant. The basis and rationale for this rule are to correct existing, redundant language that requires the administrative authority to provide copies at the same locations where original documents are made available.

This proposed 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 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.

* * *

[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.

* * *

[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 24:

A public hearing will be held on January 26, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ164. Such comments must be received no later than February 2, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen
Assistant Secretary

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

**RULE TITLE: Prevention of Significant
Deterioration (PSD) and Public Inspection**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is 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 are no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Gus Von Bodungen
Assistant Secretary
9712#039

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of Waste Services**

RCRA Updates

(LAC 33:V.Chapters 1, 5, 22, 38, 40, and 49)(HW060*)

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 gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division regulations, LAC 33:V.Chapters 1, 5, 22, 38, 40, and 49 (HW060*).

This proposed rule is identical to federal law or regulation, 59 FR 38536-38545, 7/28/94; 59 FR 43496-43500, 8/24/94; 59 FR 47982-48110, 9/19/94; 60 FR 242-302, 1/3/95; 60 FR 17001-17004, 4/4/95; 60 FR 25492-25551, 5/11/95; and 60 FR 33912-33915, 6/29/95, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the proposed rule. Therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4). This proposed 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.

This proposed rule is an update of LAC 33:V.Chapters 1, 5, 22, 38, 40, and 49, to make these regulations equivalent to the federal regulations and complete the requirement needed to become authorized for RCRA V (Universal Waste Rules). The basis and rationale for this rule are to update existing regulations and to incorporate additional federal regulations concerning RCRA V authorization to make Louisiana's regulations equivalent to the federal regulations.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

**Subpart 1. Department of Environmental
Quality—Hazardous Waste**

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose

of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including "solid waste" and "hazardous waste," appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

* * *

[See Prior Text in A-D.33.b]

c. nonwastewater residues, such as slag, resulting from high-temperature metals recovery (HTMR) processing of K061, K062, or F006 waste, in units identified as (1) rotary kilns, (2) flame reactors, (3) electric furnaces, (4) plasma arc furnaces, (5) slag reactors, (6) rotary hearth furnace/electric furnace combinations, (7) industrial furnaces (as defined in LAC 33:V.109), that are disposed of in subtitle D units (as defined in 40 CFR parts 257 and 258), provided that these residues meet the generic exclusion levels identified in the tables in this Paragraph for all constituents and exhibit no characteristics of hazardous waste.

i. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action will have the burden of proving, by clear and convincing evidence, that the residue meets all of the exclusion requirements.

Constituent	Maximum for Any Single Composite Sample-TCLP (mg/l)
Generic Exclusion Levels for K061 and K062 Nonwastewater HTMR Residues	
Antimony	0.10
Arsenic	0.050
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

Generic Exclusion Levels for F006 Nonwastewater HTMR Residues	
Antimony	0.10
Arsenic	0.050
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total) (mg/kg)	1.8
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

ii. A one-time notification and certification must be placed in the facility's files and sent to the administrative authority for K061, K062, or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to subtitle D units. The notification and certification that is placed in the generators' or treaters' files must be updated if the process or operation generating the waste changes and/or if the subtitle D unit receiving the waste changes. However, the generator or treater needs only to notify the EPA region or an authorized state on an annual basis if such changes occur. Such notification and certification should be sent to the EPA region or authorized state by the end of the calendar year, but no later than December 31. The notification must include the following information:

- (a). the name and address of the subtitle D unit (as defined in 40 CFR parts 257 and 258) receiving the waste shipment;
- (b). the EPA hazardous waste number and treatability group at the initial point of generation;
- (c). the treatment standards applicable to the waste at the initial point of generation; and
- (d). the certification must be signed by an authorized representative and must state as follows: "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of hazardous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

d. biological treatment sludge from the treatment of one of the following wastes listed in LAC 33:V.4901.C organic waste (including heavy ends, still bottoms, light ends,

spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K156), and wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K157).

* * *

[See Prior Text in D.34-G]

H. General Procedures to Petition the Administrative Authority. The procedure that must be followed to petition for rulemaking can be found in LAC 33:I.Chapter 9 and other applicable chapters in this Subpart.

* * *

[See Prior Text in I-M.10]

N. Petitions to Amend LAC 33:V.Chapter 38 to Include Additional Hazardous Wastes

1. Any person seeking to add a hazardous waste or a category of hazardous waste to the universal waste regulations of LAC 33:V.Chapter 38 may petition for a regulatory amendment under LAC 33:I.Chapter 9 and LAC 33:V.Chapter 38.

2. To be successful, the petitioner must demonstrate to the satisfaction of the administrative authority that regulation under the universal waste regulations of LAC 33:V.Chapter 38:

- a. is appropriate for the waste or category of waste;
- b. will improve management practices for the waste or category of waste; and
- c. will improve implementation of the hazardous waste program.

3. The petition must include the information required by LAC 33:I.Chapter 9. The petition should also address as many of the factors listed in LAC 33:V.3883 as are appropriate for the waste or category of waste addressed in the petition.

4. The administrative authority will grant or deny a petition using the factors listed in LAC 33:V.3883. The decision will be based on the weight of evidence showing that regulation under LAC 33:V.3883 is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the hazardous waste program.

5. The administrative authority may request additional information needed to evaluate the merits of the petition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid And Hazardous Waste, Hazardous Waste Division, LR 23:564 (May

1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 24:

Chapter 5. Permit Application Contents

Subchapter A. General Requirements for Permit Applications

§501. Permit Application

* * *

[See Prior Text in A-C.1.b]

2. The owner and operator of an existing hazardous waste management facility may be required to submit Part II of their permit application. The administrative authority may require submission of Part II. Any owner or operator shall be allowed at least 120 days from the date of request to submit Part II of the application. Any owner or operator of an existing hazardous waste management facility may voluntarily submit Part II of the application at any time. Notwithstanding the above, any owner or operator of an existing hazardous waste management facility must submit a Part II permit application in accordance with the dates specified in LAC 33:V.4305. Any owner or operator of a land disposal facility in existence on the effective date of statutory or regulatory amendments under the Act that render the facility subject to the requirement to have a RCRA permit must submit a Part II application in accordance with the dates specified in LAC 33:V.4305.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

* * *

[See Prior Text in A-G.4.b]

c. at the point of generation the injected wastes include D001 High TOC subcategory wastes or D012-D017 pesticide wastes that are prohibited under LAC 33:V.2269 and those wastes have been treated to meet the treatment standards of LAC 33:V.Chapter 22.Table 2 before injection.

* * *

[See Prior Text in H-I.5.c]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§2227. Treatment Standards Expressed as Specified Technologies: Procedures for Approval of Alternative Treatments

A. The wastes specified in Subsection A.1-3 of this Section and in Table 2 of this Chapter, for which standards are expressed as a treatment method rather than a concentration level, must be treated using the technology or technologies

specified in Subsection A.1-3 of this Section and in Table 2 of this Chapter.

[See Prior Text in A.1-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Table 2 - TREATMENT STANDARDS FOR HAZARDOUS WASTES

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Non-wastewaters
		Common Name	CAS ² Number	Concentration mg/l ³ ; or Technology Code ⁴	Concentration in mg/kg ⁴ unless noted as "mg/l TCLP" or Technology Code
*** [See Prior Text in D001 - D043]					
F001 F002 F003 F004 F005	F001, F002, F003, F004 and/or F005 solvent wastes that contain any combination of one or more of the following spent solvents: acetone, benzene, n-butyl alcohol, carbon disulfide, carbon tetrachloride, chlorinated fluorocarbons, chlorobenzene, o-cresol, m-cresol, p-cresol, cyclohexanone, o-dichlorobenzene, 2-ethoxyethanol, ethyl acetate, ethyl benzene, ethyl ether, isobutyl alcohol, methanol, methylene chloride, methyl ethyl ketone, methyl isobutyl ketone, nitrobenzene, 2-nitropropane, pyridine, tetrachloroethylene, toluene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, 1,1,2-trichloro-1,2,2-trifluoroethane, trichloroethylene, trichloromonofluoromethane, and/or xylenes (except as specifically noted in other subcategories). See further details of these listings in LAC 33:V.4901.B.Table 1.	Acetone	67-64-1	0.28	160
		Benzene	71-43-2	0.14	10
		n-Butyl alcohol	71-36-3	5.6	2.6
		Carbon disulfide	75-15-0	3.8	NA
		Carbon tetrachloride	56-23-5	0.057	6.0
		Chlorobenzene	108-90-7	0.057	6.0
		o-Cresol	95-48-7	0.11	5.6
		m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77	5.6
		p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77	5.6
			Cresol-mixed isomers (Cresylic acid) (sum of o-, m-, and p-cresol concentrations)	1319-77-3	0.88
		Cyclohexanone	108-94-1	0.36	NA
		o-Dichlorobenzene	95-50-1	0.088	6.0
		Ethyl acetate	141-78-6	0.34	33
		Ethyl benzene	100-41-4	0.057	10
		Ethyl ether	60-29-7	0.12	160
		Isobutyl alcohol	78-83-1	5.6	170
		Methanol	67-56-1	5.6	NA
		Methylene chloride	75-9-2	0.089	30
		Methyl ethyl ketone	78-93-3	0.28	36
		Methyl isobutyl ketone	108-10-1	0.14	33
	Nitrobenzene	98-95-3	0.068	14	

		Pyridine	110-86-1	0.014	16
		Tetrachloroethylene	127-18-4	0.056	6.0
		Toluene	108-88-3	0.080	10
		1,1,1-Trichloroethane	71-55-6	0.054	6.0
		1,1,2-Trichloroethane	79-00-5	0.054	6.0
		1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1	0.057	30
		Trichloroethylene	79-01-6	0.054	6.0
		Trichloromonofluoromethane	75-69-4	0.020	30
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
	F003 and/or F005 solvent wastes that contain any combination of one or more of the following three solvents as the only listed F001-5 solvents: carbon disulfide, cyclohexanone, and/or methanol (formerly LAC 33:V.2225.C).	Carbon disulfide	75-15-0	3.8	4.8 mg/l TCLP
		Cyclohexanone	108-94-1	0.36	0.75 mg/l TCLP
		Methanol	67-56-1	5.6	0.75 mg/l TCLP
	F005 solvent waste containing 2-Nitropropane as the only listed F001-5 solvent.	2-Nitropropane	79-46-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
	F005 solvent waste containing 2-Ethoxyethanol as the only listed F001-5 solvent.	2-Ethoxyethanol	110-80-5	BIODG; or CMBST	CMBST
* * *					
[See Prior Text in F006 - F028]					
F024	Process wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor clean-out wastes, from the production of certain chlorinated aliphatic hydrocarbons by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed in LAC 33.V.4901.C or LAC 33:V.4901.B.Table 1).	All F024 wastes	NA	CMBST	CMBST
		2-Chloro-1,3-butadiene	126-99-8	0.057	0.28
		3-Chloropropylene	107-05-1	0.036	30
		1,1-Dichloroethane	75-34-3	0.059	6.0
		1,2-Dichloroethane	107-06-2	0.21	6.0
		1,2-Dichloropropane	78-87-5	0.85	18
		cis-1,3-Dichloropropylene	10061-01-5	0.036	18
		trans-1,3-Dichloropropylene	10061-02-6	0.036	18
		bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
		Hexachloroethane	67-72-1	0.055	30
		Chromium (Total)	7440-47-3	2.77	0.86 mg/l TCLP
		Nickel	7440-02-0	3.98	5.0 mg/l TCLP
* * *					
[See Prior Text in F025 - K024]					
K025	Distillation bottoms from the production of nitrobenzene by the nitration of benzene.	NA	NA	LLEXT fb SSTRP fb CARBN; or CMBST	CMBST
K026	Stripping still tails from the production of methyl ethyl pyridines.	NA	NA	CMBST	CMBST
K027	Centrifuge and distillation residues from toluene diisocyanate production.	NA	NA	CARBAN; or CMBST	CMBST

*** [See Prior Text in K028 - K038]					
K039	Filter cake from the filtration of diethylphosphorodithioc acid in the production of phorate.	NA	NA	CARBN; or CMBST	CMBST
*** [See Prior Text in K040 - K106]					
K107	Column bottoms from product separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
K108	Condensed column overheads from product separation and condensed reactor vent gases from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
K109	Spent filter cartridges from product purification from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
K110	Condensed column overheads from intermediate separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
*** [See Prior Text in K111]					
K112	Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
K113	Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.	NA	NA	CARBN; or CMBST	CMBST
K114	Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.	NA	NA	CARBN; or CMBST	CMBST
K115	Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.	Nickel	7440-02-0	3.98	5.0 mg/l TCLP
		NA	NA	CARBN; or CMBST	CMBST
K116	Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine.	NA	NA	CARBN; or CMBST	CMBST
*** [See Prior Text in K117 - K118]					
K123	Process wastewater (including supernates, filtrates, and washwaters) from the production of ethylenebisdithiocarbamic acid and its salts.	NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST
K124	Reactor vent scrubber water from the production of ethylenebisdithiocarbamic acid and its salts.	NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST

K125	Filtration, evaporation, and centrifugation solids from the production of ethylenebisdithiocarbamic acid and its salts.	NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST
K126	Baghouse dust and floor sweepings in milling and packaging operations from the production or formulation of ethylenebisdithiocarbamic acid and its salts.	NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST
*** [See Prior Text in K131 -K151]					
P001	Warfarin, and salts, when present at concentrations greater than 0.3 percent	Warfarin	81-81-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P002	1-Acetyl-2-thiourea	1-Acetyl-2-thiourea	591-08-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P003 - P004]					
P005	Allyl alcohol	Allyl alcohol	107-18-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P006	Aluminum phosphide	Aluminum phosphide	20859-73-8	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
P007	5-Aminomethyl 3-isoxazolol	5-Aminomethyl 3-isoxazolol	2763-96-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P008	4-Aminopyridine	4-Aminopyridine	504-24-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P009	Ammonium picrate	Ammonium picrate	131-74-8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in P010 - P013]					
P014	Thiophenol (Benzene thiol)	Thiophenol (Benzene thiol)	108-98-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P015	Beryllium Dust	Beryllium	7440-41-7	RMETL; or RTHRM	RMETL; or RTHRM
P016	Dichloromethyl ether (Bis(chloromethyl)ether)	Dichloromethyl ether	542-88-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P017	Bromoacetone	Bromoacetone	598-31-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P018	Brucine	Brucine	357-57-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

*** [See Prior Text in P020 - P021]					
P022	Carbon disulfide	Carbon disulfide	75-15-0	3.8	CMBST
		Carbon disulfide; alternate ⁶ standard for nonwastewaters only	75-15-0	NA	4.8 mg/l TCLP
P023	Chloroacetaldehyde	Chloroacetaldehyde	107-20-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P024]					
P026	1-(o-Chlorophenyl)thiourea	1-(o-Chlorophenyl)thiourea	5344-82-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P027	3-Chloropropionitrile	3-Chloropropionitrile	542-76-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P028	Benzyl chloride	Benzyl chloride	100-44-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P029 - P030]					
P031	Cyanogen	Cyanogen	460-19-5	CHOXD; WETOX; or CMBST	CHOXD; WETOX; or CMBST
P033	Cyanogen chloride	Cyanogen chloride	506-77-4	CHOXD; WETOX; or CMBST	CHOXD; WETOX; or CMBST
P034	2-Cyclohexyl-4,6-dinitrophenol	2-Cyclohexyl-4,6-dinitrophenol	131-89-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P036 - P039]					
P040	O,O-Diethyl O-pyrazinyl phosphorothioate	O,O-Diethyl O-pyrazinyl phosphorothioate	297-97-2	CARBN; or CMBST	CMBST
P041	Diethyl-p-nitrophenyl phosphate	Diethyl-p-nitrophenyl phosphate	311-45-5	CARBN; or CMBST	CMBST
P042	Epinephrine	Epinephrine	51-43-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P043	Diisopropylfluorophosphate(DFP)	Diisopropylfluorophosphate (DFP)	55-91-4	CARBN; or CMBST	CMBST
P044	Dimethoate	Dimethoate	60-51-5	CARBN; or CMBST	CMBST
P045	Thiofanox	Thiofanox	39196-18-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P046	alpha, alpha-Dimethylphenethylamine	alpha, alpha-Dimethylphenethyl-amine	122-09-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P047	4,6-Dinitro-o-cresol	4,6-Dinitro-o-cresol	543-52-1	0.28	160
	4,6-Dinitro-o-cresol salts	NA	NA	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P048]					
P049	Dithiobiuret	Dithiobiuret	541-53-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P050	Endosulfan	Endosulfan I	939-98-8	0.023	0.066
		Endosulfan II	33213-6-5	0.029	0.13
		Endosulfan sulfate	1031-07-8	0.029	0.13
*** [See Prior Text in P051]					
P054	Aziridine	Aziridine	151-56-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P056]					
P057	Fluoroacetamide	Fluoroacetamide	640-19-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P058	Fluoroacetic acid, sodium salt	Fluoroacetic acid, sodium salt	62-74-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P059 - P060]					
P062	Hexaethyl tetraphosphate	Hexaethyl tetraphosphate	757-58-4	CARBN; or CMBST	CMBST
*** [See Prior Text in P063]					
P064	Isocyanic acid, ethyl ester	Isocyanic acid, ethyl ester	624-83-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P065]					
P066	Methomyl	Methomyl	16752-77-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P067	2-Methyl-aziridine	2-Methyl-aziridine	75-55-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P068	Methyl hydrazine	Methyl hydrazine	60-34-4	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED, or CMBST

P069	2-Methylacetonitrile	2-Methylacetonitrile	75-86-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P070	Aldicarb	Aldicarb	116-06-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P071]					
P072	1-Naphthyl-2-thiourea	1-Naphthyl-2-thiourea	86-88-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P073 - P074]					
P075	Nicotine and salts	Nicotine and salts	54-11-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P076 - P078]					
P081	Nitroglycerin	Nitroglycerin	55-63-0	CHOXD; CHRED; CARBN; BIODG or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in P082]					
P084	N-Nitrosomethylvinylamine	N-Nitrosomethyl-vinylamine	4549-40-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P085	Octamethylpyrophosphoramidate	Octamethylpyrophosphoramidate	152-16-9	CARBN; or CMBST	CMBST
*** [See Prior Text in P087]					
P088	Endothall	Endothall	145-73-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P089 - P092]					
P093	Phenylthiourea	Phenylthiourea	103-85-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P094]					
P095	Phosgene	Phosgene	75-44-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P096	Phosphine	Phosphine	7803-51-2	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in P097 - P101]					

P102	Propargyl alcohol	Propargyl alcohol	107-19-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P103 - P104]					
P105	Sodium azide	Sodium azide	26628-22-8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in P106]					
P108	Strychnine and salts	Strychnine and salts	57-24-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P109	Tetraethyldithiopyrophosphate	Tetraethyldithiopyrophosphate	3689-24-5	CARBN; or CMBST	CMBST
*** [See Prior Text in P110]					
P111	Tetraethylpyrophosphate	Tetraethylpyrophosphate	107-49-3	CARBN; or CMBST	CMBST
P112	Tetranitromethane	Tetranitromethane	509-14-8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in P113 - P115]					
P116	Thiosemicarbazide	Thiosemicarbazide	79-19-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P118	Trichloromethanethiol	Trichloromethane-thiol	75-70-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P119 - P121]					
P122	Zinc phosphide Zn ₃ P ₂ , when present at concentrations greater than 10 percent	Zinc Phosphide	1314-84-7	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in P123]					
U001	Acetaldehyde	Acetaldehyde	75-07-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U002]					
U003	Acetonitrile	Acetonitrile	75-05-8	5.6	CMBST
		Acetonitrile; alternate ⁶ standard for nonwastewaters only	75-05-8	NA	38
*** [See Prior Text in U004 - U005]					

U006	Acetyl chloride	Acetyl Chloride	75-36-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U007	Acrylamide	Acrylamide	79-06-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U008	Acrylic acid	Acrylic acid	79-10-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U009]					
U010	Mitomycin C	Mitomycin C	50-07-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U011	Amitrole	Amitrole	61-82-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U012]					
U014	Auramine	Auramine	492-80-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U015	Azaserine	Azaserine	115-02-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U016	Benz(c)acridine	Benz(c)acridine	225-51-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U017	Benzal chloride	Benzal chloride	98-87-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U018 - U019]					
U020	Benzenesulfonyl chloride	Benzenesulfonyl chloride	98-09-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U021	Benzidine	Benzidine	92-87-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U022]					
U023	Benzotrichloride	Benzotrichloride	98-07-7	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in U024 - U025]					

U026	Chlornaphazine	Chlornaphazine	494-03-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U027	bis(2-Chloroisopropyl)ether	bis(2-Chloroisopropyl)ether	39638-32-9	0.055	7.2
*** [See Prior Text in U028 - U032]					
U033	Carbon oxyfluoride	Carbon oxyfluoride	353-50-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U034	Trichloroacetaldehyde (Chloral)	Trichloroacetaldehyde (Chloral)	75-87-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U035	Chlorambucil	Chlorambucil	305-03-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U036 - U037]					
U038	Chlorobenzilate	Chlorobenzilate	510-15-6	0.10	CMBST
*** [See Prior Text in U039]					
U041	Epichlorohydrin (1-Chloro-2,3-epoxypropane)	Epichlorohydrin (1-Chloro-2,3-epoxypropane)	106-89-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U042	2-Chloroethyl vinyl ether	2-Chloroethyl vinyl ether	110-75-8	0.062	CMBST
*** [See Prior Text in U043 - U045]					
U046	Chloromethyl methyl ether	Chloromethyl methyl ether	107-30-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U047 - U048]					
U049	4-Chloro-o-toluidine hydrochloride	4-Chloro-o-toluidine hydrochloride	3165-93-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U050 - U052]					
U053	Crotonaldehyde	Crotonaldehyde	4170-30-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U055	Cumene	Cumene	98-82-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U056	Cyclohexane	Cyclohexane	110-82-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U057]					
U058	Cyclophosphamide	Cyclophosphamide	50-18-0	CARBN; or CMBST	CMBST

U059	Daunomycin	Daunomycin	20830-81-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
* * *					
[See Prior Text in U060 - U061]					
U062	Diallate	Diallate	2303-16-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
* * *					
[See Prior Text in U063]					
U064	Dibenz(a,i)pyrene	Dibenz(a,i)pyrene	189-55-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
* * *					
[See Prior Text in U066 - U072]					
U073	3,3'-Dichlorobenzidine	3,3'-Dichloro-benzidine	91-94-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U074	1,4-Dichloro-2-butene	cis-1,4-Dichloro-2-butene	1476-11-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
		trans-1,4-Dichloro-2-butene	764-41-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
* * *					
[See Prior Text in U075 - U084]					
U085	1,2:3,4-Diepoxybutane	1,2:3,4-Diepoxybutane	1464-53-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U086	N,N'-Diethylhydrazine	N,N'-Diethylhydrazine	1615-80-1	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
U087	O,O-Diethyl S-methylthiophosphate	O,O-Diethyl S-methylthiophosphate	3288-58-2	CARBN; or CMBST	CMBST
* * *					
[See Prior Text in U088]					
U089	Diethyl stilbestrol	Diethyl stilbestrol	56-53-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U090	Dihydrosafrole	Dihydrosafrole	94-58-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U091	3,3'-Dimethoxybenzidine	3,3'-Dimethoxy-benzidine	119-90-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U092	Dimethylamine	Dimethylamine	124-40-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U093	p-Dimethylaminoazobenzene	p-Dimethylamino-azobenzene	60-11-7	0.13	CMBST
U094	7,12-Dimethylbenz(a)anthracene	7,12-Dimethylbenz(a)anthracene	57-97-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U095	3,3'-Dimethylbenzidine	3,3'-Dimethyl-benzidine	119-93-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U096	alpha, alpha-Dimethyl benzyl hydroperoxide	alpha, alpha-Dimethyl benzyl hydroperoxide	80-15-9	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
U097	Dimethylcarbamoyl chloride	Dimethylcarbamoyl chloride	79-44-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U098	1,1-Dimethylhydrazine	1,1-Dimethyl-hydrazine	57-14-7	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
U099	1,2-Dimethylhydrazine	1,2-Dimethylhydra-zine	540-73-8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in U101 - U102]					
U103	Dimethyl sulfate	Dimethyl sulfate	77-78-1	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in U105 - U107]					
U108	1,4-Dioxane	1,4-Dioxane	123-91-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
		1,4-Dioxane; alternate ⁶ standard for nonwastewaters only	123-91-1	NA	170
U109	1,2-Diphenylhydrazine	1,2-Diphenylhydrazine	122-66-7	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
		1,2-Diphenylhydrazine; alternate ⁶ standard for wastewaters only	122-66-7	0.087	NA
U110	Dipropylamine	Dipropylamine	142-84-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U111 - U112]					
U113	Ethyl acrylate	Ethyl acrylate	140-88-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U114	Ethylenebisdithiocarbamic acid salts and esters	Ethylenebisdithio-carbamic acid	111-54-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U115	Ethylene oxide	Ethylene oxide	75-21-8	(WETOX or CHOXD) fb CARBN; or CMBST	CHOXD; or CMBST
		Ethylene oxide; alternate ⁶ standard for wastewaters only	75-21-8	0.12	NA
U116	Ethylene thiourea	Ethylene thiourea	96-45-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U117 - U118]					
U119	Ethyl methane sulfonate	Ethyl methane sulfonate	62-50-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U120 - U121]					
U122	Formaldehyde	Formaldehyde	50-00-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U123	Formic acid	Formic acid	64-18-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U124	Furan	Furan	110-00-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U125	Furfural	Furfural	98-01-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U126	Glycidylaldehyde	Glycidylaldehyde	765-34-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U127 - U131]					
U132	Hexachlorophene	Hexachlorophene	70-30-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U133	Hydrazine	Hydrazine	302-01-2	CHOXD; CHRED; CARBN; DIODG; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in U134]					
U135	Hydrogen Sulfide	Hydrogen Sulfide	7783-06-4	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in U136 - U142]					

U143	Lasiocarpine	Lasiocarpine	303-34-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U144 - U146]					
U147	Maleic anhydride	Maleic anhydride	108-31-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U148	Maleic hydrazide	Maleic hydrazide	123-33-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U149	Malononitrile	Malononitrile	109-77-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U150	Melphalan	Melphalan	148-82-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U151 - U152]					
U153	Methanethiol	Methanethiol	74-93-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U154	Methanol	Methanol	67-56-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
		Methanol; alternate ⁶ set of standards for both wastewaters and nonwastewaters	67-56-1	5.6	0.75 mg/l TCLP
*** [See Prior Text in U155]					
U156	Methyl chlorocarbonate	Methyl chlorocarbonate	79-22-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U157 - U159]					
U160	Methyl ethyl ketone peroxide	Methyl ethyl ketone peroxide	1338-23-4	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in U161 - U162]					
U163	N-Methyl N'-nitro N-nitrosoguanidine	N-Methyl N'-nitro N-nitrosoguanidine	70-25-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U164	Methylthiouracil	Methylthiouracil	56-04-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U165]					

U166	1,4-Naphthoquinone	1,4-Naphthoquinone	130-15-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U167	1-Naphthlyamine	1-Naphthlyamine	134-32-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U168	2-Naphthlyamine	2-Naphthlyamine	91-59-8	0.52	CMBST
*** [See Prior Text in U169 - U170]					
U171	2-Nitropropane	2-Nitropropane	79-46-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U172]					
U173	N-Nitrosodiethanolamine	N-Nitrosodiethanol-amine	1116-54-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U174]					
U176	N-Nitroso-N-ethylurea	N-Nitroso-N-ethylurea	759-73-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U177	N-Nitroso-N-methylurea	N-Nitroso-N-methylurea	684-93-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U178	N-Nitroso-N-methylurethane	N-Nitroso-N-methylurethane	615-53-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U179 - U181]					
U182	Paraldehyde	Paraldehyde	123-63-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U183]					
U184	Pentachloroethane	Pentachloroethane	76-01-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
		Pentachloroethane; alternate ⁶ standards for both wastewaters and nonwastewaters	76-01-7	0.055	6.0
*** [See Prior Text in U185]					
U186	1,3-Pentadiene	1,3-Pentadiene	504-60-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U187 - U188]					

U189	Phosphorus sulfide	Phosphorus sulfide	1314-80-3	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
U190	Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	100-21-0	0.055	28
		Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	85-44-9	0.055	28
U191	2-Picoline	2-Picoline	109-06-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U192]					
U193	1,3-Propane sultone	1,3-Propane sultone	1120-71-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U194	n-Propylamine	n-Propylamine	107-10-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U196]					
U197	p-Benzoquinone	p-Benzoquinone	106-51-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U200	Reserpine	Reserpine	50-55-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U201	Resorcinol	Resorcinol	108-46-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U202	Saccharin and salts	Saccharin	81-07-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U203 - U205]					
U206	Streptozotocin	Streptozotocin	18883-66-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U207 - U211]					
U213	Tetrahydrofuran	Tetrahydrofuran	109-99-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U214 - U217]					
U218	Thioacetamide	Thioacetamide	62-55-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U219	Thiourea	Thiourea	62-56-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U220]					
U221	Toluenediamine	Toluenediamine	25376-45-8	CARBN; or CMBST	CMBST
U222	o-Toluidine hydrochloride	o-Toluidine hydrochloride	636-21-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U223	Toluene diisocyanate	Toluene diisocyanate	26471-62-5	CARBN; or CMBST	CMBST
*** [See Prior Text in U225 - U228]					
U234	1,3,5-Trinitrobenzene	1,3,5-Trinitrobenzene	99-35-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U235]					
U236	Trypan Blue	Trypan Blue	72-57-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U237	Uracil mustard	Uracil mustard	66-75-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U238	Urethane (Ethyl carbamate)	Urethane (Ethyl carbamate)	51-79-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U239]					
U240	2,4-D (2,4-Dichlorophenoxyacetic acid)	2,4-D (2,4-Dichlorophenoxy-acetic acid)	94-75-7	0.72	10
	2,4-D (2,4-Dichlorophenoxyacetic acid) salts and esters		NA	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U243]					
U244	Thiram	Thiram	137-26-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U246	Cyanogen bromide	Cyanogen bromide	506-68-3	CHOXD; WETOX; or CMBST	CHOXD; WETOX; or CMBST
*** [See Prior Text in U247]					
U248	Warfarin, and salts, when present at concentrations of 0.3 percent or less	Warfarin	81-81-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U249	Zinc phosphide, Zn ₃ P ₂ , when present at concentrations of 10 percent or less	Zinc Phosphide	1314-84-7	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST

U328	o-Toluidine	o-Toluidine	95-53-4	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN	CMBST
U353	p-Toluidine	p-Toluidine	106-49-0	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN	CMBST
U359	2-Ethoxyethanol	2-Ethoxyethanol	110-80-5	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN	CMBST

[See Prior Text in Footnotes 1-7]

Note: NA means not applicable.

Table 3. Technology Codes and Description of Technology-Based Standards	
Technology Code	Description of Technology-Based Standard
	* * *
	[See Prior Text in ADGAS - CHRED]
CMBST	High temperature organic destruction technologies, such as combustion in incinerators, boilers, or industrial furnaces operated in accordance with the applicable requirements of LAC 33:V.Chapter 30 or 31 or 41, and in other units operated in accordance with applicable technical operating requirements; and certain noncombustive technologies, such as the Catalytic Extraction Process.
	* * *
	[See Prior Text in DEACT -WTRRX]

[See Prior Text in Note 1-Certification Statement G]

Chapter 31. Incinerators §3105. Applicability

[See Prior Text in A-E]

Table 1. Hazardous Constituents			
Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
A2213	Ethanimidothioic acid,2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester	30558-43-1	U394
	* * *		
	[See Prior Text in Acetonitrile - Aldicarb]		
Aldicarb sulfone	Propanal, 2-methyl-2-(methylsulfonyl)-, O-[(methylamino) carbonyl] oxime	1646-88-4	P203

[See Prior Text in Aldrin - Azaserine]

Barban	Carbamic acid, (3-chlorophenyl)-, 4-chloro-2-butynyl ester	101-27-9	U280
Bendiocarb	1,3-Benzodioxol-4-ol, 2,2-dimethyl-, methyl carbamate	22781-23-3	U278
Benomyl	Carbamic acid, [1- [(butylamino) carbonyl]-1H-benzimidazol-2-yl] -, methyl ester	17804-35-2	U271
	* * *		
	[See Prior Text in Benz(c)acridine - Calcium cyanide]		
Carbaryl	1-Naphthalenol, methylcarbamate	63-25-2	U279
Carbendazim	Carbamic acid, 1H-benzimidazol-2-yl, methyl ester	10605-21-7	U372
Carbofuran	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-, methylcarbamate	1563-66-2	P127
Carbofuran phenol	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-	1563-38-8	U367
	* * *		
	[See Prior Text in Carbon disulfide - Carbon tetrachloride]		
Carbosulfan	Carbamic acid, [(dibutylamino) thio] methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester	55285-14-8	P189
	* * *		
	[See Prior Text in Chloral - Crotonaldehyde]		
m-Cumenyl methyl-carbamate	Phenol, 3-(methylethyl)-, methyl carbamate	64-00-6	P202

[See Prior Text in Cyanides (soluble salts and complexes), N.O.S. ¹ - Diethylarsine]			
Diethylene glycol, dicarbamate	Ethanol, 2,2'-oxybis-, dicarbamate	5952-26-1	U395

[See Prior Text in 1,4-Diethyleneoxide - Dimethyl sulfate]			
Dimetilan	Carbamic acid, dimethyl-, 1-[[dimethylamino]carbonyl]-5-methyl-1H-pyrazol-3-yl ester	644-64-4	P191

[See Prior Text in Dinitrobenzene, N.O.S. ¹ - Formaldehyde]			
Formetanate hydrchloride	Methanimidamide N,N-dimethyl-N'-[3-[[methylamino]carbonyloxy]phenyl]-, monohydrochloride	23422-53-9	P198

[See Prior Text in Formic acid]			
Formparanate	Methanimidamide N,N-dimethyl-N'-[2-methyl-4-[[methylamino]carbonyloxy]phenyl]-	17702-57-7	P197

[See Prior Text in Glycidylaldehyde - Isodrin]			
Isolan	Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1H-pyrazol-5-yl ester	119-38-0	P192

[See Prior Text in Isosafrole-Malononitrile]			
Manganese dimethyldithiocarbamate	Manganese, bis(dimethylcarbamodithioato-S,S')-	15339-36-3	P196

[See Prior Text in Melphalan - Methapyrilene]			
Methiocarb	Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate	2032-65-7	P199

[See Prior Text in Methomyl - Methylthiouracil]			
Metolcarb	Carbamic acid, methyl-, 3-methylphenyl ester	1129-41-5	P190

Mexacarbate	Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester)	315-18-4	P128

[See Prior Text in Mitomycin C - Osmium tetroxide]			
Oxamyl	Ethanimidothioic acid, 2-(dimethylamino)-N-[[methylamino]carbonyloxy]-2-oxo-, methyl ester	23135-22-0	P194

[See Prior Text in Paraldehyde - Phthalic anhydride]			
Physostigmine	Pyrrolo[2,3-b]indol-5-01, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)-	57-47-6	P204
Physostigmine salicylate	Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1)	57-64-7	P188

[See Prior Text in 2-Picoline - Potassium silver cyanide]			
Promecarb	Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate	2631-37-0	P201

[See Prior Text in Pronamide - Propargyl alcohol]			
Propham	Carbamic acid, phenyl-, 1-methylethyl ester	122-42-9	U373
Propoxur	Phenol, 2-(1-methylethoxy)-, methylcarbamate	114-26-1	U411

[See Prior Text in Propylene dichloride - Propylthiouracil]			
Prosulfocarb	Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester	52888-80-9	U387

[See Prior Text in Pyridine - Thioacetamide]			
Thiodicarb	Ethanimidothioic acid, N,N'-[thiobis[[methylimino]carbonyloxy]]bis-, dimethyl ester	59669-26-0	U410

*** [See Prior Text in Thiofanox - Thiomethanol]			
Thiophanate-methyl	Carbamic acid,[1, 2-phenylenebis (imino-carbonothioyl)] bis-, dimethyl ester	23564-05-8	U409
*** [See Prior Text in Thiophenol - Thiram]			
Tirpate	1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O-[(methylamino) carbonyl] oxime	26419-73-8	P185
*** [See Prior Text in Toluene -Toxaphene]			
Triallate	Carbamothioic acid, bis (1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester	2303-17-5	U389
*** [See Prior Text in 1,2,4-Trichlorobenzene - 1,2,3-Trichloropropane]			
Triethylamine	Ethanamine, N,N-diethyl-	121-44-8	U404
*** [See Prior Text in O ₂ O-Triethyl phosphorothioate - Zinc phosphide]			
Ziram	Zinc, bis(dimethyl-carbamodi-thioato-S, S')-, (T-4)-	137-30-4	P205

¹ The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this table.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 38. Universal Wastes

Subchapter G. Petitions to Include Other Wastes Under This Chapter

§3881. General

A. Any person seeking to add a hazardous waste or a category of hazardous waste to this Chapter may petition for a regulatory amendment under this Subpart and LAC 33:I.Chapter 9.

B. To be successful, the petitioner must demonstrate to the satisfaction of the administrative authority that regulation under the universal waste regulations in this Chapter:

1. is appropriate for the waste or category of waste;
2. will improve management practices for the waste or category of waste; and

3. will improve implementation of the hazardous waste program.

C. The petition must include the information required by LAC 33:I.Chapter 9. The petition should also address as many of the factors listed in LAC 33:V.3883 as are appropriate for the waste or waste category addressed in the petition.

D. The administrative authority will evaluate and grant or deny petitions using the factors listed in LAC 33:V.3883. The decision will be based on the weight of evidence showing that regulation under this Chapter is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the hazardous waste program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§3883. Factors for Petitions to Include Other Wastes Under This Chapter

Factors for petitions to include other waste under this Chapter include:

1. the waste or category of waste, as generated by a wide variety of generators, is listed in LAC 33:V.4901 or (if not listed) a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in LAC 33:V.4903. When a characteristic waste is added to the universal waste regulations of this Chapter by using a generic name to identify the waste category (e.g., batteries), the definition of universal waste in LAC 33:V.3813 will be amended to include only the hazardous waste portion of the waste category (e.g., hazardous waste batteries). Thus, only the portion of the waste stream that does exhibit one or more characteristics (i.e., is hazardous waste) is subject to the universal waste regulations of this Chapter;

2. the waste or category of waste is not exclusive to a specific industry or group of industries and is commonly generated by a wide variety of types of establishments including, for example, households, retail and commercial businesses, office complexes, conditionally exempt small quantity generators, small businesses, and government organizations, as well as large industrial facilities;

3. the waste or category of waste is generated by a large number of generators (e.g., more than 1,000 nationally) and is frequently generated in relatively small quantities by each generator;

4. systems to be used for collecting the waste or category of waste (including packaging, marking, and labeling practices) would ensure close stewardship of the waste;

5. the risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes, and specific management standards proposed or referenced by the petitioner (e.g., waste management requirements appropriate to be added to LAC 33:V.3821, 3843, and 3863 and/or applicable Department of Transportation requirements) would be protective of human health and the environment during accumulation and transport;

6. regulation of the waste or category of waste under this Chapter will increase the likelihood that the waste will be

diverted from nonhazardous waste management systems (e.g., the municipal waste stream, nonhazardous industrial or commercial waste stream, municipal sewer, or stormwater systems) to recycling, treatment, or disposal in compliance with subtitle C of RCRA;

7. regulation of the waste or category of waste under this Chapter will improve implementation of and compliance with the hazardous waste regulatory program; and/or

8. such other factors as may be appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 49. Lists of Hazardous Wastes

§4901. Category I Hazardous Wastes

[See Prior Text in A-B.3.b.iv]

C. Hazardous wastes from specific sources are listed in Table 2.

Table 2. Hazardous Wastes from Specific Sources		
Industry and EPA Hazardous Waste Number	Hazard Code	Hazardous Waste
*** [See Prior Text]		
K151	(T)	Wastewater treatment sludges, excluding neutralization and biological sludges, generated during the treatment of wastewaters from the production of alpha- (or methyl-) chlorinated toluenes, ring chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.
K156	(T)	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)
K157	(T)	Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)
K158	(T)	Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)
K159	(T)	Organics from the treatment of thiocarbamate wastes.
K161	(R,T)	Purification solids (including filtration, evaporation, and centrifugation solids), bag house dust, and floor sweepings from the production of dithiocarbamate acids and their salts. (This listing does not include K125-K126.)

Inorganic Chemicals		
K071	(T)	Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used
*** [See Prior Text]		

[See Prior Text in D-E.Comment]

Table 3. Acute Hazardous Wastes		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste
*** [See Prior Text]		
P070	116-06-3	Aldicarb
P203	1646-88-4	Aldicarb sulfone
P004	309-00-2	Aldrin
*** [See Prior Text]		
P014	108-98-5	Benzenethiol
P127	1563-66-2	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-, methylcarbamate
P188	57-64-7	Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1)
P001	'81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, and salts, when present at concentrations greater than 0.3 percent
*** [See Prior Text]		
P021	592-01-8	Calcium cyanide Ca(CN) ₂
P189	55285-14-8	Carbamic acid, [(dibutylamino)thio]methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester
P191	644-64-4	Carbamic acid, dimethyl-, 1-[(dimethyl-amino)carbonyl]-5-methyl-1H-pyrazol-3-yl ester
P192	119-38-0	Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1H-pyrazol-5-yl ester
P190	1129-41-5	Carbamic acid, methyl-, 3-methylphenyl ester
P127	1563-66-2	Carbofuran
P022	75-15-0	Carbon disulfide
P095	75-44-5	Carbonic dichloride
P189	55285-14-8	Carbosulfan
P023	107-20-0	Chloroacetaldehyde

* * *		
[See Prior Text]		
P029	544-92-3	Copper cyanide Cu(CN)
P202	64-00-6	m-Cumenyl methylcarbamate
P030		Cyanides (soluble cyanide salts), not otherwise specified
* * *		
[See Prior Text]		
P046	122-09-8	alpha, alpha-Dimethylphenethylamine
P191	644-64-4	Dimetilan
P047	1534-52-1	4,6-Dinitro-o-cresol, and salts
* * *		
[See Prior Text]		
P049	541-53-7	Dithiobiuret
P185	26419-73-8	1,3-Dithiolane-2-carboxaldehyde, 2, 4-dimethyl-, O-[[methylamino)- carbonyl]oxime
P050	115-29-7	Endosulfan
* * *		
[See Prior Text]		
P031	460-19-5	Ethanedinitrile
P194	23135-22-0	Ethanimidothioic acid, 2-(dimethylamino)-N-[[methylamino) carbonyl]oxy]-2-oxo-, methyl ester
P066	16752-77-5	Ethanimidothioic acid, N-[[methylamino)carbonyl]oxy]-, methyl ester
* * *		
[See Prior Text]		
P058	62-74-8	Fluoroacetic acid, sodium salt
P198	23422-53-9	Formetanate hydrochloride
P197	17702-57-7	Formparanate
P065	628-86-4	Fulminic acid, mercury (2+) salt (R,T)
* * *		
[See Prior Text]		
P060	465-73-6	Isodrin
P192	119-38-0	Isolan
P202	64-00-6	3-Isopropopylphenyl N-methylcarbamate
P007	2763-96-4	3 (2H)-Isoxazolone, 5-(aminomethyl)-
P196	15339-36-3	Manganese, bis(dimethylcarbamo-dithioato-S,S')
P196	15339-36-3	Manganese, dimethyldithiocarbamate
P092	62-38-4	Mercury, (acetato-O)phenyl-
* * *		
[See Prior Text]		

P118	75-70-7	Methanethiol, trichloro-
P198	23422-53-9	Methanimidamide, N,N-dimethyl-N'-[3-[[methylamino)-cabonyl]oxy]phenyl]-monohydrochloride
P197	17702-57-7	Methanimidamide, N,N-dimethyl-N'-[2-methyl-4-[[methylamino)cabonyl]oxy]phenyl]-
P050	115-29-7	6, 9-Methano-2,4, 3-benzo-dioxathiepin, 6,7,8,9,10,10-hexachloro-1, 5,5a,6,9,9a- hexahydro-,3-oxide
P059	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7, 8,8-heptachloro-3a, 4,7,7a-tetrahydro-
P199	2032-65-7	Methiocarb
P066	16752-77-5	Methomyl
* * *		
[See Prior Text]		
P071	298-00-0	Methyl parathion
P190	1129-41-5	Metolcarb
P128	315-8-4	Mexacarbate
P072	86-88-4	alpha-Naphthylthiourea
* * *		
[See Prior Text]		
P088	145-73-3	7-Oxabicyclo[2.2.1]heptane-2, 3-dicarboxylic acid
P194	23135-22-0	Oxamyl
P089	56-38-2	Parathion
P034	131-89-5	Phenol, 2-cyclohexyl-4,6-dinitro-
P199	2032-65-7	Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate
P128	315-18-4	Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester)
P048	51-28-5	Phenol, 2,4-dinitro-
P047	1534-52-1	Phenol, 2-methyl-4,6-dinitro-, and salts
P201	2631-37-0	Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate
P202	64-00-6	Phenol, 3-(1-methylethyl)-, methyl carbamate
P020	88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-
* * *		
[See Prior Text]		
P071	298-00-0	Phosphorothioic acid, O,O'-dimethyl O-(4-nitrophenyl) ester
P204	57-47-6	Physostigmine
P188	57-64-7	Physostigmine salicylate
P110	78-00-2	Plumbane, tetraethyl-

*** [See Prior Text]		
P099	506-61-6	Potassium silver cyanide
P201	2631-37-0	Promecarb
P203	1646-88-4	Propanal, 2-methyl-2-(methyl-sufonyl)-, O-[(methylamino)carbonyl] oxime
P070	116-06-3	Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime
*** [See Prior Text]		
P075	¹ 54-11-5	Pyridine, 3-(1-methyl-2-pyrrolidinyl)-, (s)- and salts
P204	57-47-6	Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)-
P114	12039-52-0	Selenious acid, dithallium(1+) salt
*** [See Prior Text]		
P093	103-85-5	Thiourea, phenyl-
P185	26419-73-8	Tirpate
P123	8001-35-2	Toxaphene
*** [See Prior Text]		
P001	¹ 81-81-2	Warfarin, and salts, when present at concentrations greater than 0.3 percent
P205	137-30-4	Zinc, bis(dimethyl-carbamodithioato-S,S')-
P121	557-21-1	Zinc cyanide
P121	557-21-1	Zinc cyanide Zn(CN) ₂
P122	1314-84-7	Zinc phosphide Zn ₃ P ₂ , when present at concentrations greater than 10 percent (R,T)
P205	137-30-4	Ziram

¹CAS Number given for parent compound only.

F. Commercial chemical products or manufacturing chemical intermediates or off-specification commercial chemical products referred to in LAC 33:V.4901.D.1-4 are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity generator exclusion defined in LAC 33:V.3903, 3913, and 3915.A and C. These wastes and their corresponding EPA Hazardous Waste Numbers are listed in Table 4.

[Comment: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability), and C (Corrosivity). Absence of a letter indicates that the compound is listed only for toxicity.]

Table 4. Toxic Wastes		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste
U394	30558-43-1	A2213
U001	75-07-0	Acetaldehyde (I)
*** [See Prior Text]		
U010	50-07-7	Azirino [2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, 6-amino-8-[[[(aminocarbonyl)oxy]methyl]-1,1a,2,8,8a,8b,-hexahydro-8a-methoxy-5-methyl-, [1aS-(1aalpha,8beta,8aalpha,8balpha)]-
U280	101-27-9	Barban
U278	22781-23-3	Bendiocarb
U364	22961-82-6	Bendiocarb phenol
U271	17804-35-2	Benomyl
U157	56-49-5	Benz [j] aceanthrylene, 1,2-dihydro-3-methyl-
*** [See Prior Text]		
U202	¹ 81-07-2	1,2-Benzisothiazol-3 (2H)-one, 1,1,-dioxide, and salts
U364	22961-82-6	1,3-Benzodioxol-4-ol, 2,2-dimethyl-
U278	22781-23-3	1,3-Benzodioxol-4-ol, 2,2-dimethyl-, methyl carbamate
U203	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-
U141	120-58-1	1,3-Benzodioxole, 5-(1-propenyl)-
U090	94-58-6	1,3-Benzodioxole, 5-propyl-
U367	1563-38-8	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-
U064	189-55-9	Benzo[rst]pentaphene
*** [See Prior Text]		
U032	13765-19-0	Calcium chromate
U372	10605-21-7	Carbamic acid, 1H-benzimidazol-2-yl, methyl ester
U271	17804-35-2	Carbamic acid, [1-[(butylamino)carbonyl]-1H-benzimidazol-2-yl]-, methyl ester
U280	101-27-9	Carbamic acid, (3-chlorophenyl)-, 4-chloro-2-butynylester
U238	51-79-6	Carbamic acid, ethyl ester
U178	615-53-2	Carbamic acid, methylnitroso-, ethyl ester

U373	122-42-9	Carbamic acid, phenyl-, 1-methylethyl ester
U409	23564-05-8	Carbamic acid, [1,2-phenylenebis(iminocarbonothioyl)]bis-, dimethyl ester
U097	79-44-7	Carbamic chloride, dimethyl-
*** [See Prior Text]		
U062	2303-16-4	Carbamothioic acid, bis(1-methylethyl)-S-(2,3-dichloro-2-propenyl)ester
U389	2303-17-5	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester
U387	52888-80-9	Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester
U279	63-25-2	Carbaryl
U372	10605-21-7	Carbendazim
U367	1563-38-8	Carbofuran phenol
U215	6533-73-9	Carbonic acid, dithallium (1+) salt
*** [See Prior Text]		
U085	1464-53-5	1,2:3,4-Diepoxybutane (I,T)
U395	5952-26-1	Diethylene glycol, dicarbamate
U108	123-91-1	1,4-Diethyleneoxide
*** [See Prior Text]		
U001	75-07-0	Ethanal (I)
U404	121-44-8	Ethanamine, N,N-diethyl-
U174	55-18-5	Ethanamine, N-ethyl-N-nitroso-
*** [See Prior Text]		
U227	79-00-5	Ethane, 1,1,2-trichloro-
U394	30558-43-1	Ethanimidothioic acid, 2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester
U410	59669-26-0	Ethanimidothioic acid, N,N'-[thiobis[(methylimino) carbonyloxy]]bis-, dimethylester
U359	110-80-5	Ethanol, 2-ethoxy-
U173	1116-54-7	Ethanol, 2,2'-(nitrosoimino)bis-
U395	5952-26-1	Ethanol, 2,2'-oxybis-, dicarbamate
U004	98-86-2	Ethanone, 1-phenyl-
*** [See Prior Text]		

U236	72-57-1	2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl-[1,1'-biphenyl]-4,4'-diyl) bis(azo)bis[5-amino-4-hydroxy]-, tetrasodium salt
U279	63-25-2	1-Naphthalenol, methylcarbamate
U166	130-15-4	1,4-Naphthoquinone
*** [See Prior Text]		
U132	70-30-4	Phenol, 2,2'-methylenebis[3,4,6-trichloro-
U411	114-26-1	Phenol, 2-(1-methylethoxy)-, methylcarbamate
U170	100-02-7	Phenol, 4-nitro-
*** [See Prior Text]		
U162	80-62-6	2-Propenoic acid, 2-methyl-, methyl ester (I,T)
U373	122-42-9	Propham
U411	114-26-1	Propoxur
U194	107-10-8	n-Propylamine (I,T)
U083	78-87-5	Propylene dichloride
U387	52888-80-9	Prosulfocarb
U148	123-33-1	3,6-Pyridazinedione, 1,2-dihydro-
*** [See Prior Text]		
U218	62-55-5	Thioacetamide
U410	59669-26-0	Thiodicarb
U153	74-93-1	Thiomethanol (I,T)
U244	137-26-8	Thioperoxydicarbonic diamide [(H ₂ N)C(S)] ₂ S ₂ , tetramethyl-
U409	23564-05-8	Thiophanate-methyl
U219	62-56-6	Thiourea
*** [See Prior Text]		
U222	636-21-5	o-Toluidine hydrochloride
U389	2303-17-5	Triallate
U011	61-82-5	1H-1,2,4-Triazol-3-amine
*** [See Prior Text]		
See F027	88-06-2	2,4,6-Trichlorophenol
U404	121-44-8	Triethylamine
U234	99-35-4	1,3,5-Trinitrobenzene (R,T)
*** [See Prior Text]		

CAS Number given for parent compound only.

G. Constituents that Serve as a Basis for Listing Hazardous Waste. Table 6 lists constituents that serve as a basis for listing hazardous waste.

Table 6. Table of Constituents that Serve as a Basis for Listing Hazardous Waste

*** [See Prior Text in EPA Hazardous Waste Number F001-K151.tetrachloroethylene]
EPA Hazardous Waste Number K156 benomyl carbaryl carbendazim carbofuran carbosulfan formaldehyde methylene chloride triethylamine
EPA Hazardous Waste Number K157 Carbon tetrachloride formaldehyde methyl chloride methylene chloride pyridine triethylamine
EPA Hazardous Waste Number K158 benomyl carbendazim carbofuran carbosulfan chloroform methylene chloride
EPA Hazardous Waste Number K159 benzene butylate eptc molinate pebulate vernolate
EPA Hazardous Waste Number K161 antimony arsenic metam-sodium ziram

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790 (November 1988), LR 15:182 (March 1989), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22: 829 (September 1996), LR 22:840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§4905. Exclusions for Wastewaters

[See Prior Text in A.1-3]

4. a discarded commercial chemical product or chemical intermediate listed in LAC 33:V.4901.D and E arising from de minimis losses of these materials from manufacturing operations in which these materials are used as raw materials

or are produced in the manufacturing process. For purposes of this Paragraph, "de minimis" losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers or leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers rendered empty by that rinsing; or

5. wastewater resulting from laboratory operations containing toxic (T) wastes listed in LAC 33:V.4901 provided that the annualized average flow of laboratory wastewater does not exceed one percent of total wastewater flow into the headworks of the facility's wastewater treatment or pre-treatment system, or provided the wastes, combined annualized average concentration does not exceed one part per million in the headworks of the facility's wastewater treatment or pre-treatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation; or

6. one or more of the following wastes listed in LAC 33:V.4901.C, wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K157), provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine (including all amounts that cannot be demonstrated to be reacted in the process, destroyed through treatment, or recovered, i.e., what is discharged or volatilized) divided by the average weekly flow of process wastewater prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of five parts per million by weight; or

7. wastewaters derived from the treatment of one or more of the following wastes listed in LAC 33:V.4901.C, organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K156), provided that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of five milligrams per liter.

[See Prior Text in B-B.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), amended LR 14:791 (November 1988), LR 15:182 (March 1989), LR 18:723 (July 1992), amended by Office of Waste Services, Hazardous Waste Division, LR 24:

A public hearing will be held on January 26, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability

need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by HW060*. Such comments must be received no later than January 26, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504)765-0486. The comment period for this rule ends on the same date as the public hearing.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

H.M. Strong
Assistant Secretary

9712#041

NOTICE OF INTENT

Department of Environmental Quality Office of Water Resources Water Quality Management Division

Bacteria Criteria (LAC 33:IX.1113)(WP028)

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 gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.1113.C.5 (WP028).

The present bacteria standards will be revised by stating that the primary contact recreation criteria shall be applied during the months in which primary contact recreation such as swimming, tubing, or water skiing activities in the state are likely to occur. Secondary contact recreation criteria would apply to the nonrecreational period to be protective of any incidental contact. Drinking water supply and oyster propagation water uses will continue to require year-long application of the most stringent criteria applicable to those uses. The present bacteria criteria language in the Louisiana Surface Water Quality Standards establishes numerical criteria for four designated water uses: primary contact recreation, secondary contact recreation, drinking water supply, and oyster propagation. The language presently requires application of the criteria all year long for each use. It is recognized that the water uses of drinking water supply and oyster propagation require year-long application. However, primary contact recreation such as swimming, water skiing, and tubing is entirely seasonal and is not occurring for many

months during the year. Therefore, it is appropriate to establish a representative seasonal recreational period for application of the very stringent criteria for primary contact recreation. This approach will ensure that primary contact recreation criteria are most effectively applied to protect the swimming use when it is occurring and not applied when the use is not occurring.

The basis and rationale for this rule are to amend the Louisiana Surface Water Quality Standards to allow for seasonal application of the very stringent bacteria criteria for primary contact recreation. The establishment of a recreational period was developed by assessing a review of the typical beginning and ending of swimming activities in popular state water bodies. Water temperature data by month from representative water bodies were also assessed.

This proposed 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 IX. Water Quality

Chapter 11. Surface Water Quality Standards

§1113. Criteria

* * *

(See Prior Text in A.-C.5.b)

i. Primary Contact Recreation. Based on a minimum of not less than five samples taken over not more than a 30-day period, the fecal coliform content shall not exceed a log mean of 200/100 mL, nor shall more than 10 percent of the total samples during any 30-day period or 25 percent of the total samples collected annually exceed 400/100 mL. These primary contact recreation criteria shall apply only during the defined recreational period of May 1 through October 31. During the nonrecreational period of November 1 through April 30, the criteria for secondary contact recreation shall apply.

* * *

(See Prior Text in C.5.b.ii-Table 1.Footnote 10)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November 1991), amended LR 20:883 (August 1994), LR 24:

A public hearing will be held on January 26, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by WP028. Such comments must be received no later than February 2, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and

Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Linda Korn Levy
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bacteria Criteria**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on state or local government implementation costs (savings) is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect on state or local governmental revenue collection is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No significant costs to directly affected persons or nongovernmental groups are anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect on competition and employment is anticipated.

Linda Korn Levy
Assistant Secretary
9712#037

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Athletic Trainers; Advisory Committee
(LAC 46:XLV.3103-3179)

Notice is hereby given, in accordance with R.S. 49:953, that the Board of Medical Examiners ("the board"), pursuant to the authority vested in the board by the Louisiana Athletic Trainers Law, R.S. 37:3301-3312, and the provisions of the Administrative Procedure Act, intends to amend and supplement its rules governing the certification of athletic trainers, LAC 46:XLV, Subpart 2, Chapter 31, §§3103-3179, to establish and provide for the responsibilities and authority of an Athletic Training Advisory Committee ("the committee") to the board; to reconstitute the existing continuing education advisory committee as a subcommittee of the committee; and to update and effect certain technical

amendments to the existing rules. The proposed rule amendments and new rule section are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 31. Athletic Trainers

Subchapter A. General Provisions

§3103. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified:

3. *The Law or Louisiana Athletic Trainers Law*—Acts 1985, Number 288, as amended, R.S. 37:3301-3312.

7. *Certification*—the board's official recognition of a person's lawful authority to act and serve as an "athletic trainer" as such term is defined by the law, R.S. 37:3302.

12. *Advisory Committee*—the Athletic Training Advisory Committee to the Board, constituted under and pursuant to §3104.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:522 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

§3104. Athletic Training Advisory Committee

A. Constitution. An Athletic Training Advisory Committee ("the advisory committee") to the Board is hereby constituted, to be composed and appointed, to have such functions, and to discharge such responsibilities as hereinafter provided.

B. Composition and Qualifications. The advisory committee shall comprise seven members, including five athletic trainers and two physicians, each of whom shall, to be eligible for and prior to appointment to the committee, be certified as an athletic trainer or licensed as a physician by and in good standing with the board, have maintained residency and practice in the state of Louisiana for not less than one year and have not less than three years of experience in their respective fields. In addition to such general qualifications, the athletic trainer and physician members of the advisory committee shall satisfy the following qualifications.

1. Athletic Trainer Members. The athletic trainer members of the committee shall be appointed and apportioned as follows:

a. one of such members shall be employed or appointed as an athletic trainer by and for a high school;

b. one of such members shall be employed or appointed as an athletic trainer by and for a college or university; and

c. insofar as practical or possible, in its appointment of members to the advisory committee, the board shall maintain geographic diversity so as to provide membership on

the advisory committee by certified athletic trainers residing and practicing throughout Louisiana, with at least one member from the Alexandria, Louisiana area or north, and at least one member from south of such area.

2. Physician Members. The physician members of the committee shall each:

a. hold the title of team physician or its equivalent, employed or appointed by a Louisiana high school, college, university or professional athletic team; and

b. have responsibility for and an active role in the direct supervision of athletic trainers.

C. Appointment; Term of Service. Each member of the advisory committee shall be appointed by the board from among a list of not fewer than two qualified nominees for each committee position submitted to the board by the Louisiana Athletic Trainers Association (LATA), or its successor. Each nomination so submitted shall be accompanied by a personal résumé or *curriculum vitae* for the nominee. Each member of the advisory committee shall serve on the committee for a term of three years, or until his or her successor is appointed, and shall be eligible for reappointment.

D. Functions and Responsibilities of the Committee. The advisory committee is responsible and authorized by the board to:

1. assist the board in examining the qualifications and credentials of applicants for athletic trainer certification and make recommendations thereon to the board;

2. advise and assist the board, as the board may request, with respect to investigative and disciplinary proceedings affecting certified athletic trainers;

3. provide advice and recommendations to the board respecting the modification, amendment and supplementation of rules and regulations, standards, policies and procedures respecting athletic trainer certification and practice; and

4. establish and appoint a continuing education subcommittee, comprising no fewer than three athletic members of the advisory committee, to discharge the responsibilities prescribed by §3169.

E. Committee Meetings, Officers. The advisory committee shall meet at least twice each calendar year, or more frequently as may be deemed necessary by a quorum of the committee or by the board. The presence of five members, including at least one physician member, shall be requisite to constitute a quorum of the advisory committee. The advisory committee shall elect, from among its members, a chairman, a vice-chair and a secretary. The chairman, or in his absence or unavailability, the vice-chair, shall call, designate the date, time and place of, and preside at all meetings of the committee. The secretary shall record, or cause to be recorded, accurate and complete written minutes of all meetings of the advisory committee and shall cause copies of the same to be provided to the board.

F. Confidentiality. In discharging the functions authorized by the board under §3104, the advisory committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the committee members pursuant to §3401.D, or pursuant to Subchapter H of this Chapter, shall be

considered confidential. As such, advisory committee members are prohibited from communicating, disclosing or in any way releasing to anyone, other than the board, any information or documents obtained when acting as agents of the board without first obtaining written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

Subchapter D. Application

§3129. Application Procedure

* * *

D. Application forms and instructions pertaining thereto may be obtained upon personal request at or written request directed to the office of the board. Application forms will be mailed by the board within 30 days of the board's receipt of request therefor. To ensure timely filing and completion of applications, forms must be requested not later than 40 days prior to the deadlines for initial applications specified in §3129.B.

E. An application for certification under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications for certification set forth in this Chapter;

2. three recent photographs of the applicant; and

3. such other information and documentation as are referred to or specified in this Chapter or as the board may require to evidence qualification for certification.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

§3131. Effect of Application

* * *

C. The submission of an application for certification to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose any information or documentation, set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations or governmental entities pursuant to §3131, to any person, firm, corporation, association or governmental entity having a lawful, legitimate and reasonable need therefor, including, without limitation, the athletic trainer certification or licensing authority of any state, the National Athletic Trainers Association, the Louisiana Athletic Trainers Association, the Louisiana Department of Health and Hospitals, state, county or parish and municipal health and law enforcement agencies and the armed services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

Subchapter F. Examination

§3137. Dates, Places of Examination

The board's examination is administered annually in the city of New Orleans. Applicants shall be advised of the specific date, time and location of the next scheduled examination upon application to the board and may obtain such information upon inquiry to the office of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:525 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

Subchapter H. Continuing Education

§3169. Continuing Education Subcommittee

The continuing education subcommittee of the advisory committee ("the CE subcommittee"), constituted under authority of §3104, shall have the authority and responsibility to:

1. evaluate organizations and entities providing or offering to provide continuing education programs for athletic trainers and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing education programs and activities pursuant to §§3171 and 3173;

2. review documentation of continuing education by certified athletic trainers, verify the accuracy of such information, and evaluate and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of certification comply with and satisfy the standards for such programs and activities prescribed by these rules;

3. request and obtain from applicants for renewal of certification such additional information as the committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the CE subcommittee is responsible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:511 (June 1990), amended LR 24:

§3171. Approval of Program Sponsors

* * *

B. Upon the recommendation of the CE subcommittee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing education activity under §3167.B.2, 3 and 7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:511 (June 1990), amended LR 24:

§3173. Approval of Activities

* * *

B. Any such written request shall be referred by the board to the CE subcommittee for its recommendation. If the CE subcommittee's recommendation is against approval, the

board shall give notice of such recommendation to the person requesting approval and the person requesting approval may appeal the CE subcommittee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final. Persons requesting board preapproval of continuing education activities should allow not less than 90 days for such requests to be processed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:512 (June 1990), amended LR 24:

§3175. Documentation Procedure

* * *

C. Any certification of continuing education activities not presumptively approved or preapproved in writing by the board pursuant to these rules shall be referred to the CE subcommittee for its evaluation and recommendations pursuant to §3169.B.2. If the CE subcommittee determines that an activity certified by an applicant for renewal in satisfaction of continuing education requirements does not qualify for recognition by the board or does not qualify for the number of continuing education units claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may appeal the CE subcommittee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:512 (June 1990), amended LR 24:

§3177. Failure to Satisfy Continuing Education Requirements

A. An applicant for renewal of certification who fails to evidence satisfaction of the continuing education requirements prescribed by these rules shall be given written notice of such failure by the board. The certification of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed and subject to revocation without further notice, unless the applicant shall have, within such 60 days, furnished the board satisfactory evidence, by affidavit, that:

1. applicant has satisfied the applicable continuing education requirements;

2. applicant is exempt from such requirements pursuant to these rules; or

3. applicant's failure to satisfy the continuing education requirements was occasioned by disability, illness or other good cause as may be determined by the board.

B. The certification of an athletic trainer whose certification has expired by nonrenewal or been revoked for failure to satisfy the continuing education requirements of these rules may be reinstated by the board upon written application to the board filed within two years of the effective

date of expiration, nonrenewal or revocation accompanied by satisfactory documentation of the completion of not less than three continuing education units within the prior two years and payment of a reinstatement fee, in addition to all other applicable fees and costs, of \$50. Any continuing education activities recognized for purposes of reinstatement shall not be recognized for purposes of any subsequent renewal of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:512 (June 1990), amended LR 24:

§3179. Waiver of Requirements

The board may, in its discretion and upon the recommendation of the CE subcommittee, waive all or part of the continuing education required by these rules in favor of a certified athletic trainer who makes written request for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship or other similar extenuating circumstances precluding the athletic trainer's satisfaction of the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), amended LR 24:

Inquiries concerning the proposed rule amendments may be directed in writing to Delmar Rorison, Executive Director, Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rule amendments, in writing, to the State Board of Medical Examiners, Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA 70130). Written comments must be submitted to and received by the board within 60 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 board within 20 days of the date of this notice.

Delmar Rorison
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Athletic Trainers; Advisory Committee

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

It is not anticipated that implementation of the proposed rule amendments will result in any costs to the board or any other state or local governmental unit. The board does not anticipate that adoption of the proposed amendments will result in either an increase or reduction in workload or any additional paperwork.

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

As the proposed rule amendments will not affect board revenues, no increase or decrease in revenues will result from the proposed rule amendments.

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

Certified athletic trainers and applicants for certification will benefit from the additional participation of athletic trainers in the board's administrative responsibilities. It is not anticipated, however, that the amendments will have any material economic effect on costs of such groups attributable to changes in workload or additional paperwork.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendments will have any impact on competition or employment in either the public or private sector.

Delmar Rorison
Executive Director
9712#046

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Nursing and Board of Medical Examiners

Limited Prescriptive and Distributing Authority (LAC 46:XLVII.4513)

Notice is hereby given that the Board of Nursing (board) and Board of Medical Examiners, pursuant to the authority vested in the board by R.S. 37:918(K) and 39:1031-1035, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., intend to amend Advanced Practice Registered Nurses demonstration projects, LAC 46:XLVII.4513.C, to limited prescriptive and distributing authority to standardize the process and requirements for application for prescriptive privileges as a nurse practitioner, certified nurse midwife, and clinical nurse specialist in Louisiana. The proposed rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 45. Advanced Practice Registered Nurses §4513. Authorized Practice

A. - B.8. ...

C. Limited Prescriptive and Distributing Authority. An Advanced Practice Registered Nurse (APRN) shall practice in a manner consistent with the definition of advanced practice set forth in R.S. 37:913(3)(b) and the provisions of R.S. 37:1031-1035.

1. The 1997 Legislative Session authorized the creation of the Joint Administration Committee on Prescriptive Authority for Advanced Practice Registered Nurses, under the joint jurisdiction of the State Board of Nursing and the State Board of Medical Examiners, to develop and promulgate rules and regulations governing the APRN's limited prescriptive authority.

2. The application for an APRN to be granted limited prescriptive authority to prescribe assessment studies, drugs, and therapeutic devices, and to distribute free drug samples and other gratuitous medications supplied by drug manufacturers may be made as part of initial APRN licensure application or by separate application as set forth in LAC 46:XLVII.3361. Prescriptive authority shall be granted to an APRN in only one licensed category and area of specialization.

3. Definitions as Used in This Part

Act—Acts 1997, Number 720, R.S. 37:1031-1034.

Board—the State Board of Nursing.

Collaborating Physician—a physician with whom the APRN has developed and signed guidelines for a limited prescribing practice.

Contact Hour—a unit of measurement that describes 50 minutes of participation in an educational activity which meets the State Board of Nursing's continuing education criteria. Ten contact hours equal one Continuing Education Unit (C.E.U.).

Distribute, Distribution, or Distributed—the issuing of free samples and other gratuitous medications supplied by drug manufacturers, as defined by protocol contained in a collaborative practice agreement.

Joint Administration Committee or Committee—the joint committee comprising three members designated by the board; three members designated by the State Board of Medical Examiners; and two nonvoting members, one APRN appointed by the State Nurses Association and one physician, appointed by the State Medical Society.

Medical (Therapeutic) Device or Appliance—any piece of equipment used as an aid to living by a patient, including, but not limited to, a wheelchair, crutches, or hospital bed. Medical device or appliance shall not be construed to mean any diagnostic tool or test or any item or equipment of a therapeutic or corrective nature which is outside the scope of practice of advanced nursing. A medical device or appliance to be prescribed by an APRN shall be explicitly listed in that APRN's clinical practice guidelines.

National Professional Accrediting Organization—the educational activity offered by a nursing, medical, or pharmacy association and approved by the Board of Nursing relative to pharmacology management.

Prescribe—to direct, order, or designate the preparation, use of, or manner of using by spoken or written words.

Prescription—an order for a drug, chemical, or medicine, or combination thereof, either written or given orally to a registered pharmacist by a licensed physician, dentist, optometrist, advanced practice registered nurse, or veterinarian, to be filled, compounded, or dispensed by a registered pharmacist in a registered pharmacy, and to be preserved on file as required in R.S. 37:1198.

Under Physician Direction—the limited prescriptive authority as approved by the Joint Administration Committee and demonstrated in the collaborative practice agreement as provided for in R.S. 37:913(9).

4. The applicant shall meet the following requirements:

a. hold a current, unencumbered, unrestricted and valid registered nurse license in Louisiana; and there are no grounds for disciplinary proceedings as stated in R.S. 37:921;

b. hold a current, unencumbered, unrestricted and valid APRN license;

c. submit a notarized application on a form provided by the board with a nonrefundable fee as set forth in LAC 46:XLVII.3361;

d. provide evidence of:

i. 90 days of active full-time practice in the clinical specialty for which the applicant was educationally prepared as an APRN immediately prior to applying for limited prescribing and distributing authority;

ii. successful completion of a minimum of 36 contact hours of education in advanced pharmacotherapeutics obtained as a component of a formal educational program preparing registered nurses for advanced practice or continuing education programs for advanced practice, approved by the board, within the four-year time period immediately prior to the date of application for prescriptive and distributing authority, at least 12 hours of which shall have been obtained within two years prior to application. The APRN must submit the continuing education advanced pharmacotherapeutics curriculum to the board for review and approval. In order for the continuing education course to be approved by the board, the course must include:

(a). content relevant to advanced practice nursing;

(b). knowledge of pharmacokinetics principles and their clinical application;

(c). the use of pharmacological agents in the prevention of illness, restoration and maintenance of health;

iii. successful completion of a minimum of 12 contact hours in physiology/pathophysiology at an advanced practice level;

iv. any deviation from §4513.C.4.c.ii must be submitted to the board for review and approval;

v. a collaborative practice agreement with a licensed physician or physician group shall include, but not be limited to:

(a). a plan of accountability between both parties;

(b). clinical practice guidelines, as required by R.S. 37:913(9)(b);

(c). availability of the collaborating physician; and

(d). patient care coverage during the absence of an APRN, physician, or both parties with documented review of the guidelines with the on-call physician. Evidence must be shown, upon request of the committee, that patients are knowledgeable about how to access care when the APRN and physician are absent from the practice setting.

5. Limited Prescriptive Authority

a. The Joint Administration Committee shall review the application and all related materials and shall approve, modify, or deny the application. An APRN with limited prescriptive authority approved by the board and the State Board of Medical Examiners may prescribe drugs as indicated by protocol.

b. Prior to granting the APRN limited prescriptive authority, the licensed physician or physician group and

on-call physician, when applicable, shall be approved by the State Board of Medical Examiners.

c. An APRN who is granted limited prescriptive authority shall not prescribe or distribute any controlled substance as defined, enumerated or included in federal or state statutes or regulations, 21 CFR §1308.11-15, R.S. 40:964, or any substance which may hereafter be designated a controlled substance by amendment or supplementation of the cited regulations and statute, except as may be explicitly authorized by the Joint Administration Committee. An APRN who is so authorized shall not prescribe controlled substances of any class until and unless the APRN applies for and obtains a license from the Division of Narcotics and Dangerous Drugs and registration with the U.S. Drug Enforcement Administration for the appropriate controlled substance schedules, and files copies of such license and registration with the board.

d. An APRN granted limited prescriptive and distributing authority shall comply with all applicable laws and rules in prescribing, distributing and administering drugs, including compliance with labeling requirements, R.S. 37:1195(B), R.S. 37:1701, R.S. 37:911 et seq. and R.S. 37:1261 et seq., and shall comply with the abbreviation for the applicable category of advanced nursing practice and the identification number assigned by the board.

e. Each year an APRN with limited prescriptive authority shall obtain six contact hours of continuing education in pharmacology or pharmacology management. Documentation of completion of the continuing education contact hours shall be submitted for license renewal. In order for the continuing education program to be approved by the board, the program must:

i. be provided by a board-approved national certifying organization;

ii. include content relevant to advanced practice nursing and the use of pharmacological agents in the prevention of illness, restoration and maintenance of health.

f. APRN prescriptive authority shall be renewed as part of the APRN license.

g. Prior to changes with the collaborating physician, physician group and on-call physician, when applicable, or practice site, the APRN shall notify the board, in writing, requesting approval of such changes.

h. The board shall be responsible for maintaining a current public list of APRNs who have limited authority to prescribe in the state. An updated list of APRNs with limited prescriptive authority shall be sent by the board to the State Board of Pharmacy.

i. The Board of Nursing shall supply whatever data is needed by the Office of Narcotics and Dangerous Drugs of the Department of Health and Hospitals.

j. An APRN shall demonstrate compliance with LAC 46:XLVII.4513.C.2.

k. A physician shall be permitted to enter into collaborative practice agreements for the exercise of limited prescriptive authority with not more than two APRNs, except as may otherwise be expressly approved by the Joint Administration Committee on a case-by-case basis or pursuant to guidelines developed by the committee.

6. Limited Distribution of Free Drug Samples and Other Gratuitous Medications Supplied by Drug Manufacturers

a. Distribution of free drug samples and other gratuitous medications supplied by drug manufacturers, other than controlled substances, shall:

i. be consistent with, and not beyond the parameters of, the APRN scope of practice and collaborative practice agreement;

ii. be recorded in the patient record; and

iii. be in accordance with other state and federal statutes and regulations.

b. Free drug samples distributed by an APRN shall be in the manufacturers' original packaging and shall be labeled to show the name of the drug, strength in the original packaging along with directions for use. With the exception of medication samples as authorized by this rule, an APRN with limited prescriptive authority shall not accept or distribute any controlled substance.

7. Limitation. An APRN's limited prescriptive and distributing authority is not delegable.

8. Exclusion. Nothing herein shall require a CRNA to have prescriptive authority to provide anesthesia care, including the administration of drugs or medicine necessary for anesthesia care.

9. - 10. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 24:

A public hearing jointly conducted by the Board of Nursing and the Board of Medical Examiners will be held on January 27, 1998, in Ballroom D of the Airport Hilton, 901 Airline Highway, Kenner, LA, commencing at 9 a.m.

Interested persons are invited to attend and submit oral comments on the proposed rules. All interested persons are invited to submit written comments on the proposed rules. Such comments must be submitted no later than January 20, 1998, at 4:30 p.m., to Barbara L. Morvant, Executive Director, Board of Nursing, 3510 North Causeway Boulevard, Suite 501, Metairie, LA 70002.

Barbara Morvant, MN, RN
Executive Director
Board of Nursing

Delmar Rorison
Executive Director
Board of Medical Examiners

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Limited Prescriptive and Distributing Authority

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Increased expenditures are expected due primarily to the anticipated number of advanced practice registered nurses

applying for prescriptive authority and the consequential need for additional travel expenses of board members and staff appointed to the Joint Administration Committee meetings. The funds necessary to implement these rules will be provided from the operating expenses from the State Board of Nursing and State Board of Medical Examiners.

Projected expenditures are based on five meetings of the Joint Administration Committee, as follows: \$13,000, FY 97-98; \$9,550, FY 98-99; \$9,550, FY 99-00. The cost is estimated at a higher rate for FY 97-98 to provide for currently licensed advanced practice registered nurses to apply for prescriptive authority. Six members and two staff are anticipated for each meeting.

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 over the next two years.

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

There are no anticipated cost increases to directly affected persons or nongovernmental groups over the next two years. There may be a slight economic benefit to both the physicians in Louisiana, who would be collaborating with Advanced Practice Registered Nurses (APRNs) with prescriptive authority privileges; and the public who would be receiving health care and prescriptions from APRNs as a result of more efficient utilization of the APRNs' services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment, as the APRNs who apply for prescriptive authority are already employed by a collaborating physician in a clinical practice setting.

Barbara L. Morvant
Executive Director, R.N., M.N.
Board of Nursing
9712#085

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Veterinary Medicine

Licensure; Veterinary Exams, Practice
and Preceptorship Program
(LAC 46:LXXXV.301, 303, 700, 1105)

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.301, 303, 700, and 1105 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

The proposed amendments are intended to address issues related to the licensure of foreign veterinary school graduates. Currently the board will only license foreign veterinary school graduates who have obtained the Educational Commission on Foreign Veterinary Graduates (ECFVG) certificate. The requirements for obtaining the ECFVG certificate include proof of graduation from an American Veterinary Medical Association (AVMA)-listed college of veterinary medicine, proof of fluency in English, successful completion of the

national veterinary exams, and successful completion of a Clinical Proficiency Exam (CPE), or satisfactory completion of a year of evaluated clinical experience at an AVMA-accredited or approved college of veterinary medicine.

There is a nearly two-year backlog of persons waiting to take the CPE, and it is extremely difficult for persons to obtain a year-long clinical position at a college of veterinary medicine. With the proposed rule amendments, the board is trying to allow foreign veterinary school graduates to obtain licensure more efficiently, while at the same time maintaining sufficient licensing standards to protect the public.

Upon adoption of these rule changes, in order for a foreign veterinary school graduate to be licensed in Louisiana, he or she must either possess the ECFVG certificate or provide:

1. proof of graduation from a board-approved school or college of veterinary medicine;

2. proof of passing scores on any national and state examinations required by the board for licensing;

3. proof of competency in the use of the English language, as determined by graduation from an English-speaking high school or a board-approved test; and

4. one of the following:

a. transcripts as proof that a fourth year (senior year) of education was successfully completed at an AVMA-accredited school or college of veterinary medicine; or

b. transcripts as proof that a postgraduate clinical internship was successfully completed at an AVMA-accredited school or college of veterinary medicine; or

c. proof of employment as a licensed veterinarian in a private clinical practice in another state for the two years immediately prior to application for Louisiana licensure. A foreign veterinary school graduate must meet all other regulatory and statutory requirements for licensure.

Other amendments will:

1. allow a graduate of a foreign school of veterinary medicine who has successfully completed a fourth year (senior year) of study at an AVMA-accredited school or college of veterinary medicine to be a candidate for any required examinations for licensure; and

2. provide that individuals who have completed a board-approved program of instruction and have received a degree of Doctor of Veterinary Medicine, but who have not qualified for and/or completed the application for licensure process, are included within the definition of unlicensed veterinarian, which will allow such persons to complete the preceptorship requirement for Louisiana licensure. An amendment to §1105 makes clear that a preceptorship must be successfully completed prior to licensure.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 3. Licensure Procedures

§301. Applications for Licensure

A. ...

B. In addition to the requirements in §301.A, the board may also require that any applicant furnish the following information:

1. ...
2. a copy of the applicant's diploma from a board-approved school or college of veterinary medicine;
3. - 7. ...
8. prior to licensure in Louisiana, a foreign veterinary school graduate must provide:
 - a. a copy of the "Educational Commission for Foreign Veterinary Graduates" or "ECFVG" certificate to the board; or
 - b. proof of graduation from a board-approved school or college of veterinary medicine; proof of passing scores on any national and state examinations required by the board for licensure; and proof of competency in the use of the English language as determined by graduation from an English-speaking high school or a board-approved test; and one of the following:
 - i. transcripts as proof that a fourth year (senior year) of education was successfully completed at an AVMA-accredited school or college of veterinary medicine; or
 - ii. transcripts as proof that a postgraduate clinical internship was successfully completed at an AVMA-accredited school or college of veterinary medicine; or
 - iii. proof of employment as a licensed veterinarian in a private clinical practice in another state for the two years immediately prior to application for Louisiana licensure;
 - c. satisfactory proof of meeting all other regulatory and statutory requirements for licensure.

C. - E. ...

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 8:66 (February 1982), amended LR 10:464 (June 1984), LR 16:224 (March 1990), LR 19:343 (March 1993), LR 23:964 (August 1997), LR 23:

§303. Examinations

A. Examinations Required for Licensure

1. - 3. ...
4. A candidate for examination must be:
 - a. - b. ...
 - c. currently enrolled in the fourth year of veterinary school; or
 - d. a graduate of a foreign school of veterinary medicine who has successfully completed a fourth year (senior year) of study at an AVMA-accredited school or college of veterinary medicine.

B. - D. ...

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 8:66 (February 1982), amended LR 19:344 (March 1993), LR 19:1327 (October 1993), LR 23:964 (August 1997), LR 23:

Chapter 7. Veterinary Practice

§700. Definitions

* * *

Preceptees (Interns)—individuals who are unlicensed veterinarians or who are full-time, fourth-year students of an AVMA-accredited college or school of veterinary medicine and who are in a board-approved preceptorship placement.

* * *

Unlicensed Veterinarians—individuals who have completed a board-approved program of instruction and have received a degree as Doctor of Veterinary Medicine but who have not qualified for and/or completed the application for licensure process in the state of Louisiana.

* * *

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 19:1328 (October 1993), amended LR 20:1381 (December 1994), LR 23:

Chapter 11. Preceptorship Program §1105. Applicants

A. Every applicant for a license to practice veterinary medicine in the state of Louisiana must successfully complete a preceptorship program during the senior year in a board-approved school of veterinary medicine or after graduation. The board shall have the discretionary right to waive compliance with the preceptorship program when the applicant has been licensed in another state or is eligible for a license without examination.

B. ...

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 16:232 (March 1990), amended LR 23:

Interested parties may submit written comments to Charles B. Mann, Executive Director, Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on January 27, 1998.

A public hearing on the proposed changes will be held on January 27, 1998, at 9 a.m. at the office of the Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at said hearing.

Charles B. Mann
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Licensure; Veterinary Exams, Practice and Preceptorship Program

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

There will be no costs or savings to state or local governmental units, except for those associated with publishing

the amendments (estimated \$240). The veterinary profession will be informed of this rule change via the board's regular newsletter, which is already a budgeted cost of the board.

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. There will be no revenue impact as no increase in fees will result from these amendments.

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

There will be no increased costs to directly affected persons or nongovernmental groups. Foreign veterinary school graduates may benefit from the changes in that the amendments provide expanded conditions under which they may qualify for licensure in Louisiana. There is no known economic benefit provided to directly affected nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant impact on competition and employment is anticipated as a result of the proposed rule changes. The board expects very few foreign veterinary school graduates to apply for licensure in this state. At the moment, there have only been two foreign veterinary school students or graduates who have inquired about becoming licensed in Louisiana within the next year.

Charles B. Mann
Executive Director
9712#028

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary

Departmental Research (LAC 48:I.Chapter 25)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals (DHH), Office of the Secretary proposes to adopt rules to assure that the rights of human subjects of research conducted in programs or facilities operated or funded by DHH are protected through the establishment of a review and approval process for all research proposals. This proposed rule is in compliance with federal regulations 45 CFR, Part 46 issued June 18, 1991, which require agencies in receipt of federal funds to establish a research review process to protect the rights of human subjects of research.

Title 48

PUBLIC HEALTH

Part I. General

Chapter 25. Departmental Research

§2501. Purpose

These policies are designed to assure the protection of the rights of human subjects of research conducted in programs or facilities operated or funded by the Department of Health and Hospitals (DHH).

AUTHORITY NOTE: Promulgated in accordance with 56 FR 28002.

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

§2503. Applicability

These policies apply to all research conducted in programs/facilities operated or funded by the DHH.

AUTHORITY NOTE: Promulgated in accordance with 56 FR 28002.

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

§2505. Definitions

Cognitively Impaired—having either a psychiatric disorder (e.g., psychosis, neurosis, personality or behavior disorders), an organic impairment (e.g., dementia) or a developmental disorder (e.g., mental retardation) that affects cognitive or emotional functions to the extent that capacity for judgement and reasoning is significantly diminished. Others, including persons under the influence of or dependent on drugs or alcohol, those suffering from degenerative diseases affecting the brain, terminally ill patients, and persons with severely disabling physical handicaps may also be compromised in their ability to make decisions in their best interests.

Competence—technically, a legal term used to denote capacity to act on one's own behalf; the ability to understand information presented, to appreciate the consequences of acting (or not acting) on that information, and to make a choice. (See also: *Incompetence, Incapacity*.) Competence may fluctuate as a function of the natural course of a mental illness, response to treatment, effects of medication, general physical health, and other factors. Therefore, mental status should be re-evaluated periodically. As a designation of legal status, competence or incompetence pertains to an adjudication in court proceedings that a person's abilities are so diminished that his or her decisions or actions should have no legal effect. Such adjudications are often determined by inability to manage business or monetary affairs and do not necessarily reflect a person's ability to function in other situations.

DHH—Department of Health and Hospitals (Louisiana).

DHHS—U.S. Department of Health and Human Services. This federal agency promulgated 45 CFR, Part 46, *Protection of Human Subjects*, revised June 18, 1991, effective August 19, 1991. DHH's research policies are based upon 45 CFR, Part 46.

Human Subject—a living individual about whom an investigator (whether professional or student) conducting research obtains:

1. data through intervention or interaction with the individual; or
2. identifiable private information.

Identifiable Private Information—private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (e.g., a medical record). Private information must be individually identifiable (i.e., the identification of the subject is or may readily be ascertained by the investigator or associated with the information) in order for obtaining the information to constitute research involving human subjects.

Incapacity—refers to a person's mental status and means inability to understand information presented, to appreciate the consequences of acting (or not acting) on that information, and to make a choice. Often used as a synonym for *incompetence*.

Incompetence—technically, a legal term meaning inability to manage one's affairs. Often used as a synonym for *incapacity*.

IRB Approval—the determination of the IRB that the research has been reviewed and may be conducted within the constraints set forth by the IRB and by other state and federal requirements.

Institutional Review Board (IRB)—the DHH committee with responsibility for reviewing and recommending approval/disapproval of all research proposals.

Interaction—includes communication or interpersonal contact between investigator and subject.

Intervention—includes both physical procedures by which data are gathered (e.g., venipuncture) and manipulations of the subject or his/her environment that are performed for research purposes.

Investigator—the person conducting research.

Minimal Risk—the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during performance of routine physical or psychological examinations or tests.

Programmatic Offices—the major programmatic offices in DHH are: Bureau of Health Services Financing (BHSF), Office of Alcohol and Drug Abuse (OADA), Office for Citizens with Developmental Disabilities (OCDD), Office of Mental Health (OMH), and Office of Public Health (OPH).

Research—systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.

AUTHORITY NOTE: Promulgated in accordance with 56 FR 28002.

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

§2507. Statement of Principles

A. The DHH believes that research involving human subjects must be based upon the principles of respect for persons, beneficence, and justice.

1. Respect for persons involves a recognition of personal dignity and autonomy of individuals, and special protection of those persons with diminished autonomy.

2. Beneficence entails an obligation to protect persons from harm by maximizing anticipated benefits and minimizing possible risks of harm.

3. Justice requires that benefits and burdens of research be distributed fairly.

B. DHH also recognizes that many consumers of its services may be cognitively impaired and therefore deserve special consideration as potential research subjects. The predominant ethical concern in research involving persons with psychiatric, cognitive, developmental, or chemical dependency disorders is that their conditions may compromise their capacity to understand the information presented and their ability to make a reasoned decision about participation. Consequently, approval of proposals to use these individuals

as research subjects will be conditioned upon the researcher demonstrating that:

1. such individuals comprise the only appropriate subject population;

2. the research question focuses on an issue unique to these subjects;

3. the research involves no more than minimal risk, except when the purpose of the research is therapeutic for these individual subjects and the risk is commensurate with the degree of expected benefit.

AUTHORITY NOTE: Promulgated in accordance with 56 FR 28002.

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

§2509. Policies and Procedures

A. Policy Basis. Research conducted and authorized by the DHH will meet all applicable federal and state laws and regulations, accreditation standards, and professional codes of ethics. These policies derive primarily from 45 CFR, Part 46, *Protection of Human Subjects* and are also consonant with 21 CFR, Parts 50 and 56, adopted by the Food and Drug Administration. (Both sets of regulations were effective on August 19, 1991.) 45 CFR, Part 46 is applicable to other DHHS components, including the Health Care Financing Authority (Medical Assistance Programs).

B. Establishment of Institutional Review Board (IRB). There is hereby established a DHH IRB to review and evaluate all proposed research projects.

1. Twenty-four hour facilities may either utilize these policies as written or amend them to provide for an in-house IRB for initial assessment of research projects prior to submission to the DHH IRB for final review.

2. All research involving DHH consumers, employees, or services in the community and in institutions will be reviewed by the DHH IRB before it is submitted to the secretary or designee for final approval.

3. The IRB is a permanent standing committee which meets quarterly or as needed.

4. The membership shall consist of at least seven members, appointed by the secretary, partly from recommendations by the assistant secretaries and the director of the BHSF:

a. the director of Research and Development or his/her designee shall serve as permanent chairperson of the IRB. In the event of an extended absence from duty of the permanent chair, the secretary shall appoint a temporary replacement to serve during that period;

b. each office and the BHSF shall have at least one member;

c. relevant professional disciplines shall be represented in the membership;

d. at least one member shall be a direct service provider;

e. one member shall not be employed by the DHH. If possible, this member should be an ethicist (specialist in ethics) or an attorney;

f. at least one member shall be either a primary consumer, or a family member, or an advocate;

g. at least one member's primary concerns shall be in science areas and at least one member's primary concerns

shall be in nonscientific areas. If not selected under §2509.B.4.e, an attorney or ethicist should fill the latter slot;

5. The IRB may, in its discretion, invite individuals with competence in special areas to assist in the review of issues which require expertise beyond or in addition to that available to the IRB. Such individuals shall not vote with the IRB.

6. IRB members should have appropriate research training, experience or interest. Membership should also sufficiently represent the cultural, ethnic, and gender diversity of the state and be sensitive to diverse community attitudes.

7. Except for the chair, members shall be appointed for one-year terms and may be reappointed.

8. No IRB member may participate in the initial or continuing review of any project in which the member has a conflicting interest, except to provide information requested by the IRB.

9. Once constituted, the IRB shall adopt written bylaws and guidelines/application materials for conducting research in DHH operated/funded programs or facilities.

10. Research approved by the Office of Public Health's (OPH) IRB prior to the adoption of these policies does not require DHH IRB approval. However, copies of proposals approved by the OPH IRB shall be provided to the chair of the DHH IRB.

C. IRB Review Process. Prior to authorization and initiation of research, an IRB meeting shall be convened to conduct a detailed review of the project in order to determine that all of the following requirements are met.

1. Proposal incorporates procedures designed to minimize the risk to participants. Risks to subjects are minimized by using procedures which are consistent with sound research design and do not unnecessarily expose subjects to risk and, whenever appropriate, by using procedures already being performed on subjects for diagnostic or treatment purposes.

2. Risks to subjects are reasonable in relation to anticipated benefits and the importance of any knowledge that may reasonably be expected to result. In evaluating risks and benefits, the IRB should consider only those risks and benefits that may result from the research, as distinguished from risks and benefits of therapies subjects would receive even if not participating in the research. The IRB should not consider possible long-range effects of applying knowledge gained in the research (e.g., possible effects of research on public policy) as among those research risks that fall within its purview.

3. Selection of subjects is equitable. In making this assessment, the IRB should take into account the purposes and setting of the research. It should be particularly cognizant of special problems of research involving vulnerable populations, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons.

4. Research design minimizes possible disruptive effects of project on organizational operation.

5. Research design is in compliance with accepted ethical standards.

6. Informed consent will be sought from each prospective subject or the subject's legally authorized representative, in accordance with and to the extent required in §2509.E.

7. Informed consent will be appropriately documented, in accordance with and to the extent required by §2509.E.1-E.5 of these rules.

8. When appropriate, the research plan provides monitoring of the data collected to ensure subjects' safety.

9. Research proposal contains requisite safeguards to protect the privacy of subjects and to maintain the confidentiality of data.

10. Research proposal has been approved at the appropriate program administrative level, beginning with the program/facility.

D. IRB Recommendations and Notification

1. Researchers should be either present at the IRB meeting which considers their proposals or available for questioning at an indicated phone number during that time.

2. Following detailed review, the IRB by majority vote approves (fully or provisionally) or disapproves the research proposal.

a. Provisional approval means that minor modifications, specified in writing by the IRB, must be received by the chair within 30 days in order to recommend full approval.

b. Proposals receiving full approval are sent to the secretary or designee for authorization to begin research.

3. The secretary or the director of Research and Development will notify the researcher in writing of the IRB's decision to approve or disapprove the proposed research within 10 working days.

a. If the proposal is not approved, the letter will indicate reasons for disapproval and give the researcher an opportunity to respond in writing to the IRB.

b. There are no appeals for research proposals disapproved on the basis of ethical shortcomings or potential harm to subjects.

c. No research, subject to IRB review, can begin until written authorization from the secretary or designee is received.

d. Research approved by the IRB may be subject to further administrative review and approval or disapproval. However, no administrator can approve research which has not been approved by the IRB.

e. After approval, the IRB shall review the research in progress at appropriate intervals, but not less than once per year.

f. The IRB has the authority to suspend or terminate approval of research that is not being conducted in accordance with the IRB's requirements or that has been associated with unexpected harm to subjects. Any suspension or termination of approval shall be in writing, include the reasons for this action, and be reported promptly to the investigator, appropriate agency officials, and the secretary.

g. Cooperative research refers to those projects covered by this Chapter which involve more than one institution or agency. In the conduct of cooperative research projects, each institution or agency is responsible for

safeguarding the rights and welfare of human subjects and for complying with 45 CFR, Part 46. With the approval of the DHH or agency head, an institution participating in a cooperative project may enter into a joint review arrangement, rely upon the review of another qualified IRB, or make similar arrangements for avoiding duplication of effort.

4. Expedited Review Procedure

a. Research that involves no more than minimal risk and in which the only involvement of human subjects will be in one or more of the following categories (carried out through standard methods) may be reviewed by the IRB through an expedited review procedure. Under this procedure, the review may be carried out by the IRB chairperson or by one or more experienced reviewers designated by the chair from among IRB members. In reviewing the research, the reviewers may exercise all of the authority of the IRB except that they may not disapprove the research. Research may be disapproved only after review in accordance with the nonexpedited procedures set forth in §2509.C. A report of all research approved by expedited review will be presented by the chair to the full IRB at its next regularly scheduled meeting. Categories of research which may qualify for expedited review include:

- i. research conducted in established or commonly accepted educational settings, involving normal educational practices (e.g., research on special education instructional strategies);
- ii. research involving the use of educational tests, survey procedures, interview procedures, or observation of public behavior if such research does not record information or identifiers which can be linked to individual human subjects;
- iii. research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens;
- iv. research and demonstration projects which are conducted by or subject to the approval of the secretary or heads of programmatic offices and are designed to study, evaluate, or otherwise examine public benefit of services or programs;
- v. research conducted by faculty or students at colleges/universities if all of the following conditions are met:
 - (a). a copy of the university's IRB policies is on file with the DHH IRB;
 - (b). university IRB's approval of the research is documented;
 - (c). a copy of the full research proposal is included;
 - (d). for student research, written approval of the project by both a faculty advisor and a DHH staff sponsor must be provided;
- vi. research approved by an IRB in 24-hour facilities if requested via the chief executive officer of the facility to the DHH IRB chair;
- vii. requests from investigators for minor changes in research approved less than one year prior to such request;
- viii. cooperative research which has been approved by the IRB and head of an agency outside of DHH.

b. The secretary or agency heads may restrict, suspend, terminate, or choose not to authorize use of the expedited review procedure.

E. Informed Consent of Research Subjects. Except as provided elsewhere in Chapter 25, no investigator may involve a human being as a subject in research unless the investigator obtains the legally effective informed consent of the subject or the subject's authorized representative. An investigator shall seek such consent only under circumstances that provide the prospective subject or the representative sufficient opportunity to consider whether or not to participate and that minimize the possibility of coercion or undue influence. The information that is given to the subject or representative shall be in language easily understandable to the subject or representative. No informed consent document may include any exculpatory language through which the subject or representative is made to waive or appear to waive any of the subject's legal rights or the investigator, the sponsor, or the agency and its agents are/appear to be released from liability for negligence.

1. Basic Elements of Informed Consent. Except as provided below, the investigator shall provide each subject the following information:

- a. a statement that the study involves research, an explanation of the purposes of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures which are experimental;
- b. a description of any reasonably foreseeable risks or discomforts to the subject;
- c. a description of any benefits to the subject or to others which may reasonably be expected from the research;
- d. a disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject;
- e. a statement describing the extent, if any, to which confidentiality of records identifying the subject will be maintained;
- f. for research involving more than minimal risk, explanations as to whether any compensation and medical treatment are available if injury occurs and, if so, what they consist of, or where further information may be obtained;
- g. an explanation of whom to contact for answers to pertinent questions about the research and research subjects' rights, and whom to contact in the event of a research related injury to the subject;
- h. a statement that participation is voluntary, refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and the subject may discontinue participation at any time without penalty or loss of benefits to which the subject is otherwise entitled.

2. Additional Elements of Informed Consent. When appropriate, one or more of the following elements of information shall also be provided to each subject:

- a. a statement that the particular treatment or procedure may involve risk that is currently unforeseeable;
- b. anticipated circumstances under which the subject's participation may be terminated by the investigator without regard to the subject's consent;

c. any additional costs to the subject that may result from research participation;

d. the consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject;

e. a statement that significant new findings developed during the course of the research which may relate to the subject's willingness to continue participation will be provided to the subject;

f. the approximate number of subjects involved in the study.

3. Waiver of Informed Consent. The IRB may waive the requirement to obtain informed consent provided that the IRB finds and documents that:

a. the research or demonstration project is to be conducted by or subject to the approval of state government officials and is designed to study or evaluate public benefit of services provided or funded by DHH;

b. such project deals with improving procedures for obtaining benefits/services under those programs and/or suggesting possible changes in or alternatives to those programs/procedures or in the methods/levels of payment for benefits or services under those programs; and

c. such research or projects shall not involve identifying individual recipients of services/benefits.

4. Documentation of Informed Consent

a. Informed consent shall be documented by the use of a written consent form approved by the IRB and signed by the subject or the subject's legally authorized representative. A copy shall be given to the person signing the form.

b. The written consent document must embody the elements of informed consent required in §2509.E.1. This form may be read to the subject or the subject's legally authorized representative but, in any event, the investigator shall give either the subject or the representative adequate opportunity to read it before it is signed. An IRB recommended informed consent document will be included in the guidelines/application materials for conducting research in DHH operated/funded programs or facilities.

c. The IRB may waive the requirement for the investigator to obtain a signed consent form for some or all subjects if it finds either:

i. that the only record linking the subject and the research would be the consent document and the principal risk would be the potential harm resulting from a breach of confidentiality. Each subject will be asked if he/she wants documentation linking him/her with the research, and the subject's wish shall govern; or

ii. that the research presents no more than minimal risk of harm to subjects and involves no procedures for which written consent is normally required outside of the research context.

d. In cases in which the documentation requirement is waived, the IRB may require the investigator to provide subjects with a written statement regarding the research.

5. The IRB shall demand additional protection and informed consent rights if the research involves fetuses, pregnant women and human in-vitro fertilization (45 CFR

46:201-211), prisoners (45 CFR 46:301-306), or children (45 CFR 46:401-409).

F. Responsibilities of Research Investigators. In addition to all of the requirements detailed in §2509, researchers shall be responsible for the following.

1. Research investigators shall prepare and submit a protocol giving a complete description of the proposed research.

a. The protocol shall include provisions for adequate protection of the rights and welfare of prospective research subjects and ensure that pertinent laws and regulations are observed.

b. Samples of proposed informed consent forms shall be included with the protocol.

c. A completed DHH Application to Conduct Research must be submitted with the protocol.

2. Research investigators shall obtain and document appropriate administrative approval (beginning at the program/facility level) to conduct research before the proposal is submitted to the DHH IRB.

3. Prior to the beginning of the research, the investigator shall communicate to impacted staff the purpose and nature of the research.

4. Upon completion of the research, the principal investigator shall attempt to remove any confusion, misinformation, stress, physical discomfort, or other harmful consequences, however unlikely, that may have arisen with respect to subjects as a result of the research.

5. Within 30 working days of the completion of the research, the principal investigator shall communicate the outcome(s) and practical or theoretical implications of the research project to the program administrator and, when appropriate, program staff in a manner that they can understand.

6. The researcher shall submit progress reports as requested by the IRB (at least annually). As soon as practicable after completion of the research, but in no case longer than 90 working days later, the research investigator shall submit to the IRB a written report, which, at a minimum, shall include:

a. a firm date on which a full, final report of research findings will be submitted;

b. a succinct exposition of the hypotheses of the research, the research design and methodologies, and main findings of the research;

c. an estimate of the validity of conclusions reached and some indication of areas requiring additional research; and

d. specific plans for publishing results of the research.

7. A final report of the research as well as copies of any publications based upon the research will be submitted to the IRB as soon as possible. The State owns the final report, but prior permission of the IRB for the investigator to publish results of the research is not required. The publication is the property of the researcher and/or the medium in which it is published. However, failure to provide the IRB with required periodic and final reports or publications based on the

requests to conduct research in DHH operated/funded programs or facilities.

G. Initiation of the Research Review Process

1. The first contact in the process should be by the research investigator with the manager of the program or facility from which subjects will be drawn.

2. If the manager agrees that the research is feasible and desirable, the researcher will obtain his/her written authorization and send the protocol to appropriate staff at headquarters for consideration and approval by the assistant secretaries or the director of BHSF.

3. The assistant secretaries or the director of BHSF, in approving the research proposal, will certify that:

- a. the research design is adequate and meets acceptable scientific standards;
- b. appropriate ethical considerations have been identified and discussed;
- c. the proposal contains provisions to minimize possible disruptive effects of the project on organization's operation;
- d. the research will potentially benefit the participants directly or improve the service system; and
- e. the research topic is compatible with the agency's research agenda.

4. The assistant secretaries or the director of BHSF, after approval of the research, will submit the proposal to the IRB for further consideration.

H. IRB Records

1. The IRB shall prepare and maintain adequate documentation of IRB activities, including the following:

- a. copies of all research proposals reviewed, scientific evaluations, if any, that accompany the proposals, approved sample consent documents, progress reports submitted by investigators, and reports of injuries to subjects;
- b. minutes of IRB meetings in sufficient detail to show attendance at the meeting; actions taken by the IRB; the vote on these actions, including the number of members voting for, against, and abstaining; the basis for requiring changes in or disapproving research; and a written summary of the discussion of controverted issues and their resolution;
- c. records of continuing review activities;
- d. copies of all correspondence between the IRB and investigators;
- e. a list of IRB members identified by name; earned degrees; representative capacity; indications of experience sufficient to describe each member's chief anticipated contributions to IRB deliberations; and any employment or other relationship between each member and the DHH;
- f. written procedures for the IRB and statements of significant new findings provided to subjects.

2. The records required by §2509.H shall be retained for at least three years, and records relating to research which is conducted shall be retained for at least three years after completion of the research. All records shall be accessible for inspection and copying by authorized representatives of DHHS or the agency at reasonable times and in a reasonable manner.

AUTHORITY NOTE: Promulgated in accordance with 56 FR 28002.

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

Interested persons may submit written comments to Carolyn Maggio, Executive Director, Division of Research and Development, Box 2870, Baton Rouge, LA 70821-2870. She is responsible for responding to inquiries about the proposed rule.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Departmental Research**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is 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 cost or economic benefit to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Carolyn O. Maggio
Executive Director
Research and Development
9712#091

H. Gordon Monk
Staff Director
Legislative Fiscal Office

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 is proposing to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act. This proposed rule is promulgated in accordance with the Administrative Procedure Act, R.S.49:950 et seq.

Hospital Disproportionate Share (DSH) payment limits were established by the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66), which amended Section 1923 of the Social Security Act. In order to comply with the budgetary limitations imposed by that federal legislation and to avoid a budget deficit in the Medical Assistance Program, the bureau amended the payment methodologies for public state-operated hospitals, private hospitals, and public nonstate hospitals effective July 1, 1995. Under the methodology, public state-owned hospitals received DSH payments equal to 100

percent of the hospital's net uncompensated cost, and private hospitals and public nonstate hospitals received DSH payments according to a formula based on an eight-pool methodology.

Effective March 20, 1997, the department adopted an emergency rule pursuant to Act Number 17 (House Bill Number 1) of the 1996 Legislative Session that provided for separate treatment of disproportionate share funds for uncompensated cost in small (60 beds or less) nonstate operated local government hospitals and small (60 beds or less) private rural hospitals (*Louisiana Register*, Volume 23, Number 3).

Effective November 3, 1997, the department adopted a subsequent emergency rule pursuant to Act Number 1485 of the 1997 Legislative Session, which provides that all rural hospitals meeting the requirements of Act 1485 are to receive maximum disproportionate share funding in amounts appropriated by the legislation to the extent authorized by federal law. Therefore, the following proposed rule implements Act Number 1485 of the 1997 Legislative Session. Adoption of this proposed rule is necessary in order to maintain access to local hospital services for Medicaid recipients in areas served by these rural hospitals. Failure to adopt this proposed rule would cause imminent peril to the public health, safety, or welfare of affected Medicaid recipients.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing replaces prior regulations governing disproportionate share hospital payment methodologies and establishes the following regulations to govern 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 under any and all DSH payment methodologies shall not exceed the federal disproportionate share state allotment for Louisiana for each federal fiscal year and 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 in this rule shall not exceed the hospital's uncompensated cost in accordance with 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 in this rule 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 hospital determined under any of the methodologies in this rule 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 timely return 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*—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 if an increase in days or uncompensated cost is determined after audit. Recoupment of overpayment from reductions in pool days originally reported shall be 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. A hospital must have at least two 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 nonemergency obstetric procedures; or

B. Hospital treats inpatients who are predominantly individuals under 18 years of age; or

C. Hospital did not offer nonemergency obstetric services to the general population as of December 22, 1987; and

D. Effective November 3, 1997, be a small rural hospital as defined in Section III.B. Hospital has a utilization rate in excess of either of the following 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.a. *Low-Income Utilization Rate*—the sum of:

i. 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

ii. 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 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. This 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 HMOs, 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.

b. Hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent.

E. In addition to the qualification criteria outlined in Section II.A.-D, effective July 1, 1994, the qualifying disproportionate share hospital must also have a Medicaid inpatient utilization rate of at least 1 percent.

III. Reimbursement Methodologies

A. Public State-Operated Hospitals

1. *Public State-Operated Hospital*—a hospital that is owned or operated by the State of Louisiana.

2. DSH payments to individual public state-owned or operated hospitals are equal to 100 percent of the hospital's net uncompensated costs subject to the adjustment provision in Section III.A.3. 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. *Small Rural Hospital*—a hospital (other than a long-term care hospital, rehabilitation hospital, or freestanding psychiatric hospital but including distinct part psychiatric units) meeting the following criteria:

a. meets the qualifications of a sole community hospital under 42 CFR §412.92(a); or

b. had no more than 60 hospital beds as of July 1, 1994, and:

i. is located in a parish with a population of less than 50,000; or

ii. is located in a municipality with a population of less than 20,000.

2. Payment is based on uncompensated cost for qualifying small rural hospitals in the following two pools:

a. *Public (Nonstate) Small Rural Hospitals*—small rural hospitals as defined in Section III.B.1, which are owned by a local government.

b. *Private Small Rural Hospitals*—small rural hospitals as defined in Section III.B.1, 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 (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

4. A pro rata decrease necessitated by conditions specified in Section I.B. for rural hospitals described in Section III 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 Section III, 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 nonstate rural hospitals over 60 beds, all private urban hospitals, freestanding psychiatric hospitals exclusive of state hospitals, rehabilitation hospitals and long-term care hospitals)

1. Annualization of days for the purposes of the Medicaid days pools is not permitted. Payment is 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. Amount will be obtained by DHH from a report of paid Medicaid days by service date.

2. Payment is based on Medicaid days provided by hospitals in the following two pools:

a. *Acute Care Hospitals*—acute care, rehabilitation, and long-term care hospitals not described in Section III.B. (excluding distinct part psychiatric units).

b. *Psychiatric Hospitals*—Freestanding psychiatric hospitals and distinct part psychiatric units not included in Section III. B.

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 Section I.B. for hospitals described in Section III will be calculated based on the ratio determined by dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in Section III, 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 Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Tuesday, January 27, 1998, at 9:30 a.m. in the First Floor auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. 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.

Bobby P. Jindal
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 impact to the state as a result of this proposed rule. However, an administrative expense of \$533 is included in SFY 1997-98 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)

Estimated federal revenue collections are \$13,760,673 for SFY 1997-98; \$14,172,944 for SFY 1998-99; and \$14,598,133 for SFY 1999-2000. An administrative expense of \$533 is

included in SFY 1997-98 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)

Rural hospitals shall receive federal disproportionate share payments for uncompensated care costs in accordance with the provisions of this rule in the following amounts: \$13,761,206 for SFY 1997-98; \$14,172,944 for SFY 1998-99; and \$14,598,133 for SFY 1999-2000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

David W. Hood
Assistant Secretary
9712#081

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Extraordinary Rates for Intermediate Care
Facility Services for the Mentally Retarded**

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 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 Bureau of Health Services Financing adopted a rule to provide reimbursement for extraordinary medical care services rendered to Medicaid recipients residing in intermediate care facilities for the mentally retarded (ICF/MR) (*Louisiana Register*, Volume 19, Number 5). Currently, extraordinary medical care services under the Medicaid Program are reimbursed at an interim rate established by annual budget submissions and are cost settled retrospectively based on actual allowable costs. In addition, intermediate care facilities for the mentally retarded (ICF/MR) also receive reimbursement for normal operating costs under a prospective payment methodology.

The intent of the program was to utilize extraordinary rates to supplement rather than supplant facility staffing. The bureau proposes to revise the payment methodology for those facilities receiving residents-specific reimbursements for extraordinary medical care services in an effort to discourage ICFs/MR from shifting staffing costs from the facility rate to an extraordinary rate.

Proposed Rule

Effective July 1, 1998 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing revises the reimbursement methodology for intermediate care facilities for the mentally retarded (ICF/MR) receiving residents-specific reimbursements for extraordinary medical care services. These facilities shall be cost settled. Total allowable cost shall include allowable facility costs and allowable costs for the provision of

NOTICE OF INTENT

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

Home and Community Based
Services Waiver Program—Mentally
Retarded/Developmentally Disabled

extraordinary medical care services. Total allowable cost shall be adjusted for inclusion of a 5 percent incentive payment. The cost settlement shall be up to, but shall not exceed the facility's per diem rate and any extraordinary medical care per diem rates that the facility currently receives.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Tuesday, January 27, 1998, at 9:30 a.m. in the First Floor Auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. 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.

Bobby P. Jindal
Secretary

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

**RULE TITLE: Extraordinary Rates for Intermediate
Care Facility Services for the Mentally Retarded**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this proposed rule will result in a cost savings to the state of approximately \$98,863 for SFY 1997-98; \$163,058 for SFY 1998-99; and \$168,346 for SFY 1999-2000. Included is \$160 in SFY 1997 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)
Federal revenue collections are estimated at a savings of approximately \$434,922 for SFY 1997-98; \$387,070 for SFY 1998-99; and \$398,286 for SFY 1999-2000. Included in SFY 1997-98 is the federal share of \$160 for 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)
Providers may experience a decrease in revenue of approximately \$533,785 for SFY 1997-98; \$550,128 for SFY 1998-99; and \$566,632 for SFY 1999-2000 for extraordinary medical care services. Extraordinary medical care services will continue to be provided at the current rates and levels of care.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

David W. Hood
Assistant Secretary
9712#083

H. Gordon Monk
Staff Director
Legislative Fiscal Office

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

The Department of Health Services, Bureau of Health Services Financing previously adopted regulations governing the MR/DD Waiver Program to:

- 1. terminate the previous restrictions placed on the assignment of vacated waiver slots;
- 2. establish methodology for the assignment of slots vacated by discharged waiver participants and the 342 previously unoccupied slots; and
- 3. clarify policies on admission and discharge criteria, mandatory reporting requirements and the effective date that Medicaid reimbursement for waiver services will begin (*Louisiana Register*, Volume 23, Number 6).

The Department of Health and Hospitals (DHH) has now determined that it is necessary to amend the language in the June 20, 1997 rule regarding the allocation of waiver slots to residents of the Pinecrest Developmental Center. The language is being amended to include the Hammond Development Center in the targeted groups for slot allocation. In addition, DHH has also decided to amend the waiver discharge criteria to extend the continuity of stay requirement for continuing eligibility from 14 days to 30 days for MR/DD Waiver recipient. This amendment allows consistency with the 30-day continued stay for determining initial eligibility.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the Waiver Programmatic Allocation and Discharge Criteria as follows:

A. Programmatic Allocation of Waiver Slots. The waiting list shall be used to protect the individual's right to be evaluated for waiver eligibility. The Office for Citizens with Developmental Disabilities (OCDD) shall notify the next individual on the waiting list in writing that a slot is available and that they are next in line to be evaluated for possible waiver slot assignment. A copy of the notification letter shall be forwarded to the regional Health Standards Office. The individual then chooses a case manager who will assist in the gathering of the documents needed for both the financial and

medical certification eligibility process. If the individual is determined to be ineligible either financially or medically, that individual is notified in writing and a copy of the notice is forwarded to the regional OCDD office. The next person on the waiting list is notified as stated above and the process continues until an eligible person is encountered. A waiver slot is assigned to an individual when eligibility is established and the individual is certified. Utilizing these procedures, waiver slots shall be allocated to the targeted groups cited below as follows:

1. - 3. ...

4. A maximum of 160 slots shall be available for allocation to current residents of the Pinecrest and Hammond Developmental Centers or their alternates who successfully complete the financial and medical certification eligibility process and are certified for the waiver. The term "alternate" is defined as a current resident of a private ICF/MR community home who:

a. willingly chooses to apply for waiver participation; and

b. resides in a community group home that has agreed to accept a Pinecrest or Hammond Developmental Center resident for placement if a resident of the community home is certified for waiver participation.

i. The Pinecrest or Hammond Developmental Center resident must be given freedom of choice in the selection of a private ICF-MR community home placement in the area of the resident's choice based on availability of a slot.

ii. The slot in the community home, if vacated, will remain a slot for a Pinecrest or Hammond Developmental Center recipient as long as the department continues to transition individuals from the developmental centers. DHH, through OCDD, reserves the right of approval for the transitioning of these recipients into vacated slots.

5. A maximum of 78 slots shall be available for allocation to current residents of public or private community homes who successfully complete the financial and medical certification eligibility process and are certified for the waiver.

B. Waiver Discharge Criteria. Participants will be discharged from the MR/DD Waiver Program if one of the following criteria is met:

1. - 7. ...

8. continuity of services is interrupted as a result of the participant not receiving waiver services during a period of 30 or more consecutive days. This does not include interruptions in services because of hospitalization.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing will be held on this matter on Tuesday, January 27, 1998, at 9:30 a.m. in the Auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt

of all comments is 4:30 p.m. on the next business day following the public hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Home and Community Based
Services Waiver Program—Mentally
Retarded/Developmentally Disabled**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this proposed rule will result in state costs of \$120 for SFY 1997 for the state's administrative expense of promulgating this proposed rule as well as the final rule. No additional costs are anticipated for SFY 1998 and SFY 1999.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on federal revenue collections. However, the federal share of promulgating this proposed rule as well as the final rule is \$120.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

David W. Hood
Assistant Secretary
9712#084

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Medicaid Eligibility—Continuity of Stay for Long-Term
Care and Home and Community Based Services**

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 R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Bureau of Health Services Financing has consistently applied continuity of stay as a condition for ongoing Medicaid eligibility under the special income level for long-term care and home and community based services. Continuity of stay is considered to be interrupted when a recipient either is absent from a facility or does not receive waiver services for a period of more than 14 consecutive days, even if the recipient was not discharged from the facility or waiver. As a result of a clarification from the Health Care Financing

Administration (HCFA), the bureau has decided to revise the continuity of stay requirement to allow up to 30 consecutive days for temporary absence from a facility or nonreceipt of waiver services before continuity of stay is considered to be interrupted for individuals eligible under the special income level.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following requirement governing continuity of stay for the purpose of determining continued eligibility under the special income level for long-term care and home and community based services. In addition, the adoption of this proposed rule revises the continuity of stay requirement contained in Section I of the Medicaid Eligibility Manual as follows:

A temporary absence from a facility or nonreceipt of waiver services shall be allowed for a period up to 30 consecutive days before continuity of stay will be considered interrupted for individuals eligible under the special income level.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Tuesday, January 27, 1998 at 9:30 a.m. in the First Floor auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. 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.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medicaid Eligibility—Continuity of Stay for Long-Term Care and Home and Community Based Services

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this proposed rule will result in state costs of \$80 for SFY 1997 for the state's administrative expense of promulgating this proposed rule as well as the final rule. No additional costs are anticipated for SFY 1998 and SFY 1999.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on federal revenue collections. However, the federal share of promulgating this proposed rule as well as the final rule is \$80.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

David W. Hood
Assistant Secretary
9712#080

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Nursing Facilities—Standards of Levels of Care (LAC 50:II.10155)

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

The Department of Health and Hospitals, Bureau of Health Services Financing adopted standards for payment governing Medicaid reimbursement for nursing facility services (*Louisiana Register*, Volume 22, Number 1) effective January 20, 1996. These requirements were adopted in order to ensure that nursing facility services to the elderly and disabled were provided in accordance with currently approved standards of practice applicable to the medical and health disciplines. Since then, the department has promulgated several revisions which provided additional clarification of the Standards for Payment (*Louisiana Register*, Volume 23, Numbers 8 and 10).

The department has decided to amend Subchapter G, §10155, Subsection T entitled "Change in Level of Care Within a Nursing Facility," of the January 1996 rule (*Louisiana Register*, Volume 22, Number 1) in order to allow facilities 20 working days instead of five working days to submit Form 149-B to the Health Standards Section for both upgrades and downgrades in level of care.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 3. Standards for Payment

Chapter 101. Nursing Facilities

* * *

Subchapter G. Levels of Care

§10155. Standards of Levels of Care

A. - S.3.e. ...

T. Change in Level of Care Within a NF. The facility shall be responsible for submitting current medical information to the HSS Regional Office for approval when the attending physician recommends a change in the level of care. Form 149-B shall be completed when making the request for a level

of care change. This procedure shall be followed whether the change is within the facility or whether the change requires a transfer to another facility. A statement from the physician, in lieu of Form 149-B, is not acceptable.

1. The facility shall have 20 working days to submit Form 149-B to the Health Standards Section for both upgrades and downgrades in level of care. If submitted within the 20 working day time frame, the effective date of change in medical certification will be the date the physician signs the Form 149-B.

2. If the facility fails to timely submit the request, the effective date of the medical certification will be the date the Form 149-B is received in the HSS Regional Office.

3. The completion of the Form 149-B is also required when a resident transfers to Medicare skilled level.

4. The Medicaid Program will pay co-insurance beginning on the twenty-first day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended LR 23: 970 (August 1997), LR 24:

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Tuesday, January 27, 1998, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. 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.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Nursing Facilities—Standards of Levels of Care

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

There is no fiscal impact as a result of this proposed rule; however, \$120 will be incurred in SFY 1997 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)

There are no federal revenue collections expected as a result of this proposed rule; however, the federal share of \$120 for promulgating this proposed rule as well as the final rule will be incurred in SFY 1997.

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

Nursing facilities will be allowed an extended time frame in which to submit Form 149-B for upgrades and downgrades in level of care.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

David W. Hood
Assistant Secretary
9712#082

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources Office of Conservation

Statewide Order No. 29-R—Fees
(LAC 43:XIX.Chapter 7)

Pursuant to power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and the Administrative Procedure Act, Title 49, Sections 951 through 968 of the Revised Statutes of 1950, as amended, the following rules are proposed by the commissioner of Conservation as being reasonably necessary to conserve the natural resources of the state, to prevent waste as defined by law, to avoid the drilling of unnecessary wells, and to otherwise carry out the laws of this state.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 2. Statewide Order No. 29-R

Chapter 7. Fees

§701. Definitions

Annual Inspection Fee—repealed.

* * *

[See Prior Text *Application Fee—Application to Process Form R-4*]

BOE—annual Barrels Oil Equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 8.

Capable Gas—natural and casinghead gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue.

Capable Oil—crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue.

Class I Well—a Class I injection well used to inject hazardous, industrial, or municipal wastes into the subsurface, which falls within the regulatory purview of Statewide Order Nos. 29-N-1 or 29-N-2.

Class I Well Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class I wells in an amount not to exceed \$336,000 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3½ percent annually for Fiscal Years 1998-1999 and 1999-2000.

Class II Well—a Class II injection well which injects fluids which are brought to the surface in connection with conventional oil or natural gas production (Status 63), for annular disposal wells (Status 64), for enhanced recovery of oil or natural gas (Status 41, 42, 43), and for storage of hydrocarbons which are liquid at standard temperature and pressure (Status 44, 47). For purposes of administering the exemption provided in R.S. 30:21(B)(1)(c), such exemption is limited to operators who operate Status 63 wells serving a

stripper oil well or an incapable gas well certified pursuant to R.S. 47:633 by the severance tax division of the Department of Revenue and located in the same field as such Class II well.

Class II Well Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on nonexempted Class II wells in an amount not to exceed \$493,000 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3½ percent annually for Fiscal Years 1998-1999 and 1999-2000.

[See Prior Text *Emergency Clearance*]

Production Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by oil and gas operators on capable oil wells and capable gas wells based on a tiered system to establish parity between the producing wells. The tiered system shall be established annually by rule on annual volumes of capable oil and capable gas production in an amount not to exceed \$1,918,600 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3½ percent annually for Fiscal Years 1998-1999 and 1999-2000. Incapable oil, stripper oil, incapable gas well gas and incapable oil well gas shall be exempt from this fee.

[See Prior Text *Production Well-Type B Facility*]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:

§703. Fee Schedule for Fiscal Year 1997-1998

A. Application Fees

Application for Unit Termination	\$ 210
Application for Substitute Unit Well	\$ 210
Application for Public Hearing	\$ 630
Application for Multiple Completion	\$ 105
Application to Commingle	\$ 210
Application for Automatic Custody Transfer	\$ 210
Application for Noncommercial Injection Well	\$ 210
Application for Commercial Class I Injection Well	\$ 1,050
Application for Commercial Class I Injection Well (Additional Wells)	\$ 525
Application for Commercial Class II Injection Well	\$ 525
Application for Commercial Class II Injection Well (Additional Wells)	\$ 262
Application for Permit to Drill - Minerals: 0' - 3,000'	\$ 105
Application for Permit to Drill - Minerals: 3,001' - 10,000'	\$ 525
Application for Permit to Drill - Minerals: 10,001'+	\$ 1,050
Application to Amend Permit to Drill - Minerals	\$ 105

Application to Amend Permit to Drill - Injection or Other	\$ 105
Application for Surface Mining Exploration Permit	\$ 52
Application for Surface Mining Development Operations Permit	\$ 78
Application for Surface Mining Permit	\$ 1,837
Application to Process Form R-4	\$ 26
Application to Reinstate Suspended Form R-4	\$ 52
Application for Emergency Clearance Form R-4	\$ 52

B. Regulatory Fees

1. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of \$5,250 per facility. Such payments are due within the timeframe prescribed by the Office of Conservation.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$2,625 per facility. Such payments are due within the timeframe prescribed by the Office of Conservation.

3. Operators of record of Class I wells are required to pay \$8,000 per well.

4. Operators of record of nonexempt Class II wells are required to pay \$300 per well.

C. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers:

	Annual Production (Barrel Oil Equivalent)	Fee (\$ Per Well)
Tier 1	0	0
Tier 2	1—5,000	30
Tier 3	5,001—15,000	60
Tier 4	15,001—30,000	175
Tier 5	30,001—60,000	350
Tier 6	60,001—110,000	700
Tier 7	110,001—9,999,999	1,300

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:

§705. Failure to Comply

Operators of operations and activities defined in §701 are required to timely comply with this Order. Failure to comply within 30 days past the due date of any required fee payment will subject the operator to civil penalties under the provisions of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as well as penalties provided in other sections of Title 30, including R.S. 30:18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R, and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This order (Statewide Order No. 29-R) supersedes Statewide Order No. 29-Q-2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:

In accordance with the provisions of R.S. 49:950 et seq. and R.S. 30:4, notice is hereby given that the commissioner of Conservation will conduct a public hearing at 9 a.m. on Wednesday, January 28, 1998 in the Conservation Auditorium, located on the First Floor of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

At such hearing the commissioner of Conservation shall consider the promulgation of Statewide Order No. 29-R which will amend and replace portions of existing Statewide Order No. 29-Q-2 by eliminating two existing fees (operator registration fee and inspection fee), establishing a new production fee for produced capable oil and produced capable gas, and establishing new fees for Class I wells and nonexempt Class II wells. Incapable and stripper oil and incapable gas well gas and incapable oil well gas will be exempted from the production fee. All other existing fees will remain the same.

If accommodations are required under the Americans with Disabilities Act, contact the Department of Natural Resources, Personnel Section, at Box 94396, Baton Rouge, LA 70804-9396 in writing or by telephone (504) 342-2134 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday within 10 working days of the hearing date.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at said public hearing in accordance with R.S. 49:953. Written comments will be accepted by James Welsh, Assistant Commissioner, until 4:30 p.m., Wednesday, February 4, 1998 at the Office of Conservation, Engineering Division, Room 102, Box 94275, Capitol Station, Baton Rouge, LA 70804-9275 Re: Docket Number 98-1, Proposed Statewide Order Number 29-R.

Warren A. Fleet
Commissioner

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

RULE TITLE: Statewide Order No. 29-R—Fees

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be costs of \$1,104,993 and 25 additional positions in FY 1997-98; \$1,120,246 in FY 1998-99; and \$1,159,455 in FY 99-2000.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will result in \$2.72 million in new fees while eliminating \$1.62 million of existing fees, resulting in a net of \$1.10 million increase. Associated with implementation of the proposed rule will be revenues of \$1,104,993 for FY 1997-98; \$1,120,246 for FY 1998-99; and \$1,159,455 in FY 99-2000. Fees will be paid by operators of capable oil and capable gas wells, Class I injection wells and nonexempt Class II injection wells.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Operators of capable oil and capable gas wells, Class I injection wells and nonexempt Class II injection wells will be affected by this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition and employment.

Warren A. Fleet
Commissioner and
Assistant Secretary
9712#087

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Liquefied Petroleum Gas Dealers; New Dealers; Container Manufacturers; Forms/Reports; Installation at Schools/Public Assembly Places; and Standards (LAC 55:IX.Chapters 1, 2, and 12)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases, notice is hereby given that the commission proposes to amend, repeal, and adopt a comprehensive set of rules.

The proposed changes are comprehensive in nature; however, they provide clarity to current rules, make changes in the format of the current rules, eliminate repetitive language in current rules, provide for new definitions, incorporate legislative permissive language in regard to personnel examination requirements, change procedures for transport/delivery truck registration decals and transport/delivery truck inspection procedures. The overall result of the proposed changes will result in savings to the agency and the regulated industry.

The proposed rule changes comply with the statutory authority granted the commission under R.S. 40:1846.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§103. Definitions

The following terms, as used in this Part, have the meanings listed below:

Appliance—any device that utilizes gas as a fuel or raw material to produce light, heat, power, refrigeration, or air conditioning.

Applicant—a person, firm, or corporation who has applied for a permit or registration with the Liquefied Petroleum Gas Commission.

Approved—approved by or acceptable to the *authority having jurisdiction*. This normally means that equipment or materials that are listed or labeled have been specifically approved by the *authority having jurisdiction*.

ASME—American Society of Mechanical Engineers.

Authority Having Jurisdiction (AHJ)—the organization, office, or individual responsible for approving equipment, an installation, or a procedure. In Louisiana the AHJ is the Liquefied Petroleum Gas Commission, the Office of the Director of the Liquefied Petroleum Gas Commission.

Cargo Tank—a container used to transport liquefied petroleum gas over a highway as liquid cargo, either mounted on a conventional truck chassis or as an integral part of a transporting vehicle in which the container constitutes in whole, or in part, the stress member used as a frame.

Container—any vessel, including cylinders, tanks, portable tanks, and cargo tanks used for the transporting or storing of liquefied petroleum gas.

Dealer or Permit Holder—any person, firm, or corporation who holds a permit or registration to enter into any phase of the liquefied petroleum gas business in the state of Louisiana.

End User—any person, firm, or corporation which has the use of or legal authority or control over any system which utilizes liquefied petroleum gas.

Installation—when used in the context of an existing thing, the same as system or liquefied petroleum gas system (see definition of *system* or *liquefied petroleum gas system*).

Installation—when used in the context of an action, the art of installing or setting up for use or service.

Labeled—equipment or materials to which has been attached a label, symbol, or other identifying mark of an organization that is acceptable to the *authority having jurisdiction* and concerned with product evaluation that maintains periodic inspection of production of labeled equipment or materials and by whose labeling manufacturer indicates compliance with appropriate standards or performance in a specified manner.

Listed—equipment or materials included in a list published by an organization acceptable to the *authority having jurisdiction* and concerned with product evaluation that maintains periodic inspection of production of listed equipment or materials and whose listing states either that the

equipment or material meets appropriate standards or has been listed and found suitable for use in a specified manner.

New Dealer—any person, firm, or corporation that does not hold a permit or registration to engage in the liquefied petroleum gas business as of the date of their application.

Places of Public Assembly—places where the egress is open to the public. This definition includes, but is not limited to, bars, restaurants, service stations, grocery stores, schools, churches, hospitals, sales offices, nursing homes, and other similar places. This definition is not intended to include places that limit public access.

Pressure Test—an operation performed to verify the gas tight integrity of gas piping following its installation or modification.

Qualified Agency—any person, firm, or corporation which is engaged in and is responsible for the installation or replacement of liquefied petroleum gas piping, tanks, containers, the connection, installation, repair, or servicing of equipment or appliances and is experienced in such work and familiar with all precautions required and has complied with all the requirements of the authority having jurisdiction.

Reseller or Wholesaler—

a. any person, firm, or corporation who holds title or ownership of liquefied petroleum gas as it leaves the facility or plant:

- i. of a manufacturer of liquefied petroleum gas;
- ii. of a manufacturer of products of which liquefied petroleum gas forms a component part; or
- iii. of a commercial storage facility.

b. any person, firm, or corporation who transfers such title or ownership to another without substantially changing the form of such liquefied petroleum gas; or

c. any person, firm, or corporation who transfers such title or ownership to a retail dealer for sale at retail.

i. this definition shall include a manufacturer of liquefied petroleum gas or a manufacturer of products of which liquefied petroleum gas forms a component part, if title or ownership transfers directly to a retail dealer for sale at retail.

ii. this definition shall not include a manufacturer of liquefied petroleum gas or a manufacturer of products of which liquefied petroleum gas forms a component part, if title or ownership transfers to a reseller.

Retail Dealer—any person, firm, or corporation who normally sells liquefied petroleum gas to an end user for consumption.

Retail Station—that portion of property where liquefied petroleum gases used as motor fuel are stored and dispensed from fixed equipment into liquefied petroleum gas fuel tanks of motor vehicles and where such dispensing is an act of retail motor fuel sale.

System or Liquefied Petroleum Gas System—any tank, container, heat or cold producing device, appliance or piping that utilizes or has liquefied petroleum gas connected thereto. This includes, but is not limited to, ranges, hot water heaters, heaters, air conditioners, containers, tanks, furnaces, space heaters or piping used in the transfer of liquefied petroleum gas either in the vapor or the liquid state from one point to

another, internal combustion engines, both stationary and mobile, grain dryers or any combination thereof.

Tank(s)—same as a *container(s)*.

Used Manufactured Home—a manufactured home which is not being sold or offered for sale as new, which has been previously sold as new and is used for residential purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:

§105. Applications

Any person, firm, or corporation desiring to enter the liquefied petroleum gas business in the state of Louisiana must file formal application with the Liquefied Petroleum Gas Commission. Application must be filed for Class I, 90 days, and for Classes II, III, IV, V, VI, VII, VIII, and IX, 30 days, prior to the date of the commission meeting the application is to be heard. Applications for Class VI-X, VII-E, R-1 and R-2 registrations have no delay prior to granting of a permit. Presence of the applicant or his authorized representative is required at the commission meeting when the application is heard, except in the cases of VI-X, VII-E and R-1 and R-2 registrations where appearance is waived. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant to be represented by another party, other than a principal officer, director, manager, or attorney. The application forms will be furnished by the commission upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 24:

§107. Requirements

Before any permit or registration can be issued from the office of the director all applicants must have complied with or agree to comply with the applicable requirements as follows:

1. Must deposit filing fee of \$100 for Class I and IV; \$50 for Class VI-X and \$25 for all other classes and registrations. This fee must accompany application;

2. - 4.b. ...

5.a. Where applicable, applicant must provide adequate transport and delivery trucks satisfactory to the commission. Each transport and/or delivery truck shall be inspected annually by the commission or other qualified agency acceptable to the commission. Each transport and/or delivery truck shall be equipped with at least two fire extinguishers of the dry chemical types having an aggregated capacity of not less than 24 pounds. Each transport and/or delivery truck shall have an annual registration fee of \$25 paid and a valid registration decal affixed to the transport or deliver truck.

b. All sketches of proposed installations, as required in other sections of these regulations, shall be submitted to the Office of the Director, showing all details of the proposed

installation governed by these regulations. Sketches or drawings must be submitted to the Office of the Director and approved before installation can begin. The commission reserves the right to make a final inspection and witness a pressure test by an inspector of the Liquefied Petroleum Gas Commission.

6. Applicant must have paid permit fee in the amount of \$75, except for a Class VIIE, which shall be \$100, to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be ¼ of 1 percent of gross annual sales of liquefied petroleum gases with a minimum of \$75. For classes not selling liquefied petroleum gas in succeeding years the permit fee shall be \$75. For registrations the permit fee shall be \$37.50 per year.

a. Each Class I and Class IV dealer shall submit to the commission by the twentieth of the following month, a report in a form acceptable to the commission, the previous month's purchases and sales in gallons and dollars.

b. The report shall contain the purchases and sales by company name, except in the case of Class I dealers sales, which will be by total gallons and total dollars.

c. Any information so furnished shall be considered and held confidential and privileged by the Liquefied Petroleum Gas Commission, its director and/or his employees.

7. ...

8. All service and installation personnel, fuel transfer personnel, carburetion mechanics and tank truck drivers must have a card of competency from the Office of the Director. A card of competency will be issued to an applicant upon receipt of a \$10 examination fee and successfully completing the competency test, providing the applicant holds some form of identification acceptable to the commission. The commission may accept as its own a reciprocal state's examination which contains substantially equivalent requirements. This must be evidence by a letter from the issuing authority or a copy of a valid card issued by the reciprocal state. All applicable fees must be paid prior to issuing the card.

8.a. - b. ...

9. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:

§113. Classes of Permits and Registrations

The Liquefied Petroleum Gas Commission will issue upon application the following classes of permits and registrations upon meeting all applicable requirements of §107 and the following:

1. Class I. Holders of these permits may enter any phase of the liquefied petroleum gas business.

a. Must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

i. products property damage liability;

- ii. products public liability;
- iii. manufacturer's and contractor's property damage liability;
- iv. manufacturer's and contractor's public liability;
- v. automobile public liability;
- vi. automobile property damage.

b. Holders of these permits must provide a storage capacity for liquefied petroleum gas of not less than 15,000 gallons in one location, under fence, located within the dealer trade area within the state of Louisiana, and must show evidence of ownership of storage tank or a bona fide lease of five years minimum. This requirement shall not be retroactive.

c. Where fuel is used direct from cargo tank an approved valve with proper excess flow device shall be used. Connector to vehicle's engine shall be approved for such use and protected from mechanical injury.

d. No truck shall be parked on a street or highway at night in any city, town, or village, except for the purpose of serving a customer.

e. Compliance with all other applicable rules and regulations will be required.

f. The name of the dealer must appear on all tank trucks, storage tank sites, and/or advertising being used by the dealer. At consumer premises, where the tank or the container is owned by the dealer, the dealer's name shall be affixed. This requirement is considered met if documentation is provided, upon demand, that the dealer's name was affixed at the time of installation. Consumer premises requirement is not retroactive.

g. - o. Repealed.

2. Class II. Holders of these permits may install, and service liquefied petroleum gas containers, piping, and appliances, but shall not deliver gas. This class will also apply to the installation and service of liquefied petroleum gas containers, piping, and appliances on mobile homes, motor homes, travel trailers or any other recreational vehicles.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability;
- iii. manufacturer's and contractor's property damage liability;
- iv. manufacturer's and contractor's public liability;
- v. automobile public liability;
- vi. automobile property damage.

b. The obligation of the manufacturers and dealers of mobile homes, motor homes, travel trailers, or any recreational vehicles is to comply with all safety standards and perform all safety tests on mobile homes, motor homes, travel trailers, or any recreational vehicles using liquefied petroleum gas.

c. Upon delivery of a mobile home, motor home, travel trailer, or any other recreational vehicle, new or used, the required inspection and testing of any liquefied petroleum gas system and appliances shall be performed by the dealer, using liquefied petroleum gas in the system. An inspection

report properly completed and signed by the customer must be sent to the director of the Liquefied Petroleum Gas Commission verifying that the tests were performed and that the pressure test was eye witnessed by the customer or his/her authorized representative.

d. The mobile home or recreational vehicle dealer is responsible to this commission to make the required inspection and test or make arrangements for it to be made by a qualified permit holder.

e. Compliance with all other applicable rules and regulations is required.

f. - k. Repealed.

3. Class III. Holders of these permits may sell, install and service liquefied petroleum gas appliances with any auxiliary piping. They shall not deliver gas.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability;
- iii. manufacturer's and contractor's property damage liability;
- iv. manufacturer's and contractor's public liability;
- v. automobile public liability;
- vi. automobile property damage.

b. Compliance with all other applicable rules and regulations is required.

c. - h. Repealed.

4. Class IV. Resellers (Wholesalers)—Holders of these permits may deliver, sell and transport liquefied petroleum gas over the highways of the state but can deliver to dealers only; utilize aboveground steel storage and/or approved salt domes, shale and other underground caverns for storage of liquefied petroleum gas; do general maintenance work on their own equipment using qualified personnel; but may not sell or install systems and appliances.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability;
- iii. manufacturer's and contractor's property damage liability;
- iv. manufacturer's and contractor's public liability;
- v. automobile public liability;
- vi. automobile property damage.

b. Compliance with all other applicable rules and regulations is required.

c. - i. Repealed.

5. Class V. Carburetion Permit. Holders of these permits may install equipment, including containers, and service liquefied petroleum gas equipment used on internal combustion engines. They may not deliver liquefied petroleum gas.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering

each of the following classes of insurance, covering applicant's legal liability:

- i. manufacturer's and contractor's property damage liability;
- ii. manufacturer's and contractor's public liability.
- b. Compliance with all other applicable rules and regulations is required.
- c. - h. Repealed.

6. Class VI. Holders of these permits may engage in the filling of approved cylinders and motor fuel tanks with liquefied petroleum gas on their premises, but shall not deliver gas.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability.

b. Compliance with all other applicable rules and regulations is required.

c. - i. Repealed.

7. Class VI-X. Holders of these permits may engage in the exchange of approved liquefied petroleum gas cylinders on their premises, but shall not fill cylinders. They shall not deliver gas.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability.

b. Any current Class VI permit holder may convert to a Class VI-X permit by filing formal application with the Liquefied Petroleum Gas Commission and submitting a \$25 filing fee. Presence of the applicant at the commission meeting will be waived. Upon receipt of the application and filing fee, permit will be issued. No dealer can hold a Class VI and a Class VI-X permit at the same location.

c. Compliance with all other applicable rules and regulations is required.

d. - g. Repealed.

8. Class VII. Holders of these permits may transport liquefied petroleum gas by motor vehicle over the highways of the state of Louisiana but shall not sell product in the state. This permit may be secured from the Office of the Director upon receipt of the following:

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. automobile public liability;
- ii. automobile property damage.

b. Where fuel is used direct from cargo tank an approved valve with proper excess flow device shall be used. Connector to vehicle's engine shall be approved for such use and protected from mechanical injury.

c. No truck shall be parked on a street or highway at night in any city, town, or village, except for the purpose of serving a customer.

d. Compliance with all other applicable rules and regulations is required.

e. - k. Repealed.

9. Class VII-E. Holders of these permits may transport liquefied petroleum gas over the highways of the state of Louisiana but may not sell product in the state. These permits are valid only for 90 days from date of issuance and may be secured from the Office of the Director.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. automobile public liability;
- ii. automobile property damage.

b. Compliance with all other applicable rules and regulations is required.

c. ...

d. - g. Repealed.

10. Class VIII. Holders of these permits may store, transport and sell liquefied petroleum gas used solely in the cutting and metal working industry, sell and install piping and containers for those gases and engage in the filling of approved ASME tanks, ICC or DOT containers used in the metal working industry.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability;
- iii. manufacturer's and contractor's property damage liability;
- iv. manufacturer's and contractor's public liability;
- v. automobile public liability;
- vi. automobile property damage.

b. Compliance with all other applicable rules and regulations is required.

c. - k. Repealed.

11. Class IX. Holders of these permits may inspect, recertify and recondition DOT and ICC cylinders. They shall not sell or deliver liquefied petroleum gas or anhydrous ammonia.

a. Holders of these permits must obtain from U.S. Department of Transportation a Retesters Identification Number, and provide proof of such to the commission.

b. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability.

c. Holders of these permits must provide drawing and description of equipment to be installed to retest cylinders. Drawing and description must be submitted to the Office of the Director of the Liquefied Petroleum Gas Commission for his approval before installation.

d. Holders of these permits must maintain an accurate log of all cylinders that have been retested by date, size, manufacturer name, and serial number. The commission

reserves the right to inspect such logs at any time through its representative.

e. Compliance with all other applicable rules and regulations is required.

f. - j. Repealed.

12. Registration 1 (R-1). Holders of these registrations must be a person, firm, or corporation who is engaged in the business of plumbing and holds a master plumber's license issued by the state of Louisiana. They may install liquefied petroleum gas or anhydrous ammonia piping and make alterations or modifications to existing piping systems. These registrations shall be issued by the Office of the Director upon meeting the applicable requirements of §107 and the following:

a. Holders of these registrations must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

i. manufacturer's and contractor's property damage liability;

ii. manufacturer's and contractor's public liability.

b. Compliance with the provisions of NFPA Pamphlet Number 54 (*National Fuel Gas Code*) and NFPA Number 58 (*Standard for the Storing and Handling of Liquefied Petroleum Gas*) and ANSI K 61.1-1989.

c. Compliance with all other applicable rules and regulations of the Liquefied Petroleum Gas Commission is required.

13. Registration 2 (R-2). Holders of these registrations must be a person, firm, or corporation engaged in the mechanical contracting business. They may install liquefied petroleum gas and/or anhydrous ammonia appliances and equipment, and make alterations or modifications to existing liquefied petroleum gas and/or anhydrous ammonia appliances and equipment. These registrations shall be issued by the office of the director upon meeting the applicable requirements of §107 and the following.

a. Holders of these registrations must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

i. products property damage liability;

ii. products public liability;

iii. manufacturer's and contractor's property damage liability;

iv. manufacturer's and contractor's public liability.

b. Compliance with the provisions of NFPA Pamphlet Number 54 (*National Fuel Gas Code*) and NFPA Number 58 (*Standard for the Storing and Handling of Liquefied Petroleum Gas*) and ANSI K 61.1-1989.

c. Compliance with all other applicable rules and regulations of the Liquefied Petroleum Gas Commission is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections,

Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 19:904 (July 1993), LR 20:1400 (December 1994), LR 21:704 (July 1995), LR 24:

Subchapter B. Dealers

§115. Compliance with Rules and Act

All dealers must comply with R.S. 40:1841-1853 of the Revised Statutes, as amended, and the rules and regulations of the Liquefied Petroleum Gas Commission in order to obtain a permit or to avoid the revocation of a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 15:860 (October 1989), LR 24:

§117. Revocation of Permits

A. The commission may revoke or suspend a permit only by a ruling of the commission based on an adjudication hearing held in accordance with the Administrative Procedure Act. The following are causes for revocation or suspension of a permit:

1. when the commission has assessed two or more penalties against a dealer for wilful violation of or failure to comply with such rules and regulations provided the second or succeeding penalty or penalties have been imposed for violations of or failure to comply were committed after the imposition of the first penalty;

2. willful or knowing violation of a rule or regulation of the commission which endangers human life or health;

3. failure to properly odorize gas as required by R.S. 40:1846;

4. failure to provide insurance or proof of insurance as required;

5. failure to pay permit fees as required;

6. failure to pay any civil penalty imposed by the commission under provisions of R.S. 40:1846.1(E) within 30 days after the assessment becomes final.

B. The commission, after 15 days' notice to appear before it for trial and trial held, may impose a fine in lieu of revocation or suspension of a permit.

C. Any dealer who continues to operate after such permit is revoked or during period of such suspension shall be liable to prosecution under provisions hereof in the same manner as if no such permit had ever been issued.

D. The commission may institute civil proceedings to enforce its rulings in the district court for the parish in which the commission is domiciled or in the district court for the parish in which violation which gave rise to the suspension or revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:

§121. Expiration of Permit

After the expiration of a permit renewal fee date, by five days, any dealer continuing in operation without payment of

the fee, as required by law, shall be considered as operating in violation of R.S. 40:1841-1853 of the Revised Statutes and the rules and regulations of the Liquefied Petroleum Gas Commission. The commission may invoke the applicable provisions of §117.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 16:1063 (December 1990), LR 24:

§123. Qualified Personnel

All service, installation, fuel transfer personnel, carburetion mechanics, transport and delivery truck drivers must have a card of competency from the Office of the Director. New employees must not make installations, service equipment, handle or deliver gas until they have passed the examination given by the Office of the Director or furnished proof to the Office of the Director of their qualifications by another qualified agency acceptable to the commission and a card showing their competency has been issued to them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:

§125. Report Accident and Fires

A. Any accident involving a dealer in the liquefied petroleum gas business shall be reported by that dealer in writing to the office of the director as soon as possible but not later than 48 hours.

For example: accidents involving the transportation of gas, injury to employees, property damages, or injuries to other persons, etc.

B. Any fire in which liquefied petroleum gas is directly or indirectly involved must be reported in writing to the Office of the Director by the dealer servicing that installation within 48 hours of knowledge of the fire, preferably immediately, so that it can be investigated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:

§127. Insurance

A. Insurance requirements for all persons, firms, or corporations with the same class permit or registration shall be the same. New dealer insurance requirements shall be the same as existing dealer requirements.

B. The commission may invoke the applicable provisions of §117 when insurance requirements are not met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:

§133. Must Purchase Containers Manufactured by Manufacturers Acceptable to the Authority Having Jurisdiction

A. All liquefied petroleum gas containers purchased must be manufactured by a manufacturer acceptable to the Liquefied Petroleum Gas Commission. A list of such manufacturers will be furnished by the commission upon request.

B. A manufacturer of liquefied petroleum gas containers will be listed by the commission as acceptable when it has met or exceeded the requirements of Chapter 2, NFPA 58, 1995 Edition and provided documentation acceptable to the commission of the same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:

§139. Liquefied Petroleum Gas Systems

A. A dealer shall not serve any liquefied petroleum gas system which the dealer knows is improperly installed or in a dangerous condition. All improper systems shall be corrected before the dealer services such system with fuel for the first time. A servicing dealer shall not be responsible for unauthorized changes in or failures of an existing system or connected appliances that have been tested, checked and found in compliance with commission rules and regulations.

1. - 4. Repealed.

B. In the interest of safety and for the protection of life and property, any end user who authorizes the maintenance and/or repair, installation, adjustment, and servicing of a liquefied petroleum gas system in the state of Louisiana shall insure that any person, firm, or corporation that may be employed and/or authorized to make such repairs has a current permit or registration and cards of competency from the Louisiana Liquefied Petroleum Gas Commission to perform maintenance and/or repair, installation, adjustment and/or servicing of that system.

C. Any end user authorizing any action listed in §139.B, where such actions are completed by any person, firm, or corporation other than the liquefied petroleum gas dealer who normally services the liquefied petroleum gas system, shall notify, as soon as possible, the servicing dealer authorized to service the affected liquefied petroleum gas system. This notification shall include:

1. name of the person, firm, or corporation that performed the service; and

2. actions taken to the affected liquefied petroleum gas systems such as adding piping, space heaters, and other such appliances. The end user shall make the described notification within five working days after completion of the action or before the liquefied petroleum gas system is next serviced with liquefied petroleum gas, whichever occurs first.

D. It is unlawful for any person, firm, or corporation to repair, install, adjust and/or service any liquefied petroleum gas system without meeting the requirements of the Louisiana Liquefied Petroleum Gas Commission.

E. No person, firm, or corporation, except the owner, thereof, or person, firm, or corporation authorized in writing by said owner, shall fill, refill, buy, sell, offer for sale, give, take, loan, dispose of, or traffic in, a liquefied petroleum gas container or tank.

F. No individual shall be subject to a criminal fine or imprisonment under §139 as a result of any willful and wrongful acts of a fellow employee or subordinate employee whose willful and wrongful act was carried out without the knowledge of the individual. Whoever is found to be guilty of any of the following acts shall be fined not more than \$50,000, or imprisoned with hard labor for not more than 10 years, or both:

1. willful or knowing violation of a rule or regulations of the commission which endanger human life or health;

2. failure to properly odorize gas as required by law and §129 of the rules and regulations of the Liquefied Petroleum Gas Commission.

G. Anyone violating §139 shall also be liable for all damages resulting from any fire or explosion involving that shipment. The liability imposed by §139 may not be delegated by contract or practice to any transporter or subcontractor responsible for the transportation of the liquefied petroleum gas.

H. A permit may be suspended or revoked by the commission whenever the commission has assessed two or more penalties against a dealer for willful violation of, or failure to comply with, such rules and regulations, provided the second or succeeding penalty or penalties have been imposed for violations of, or failure to comply with the regulations of the commission committed after the imposition of the first penalty or forfeiture, reserving to the dealer the right to resort to the courts for reinstatement of the permit suspended or revoked. The commission may suspend or revoke the permit of any person who fails to pay any civil penalty imposed by the commission under the provisions of R.S. 40:1846.1(E) within 30 days after the assessment becomes final. Any dealer who continues to operate after such permit is revoked or during the period of such suspension shall be liable to prosecution under the provisions hereof in the same manner as if no such permit had ever been issued. A permit may be revoked or suspended only by a ruling of the commission based on adjudicatory hearing held in accordance with the Administrative Procedure Act. The commission may institute civil proceedings to enforce its rulings in the district court for the parish in which the commission is domiciled or in the district court for the parish in which the violation occurred.

I. No dealer shall service a liquefied petroleum gas system, tank or another dealer after having received notification by the commission that the system, tank or dealer is not in compliance with these rules and regulations. Mailing of an All Dealers (AD) letter which states that a system, tank or dealer is not in compliance, or certified letter stating the same shall constitute notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public

Safety and Corrections, Liquefied Petroleum Gas Commission, LR 15:860 (October 1989), LR 24:

Subchapter C. Manufacturers of Liquefied Petroleum Gas Containers

§147. Bond

All manufacturers of liquefied petroleum gas containers who would like to sell their containers in Louisiana must provide documentation, in writing, acceptable to the commission that their containers meet or exceed the requirements of Chapter 2, NFPA 58, 1995 Edition and other applicable rules and regulations of the commission. This documentation may be in the form of blueprints and specifications showing compliance with Chapter 2, NFPA 58, 1995 Edition requirements or and affidavit affirming the same. Upon meeting the requirement, the manufacturer's name will be added to the approved manufacturers list for Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 7:634 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:

§149. Blueprints and Specifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, repealed LR 24:

§151. Classification of Containers

Containers shall be designed and classified as provided in the applicable sections of the Chapter 2, National Fire Protection Association Pamphlet Number 58, 1995 Edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 7:634 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:

Subchapter D. Forms and Reports

§159. Required Forms and Reports

The following are forms and/or reports required to be filed with the Office of the Director of the Liquefied Petroleum Gas Commission:

1. Installation Report—must be filed with Office of the Director by the twentieth day of the month following the month of installation, on all installations or reinstallations of DOT and/or ASME containers. In the case of bulk storage tank installations, the installation report must be filed at the time of installation. Pressure tests are required to be documented on the installation report when a container is installed or reinstalled. In other cases where pressure tests are required (See §167 and §175), the pressure tests may be filed with the commission on an installation report form and noted as such. Pressure tests are not required to be filed, except in the case of installation or reinstallation of a container, but documentation of pressure tests are required to be maintained by the dealer if it has not been documented to the commission.

2. Sketches—must be filed with the Office of the Director for initial approval and will be finally approved after installation by the Office of the Director prior to placing into service the following liquefied petroleum gas systems:

- a. school buses/mass transit vehicles;
 - b. dealer bulk storages;
 - c. liquid withdrawal systems, except systems for private use;
 - d. places of public assembly, schools, churches, hospitals, nursing homes and other similar systems (either liquid or vapor systems);
 - e. automatic dispensers used for motor fuel as required by LAC 55:IX.163.C;
 - f. each location of Class VI-X permit holders.
3. Reports of fires and accidents required by §125.
4. Documentation as required by §147.
5. Proof of insurance or financial security as required by §107.A.3 or §107.A.3.a.
6. Drawings as required by §113.A.11.c.
7. Reports as required by §107.A.6.a.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:559 (May 1985), LR 15:861 (October 1989), LR 24:

§163. Automatic Dispensers Used for Motor Fuel

A. - B. ...

C. A sketch must be submitted to the Office of the Director detailing within 150 feet of the dispenser and the fuel storage container. This sketch must include distances to buildings, roads, streets, property lines, railways, other flammables and the details of the dispensing unit and be approved before installation. After installation and before use the installation must be inspected and the sketch finalized by the Office of the Director.

D. Installations of Automatic Dispenser

1. Hose length shall not exceed 18 feet.
2. Dispensing device shall be located 10 feet from any dispensing device for Class 1 liquids.
3. All piping shall be schedule 80 and all pipe fittings shall be forged steel having a minimum design pressure of 2,000 psi.
4. An excess flow valve shall be installed in the liquid and vapor piping in such a manner that displacement of the dispenser will result in the shearing of such piping on the downstream side of the excess flow valve.
5. Automatic dispensing system shall incorporate an Emergency Shut-off Valve (ESV) upstream from the pump, installed in accordance with its manufacturer's instructions.
6. The transfer hose downstream from the meter shall incorporate a pull-away device.
7. Each automatic dispensing system shall include a switch which requires the operator's constant manual activation to maintain a fuel flow. Overriding of such switch is prohibited.

8. Step-by-step operating instructions and fire emergency telephone numbers shall be posted in a conspicuous place in the immediate vicinity of the automatic dispenser.

9. Immediate vicinity of automatic dispenser shall be well lit during all hours of darkness.

10. A dealer who installs an automatic dispenser shall provide contractual purchaser with written instructions to operate dispenser. The contractual purchaser shall be cautioned to study and preserve such instructions and procedures, and to educate all those with access under his contract to the automatic dispenser in the proper operating procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1402 (December 1994), amended LR 24:

§165. Measurement

A. All trucks delivering liquefied petroleum gas for domestic use shall be equipped with a suitable measuring device which shall be used to accurately gauge the amount of gas placed in each system, either by meter or by weight.

B. Truck meters shall be calibrated at least once every two years or every one million gallons of gas delivered, whichever occurs first. Calibration reports shall be retained by the dealer in his truck file for at least three years. The commission reserves the right to review calibration reports upon demand.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1402 (December 1994), amended LR 24:

§166. Transport/Delivery Truck Registration Decals and Inspections

A. Dealers who operate transport/delivery trucks in the state of Louisiana shall file Form DPSLP 8045 (R 5/97) with the Office of the Director between the dates of February 1 and April 30 each year and pay the required annual registration fees. New equipment and equipment not registered during this period must be registered before operating over the highways of the state. Upon payment of the required fee, a registration decal will be issued on Form 8044 (R 5/97) by the Office of the Director to be displayed on the registered equipment. It shall be a violation of the commission rules to operate a transport or delivery truck over the highways without the registration decal affixed.

B. Safety inspections are required of all transport or delivery trucks requiring registration and shall be made by:

1. Louisiana Liquefied Petroleum Gas Commission inspector; or
2. documentation acceptable to the Office of the Director that a safety inspection has been performed by an acceptable qualified agency. This inspection must be performed within three months before or three months after registration with the commission. It shall be a violation of the commission rules not to have the required inspection or

documentation to the commission of the required inspection. Safety inspections by the Louisiana Liquefied Petroleum Gas Commission inspectors shall be free of charge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:

§167. "Out-of-Gas Customers" or Interruption of Service Procedure

When a delivery of gas is made to any on-site container which is out of gas or liquefied petroleum gas service was interrupted, the servicing dealer shall follow the following procedure.

1. When "out-of-gas customer" is not present:

- a. shut off the container service valve;
- b. place a tag on the container and the residence, or the building or the equipment the container services, indicating the container is out-of-service. The tag shall inform the gas customer to contact a liquefied petroleum gas dealer or other qualified agency to perform a leak check or test on the system as required before turning on the container. Further action is the responsibility of the customer. The customer has the choice of whether to call a qualified agency or assume the risk of turning it on himself.

2. When "out-of-gas customer" is present:

- a. shut off the container service valve;
- b. inform the gas customer the container is out of service and a qualified agency must perform a leak check or test on the system as required before turning on the container. Further action is the responsibility of the customer. The customer has the choice of whether to have the required check or test performed or assume the risk of turning it on himself.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:

§173. Regulator Installation

A two-stage regulator or an integral two-stage regulator shall be required on all fixed piping system that serve ½ psi appliance systems (11 in. w.c.). Single-stage regulators shall not be installed in fixed piping systems after June 30, 1997. Other requirements of NFPA 58, 1995 Edition, Section 3-2.6, as well as exceptions are applicable in Louisiana. Two-stage regulation shall not be retroactive to June 30, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:

§175. Pressure Test and Inspection Required

Pressure test and inspection of the system are required in the following cases and in the following manner.

1. New piping installation where no piping existed, no tank or appliances installed:

- a. no underground piping shall be covered until after an inspection and pressure test are made;
- b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss of pressure;

- c. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

d. - e. Repealed.

2. New piping installation, where no piping existed, and installation of tank, without appliance installation or connection:

- a. no underground piping shall be covered until after an inspection and pressure test are made;

- b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss of pressure;

- c. retest piping, with tank connected, with water column of operating pressure of system;

- d. search for leaks with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

- e. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

3. New piping, where no piping existed, installation of a tank and installation or connection of appliances:

- a. no underground piping shall be covered until after an inspection and pressure test are made;

- b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss of pressure;

- c. appliance inspected for correctness as to design, construction and performance. Appliances connected and adjusted. Retest piping system and appliances, with tank connected, with water column of operating pressure with a water manometer, ounce gauge, or equivalent by turning off all appliance valves and turning off gas at the tank. There shall be no loss of pressure in the piping system during this 15-minute test;

- d. search for leaks with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

- e. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

4. Existing piping with additional piping added no tank or appliances installed or connected:

- a. no underground piping shall be covered until after an inspection and pressure test are made;

b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss of pressure;

c. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

5. Existing piping with additional piping added and installation of tank without appliance, installation or connection:

a. no underground piping shall be covered until after an inspection and pressure test are made;

b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss of pressure;

c. retest piping with tank connected with water column of operating pressure of system;

d. search for leak with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

e. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

6. Existing piping with additional piping added, installation of tank and installation or connection of appliance;

a. no underground piping shall be covered until after an inspection and pressure test are made;

b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss of pressure;

c. appliance inspected for correctness as to design, construction, and performance. Appliances connected and adjusted. Retest piping system and appliances, with tank connected, with water column of operating pressure with a water manometer, ounce gauge, or equivalent by turning off all appliance valves and turning off gas at the tank. There shall be no loss of pressure in the piping system during this 15-minute test;

d. search for leaks with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

e. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

7. Existing piping with installation of tank without appliances:

a. visually inspect container and piping;

b. test piping, with tank connected, with water column, of operating pressure of system;

c. search for leaks with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

d. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files;

8. Existing piping with installation of tank and installation or connection of appliance:

a. visually inspect container and piping;

b. appliance inspected for correctness as to design, construction, and performance. Appliances connected and adjusted. Retest piping system and appliances, with tank connected, with water column of operating pressure with a water manometer, ounce gauge, or equivalent by turning off all appliance valves and turning off gas at the tank. There shall be no loss of pressure in the piping system during this 15-minute test;

c. search for leaks with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

d. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

9. Existing piping, tank and appliances, first time service of system by new dealer (new customer):

a. visually inspect container and piping;

b. appliance inspected for correctness as to design, construction, and performance. Appliances connected and adjusted. Test piping system and appliances with water column of operating pressure with a water manometer, ounce gauge, or equivalent by turning off all appliance valves and turning off gas at the tank. There shall be no loss of pressure in the piping system during this 15-minute test;

c. search for leaks with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

d. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files;

e. when the new customer is not present and §175.A.9.a. - d cannot be performed. Service should be documented as required in an out-of-gas situation §167.A;

f. when the new customer is present but does not authorize the procedure of §175.A.9.a. - d the service should be documented as required in an out-of-gas situation of §167.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), LR 24:

§177. Appliance Installation and Connections

A. Use of Approved Appliances. Domestic and commercial gas consuming appliances shall not be installed unless their correctness to design, construction and performance is certified by one of the following:

1. - 2. ...

B. Appliance Installation and Connection

1. An appliance shall be installed in accordance with its manufacturer's instructions.

2. In the absence of complete manufacturer's instructions on installation of any appliances, installation shall be in accordance with the edition of NFPA Number 54 the *National Fuel Gas Code* adopted by the commission.

a. - b. Repealed.

C. Exceptions

1. Existing installations, where piping outlets and appliances were installed in accordance with regulations which were in effect at the time of such installation, shall remain approved. This exception includes the removal of existing appliances for servicing or replacement of appliances with the same type or of equal or better quality. This exception does not allow adding new piping, appliance locations, or new appliances where there was no pre-existing appliance without meeting §177.A and B.

2. Installation of Heaters in Residences. The following liquefied petroleum gas room heaters may be installed in a residence that is a one- or two-family dwelling and that is not a manufactured home (mobile home) or a modular home:

a. a listed wall-mounted liquefied petroleum gas unvented room heater equipped with an oxygen depletion safety shut-off system may be installed in the bathroom of a residential one- or two-family dwelling provided that the input rating shall not exceed 6,000 Btu per hour, and combustion and ventilation air is provided in accordance with Paragraph 6.1(b) of the *National Fuel Gas Code, NFPA 54, 1992 Edition*;

b. a listed wall-mounted liquefied petroleum gas unvented room heater equipped with an oxygen depletion safety shut-off system may be installed in the bedroom of a residential one- or two-family dwelling provided that the input rating shall not exceed 10,000 Btu per hour, and combustion and ventilation air is provided in accordance with Paragraph 6.1(b) of the *National Fuel Gas Code, NFPA 54, 1992 Edition*.

3. Installation of Heaters in Used Manufactured Homes. Liquefied petroleum gas room heaters may be installed in used manufactured homes as follows: liquefied petroleum gas listed vented room heaters equipped with a 100 percent safety pilot and a vent spill switch or liquefied petroleum gas listed unvented room heaters equipped with factory equipped oxygen depletion safety shut-off system, but not in sleeping

quarters or bathrooms; and when the installation of the heater is not prohibited by the appliance manufacturer's instructions and when the input rating of the room heater does not exceed 20 Btu per hour per cubic foot of space and combustion and ventilation air is provided as specified in Section 5.3 of the *National Fuel Gas Code, NFPA 54, 1992 Edition*.

4. Exceptions, other than those listed herein, shall be approved by the director of the Liquefied Petroleum Gas Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:

Subchapter H. Specification for Liquefied Petroleum Gas Installations at Schools and Places of Public Assembly

§179. Requirements for Plans and Specifications

A. Sketches and specifications including plot plans shall be submitted to the Office of the Director of the Liquefied Petroleum Gas Commission for approval before installation.

B. Sketch and specifications must show the following:

1. type of building (frame, masonry, metal walls, etc.);
2. elevation from ground level to building;
3. the size and location of all gas piping and length of runs;
4. the size and location of the tank or container;
5. the location and Btu rating of all appliances;
6. the total Btu load;
7. all other details related to the proposed installation as required in §179.

C. The following is a clarification of the requirements for the replacement of tanks at schools and places of public assembly:

1. Where any additional piping or installation or change of an appliance occurs, it is necessary to submit new sketches to the Office of the Director of this commission.
2. Replacement of a storage tank or container by a smaller or larger capacity tank or container will require new sketches and approval from the Office of the Director.
3. Replacement of a tank or container of the same capacity at the same location will not require a new sketch.
4. In cases where a new sketch is not required, a letter stating the approximate information as to manufacturer, serial number, date of manufacture, capacity, and customer name and address will be accepted.
5. In all cases an installation report, as required, must be filed with the Office of the Director.

D. New sketches are not required when changing fuel suppliers of public assembly and no changes are made in the liquefied petroleum gas system.

E. The commission reserves the right to make a final inspection and witness a pressure test through an inspector of the Liquefied Petroleum Gas Commission before placing installation into service.

F. The minimum capacity of storage tanks or containers shall be 100 gallons capacity per each 100,000 Btu appliance load. Exceptions to this rule must be made by the director of this commission.

G. Fences are required for storage tanks or containers at all schools, nursing homes and churches. Fences may be required at other places of public assembly which are deemed necessary in the interest of public safety by the office of the director. All request for exemption from the requirement must be submitted, in writing, to the Office of the Director and approved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1404 (December 1994), amended LR 24:

Subchapter I. Adoption of Standards

§181. National Fire Protection Association Pamphlet Number 54 and 58

A. The Liquefied Petroleum Gas Commission hereby adopts the *National Fuel Gas Code, 1992 Edition*. The National Fire Protection Association designation is NFPA 54-1992. The American National Standards Institute, Inc. designation is ANSI Z223.1-1992. The Liquefied Petroleum Gas Commission also adopts the National Fire Protection Association's *Standard for the Storage and Handling of Liquefied Petroleum Gases, 1995 Edition*. The National Fire Protection Association designation is NFPA 58 - 1995. The American National Standards Institute, Inc. designation is ANSI/NFPA 58-1995.

B. The commission may adopt subsequent editions of these standards by a rule change in accordance with the Administrative Procedure Act.

C. Any published Liquefied Petroleum Gas Commission rules and regulations shall take precedence over the standards referenced and adopted in §181.A.

D. The commission reserves the right to make an exception to any rule adopted in §181.A, as it applies to local conditions as it deems necessary in the interest of public safety.

1. - 3. Repealed.

E. The following are exceptions to the standards referenced in §181.A:

1. with regard to §2.6.6, *Protective Coatings*, in NFPA 54-1992—galvanized pipe and fittings and copper pipe and fittings may be used;

2. with regard to §3.1.2, *Protection Against Damage*, in NFPA 54-1992—pipe may be buried to the depth of the frost line and shall be protected against such mechanical injury where necessary;

3. with regard to §3.1.3, *Protection Against Corrosion*, in NFPA 54-1992—the provisions of §3.1.3 shall be considered met in Louisiana when galvanized or copper pipe is used;

4. with regard to §2-2.6.6, *Name and Emergency Service Telephone Number*, in NFPA 58-1995—the provisions of §2-2.6.6 shall be considered met in Louisiana when dealer-owned tanks on consumer premises have the dealer's name affixed. Consumer-owned tanks require no markings. See §113.A.1.f of these rules.

5. with regard to §3-9.3.10, *Emergency Shut-off of Power*, in NFPA 58-1995—the provisions of §3-9.3.10 shall be considered met in Louisiana if the operator has provided an alternative to shut off power in the event of a fire, accident or

other emergency other than the switch(es) or circuit breaker(s) located at the dispenser(s);

6. with regard to §3-3.6.b, *Alternative to Fencing*, in NFPA 58-1995—the provisions of §3-3.6.b shall be considered met in Louisiana, if, as an alternative to fencing the operating area, suitable devices are installed, that can lock the discharge end of the transfer hose valve, prevent unauthorized operation of the pumping equipment and protect against vehicle impact in accordance with good engineering practice acceptable to the commission;

7. with regard to §3-9.3.9, *Shut-off Valve on End of Transfer Hose*, in NFPA 58-1995—the provisions of §3-9.3.9 shall be considered met in Louisiana if a listed quick-acting shut off valve with positive lock off or a listed globe valve is installed at the discharge end of the transfer hose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1404 (December 1994), amended LR 24:

Chapter 2. School Bus and Mass Transit Installations **[formerly Chapter 12]**

Editor's Note: This Chapter applies to liquefied petroleum gas systems supplying liquefied petroleum gas to propel school buses and mass transit vehicles.

§201. Applications and Sketches of School Bus and Mass Transit Vehicles

A. Prior to the initial installation of a liquefied petroleum gas system used as a motor fuel system on any school bus or mass transit vehicle, either public or private, an applicant (the end user or dealer) shall submit an application and sketch to the Office of the Director for review and approval. When the end user is the applicant, the dealer making the installation must be stated on the application.

B. After review of the application and approval of the sketch by the Office of the Director the liquefied petroleum gas system may be installed. Any modifications, except routine maintenance of the system, shall require a new sketch and approval by the Office of the Director.

C. A registration fee of \$10 must be submitted with the application which includes the first year registration decal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 24:

§203. Inspections

A. The Liquefied Petroleum Gas Commission requires that a final inspection of all newly installed systems be made by the Office of the Director or an acceptable qualified agency prior to placing in service. This final inspection must be documented to the commission.

B. The Liquefied Petroleum Gas Commission reserves the right to make inspections of all liquefied petroleum gas systems at any time.

C. All school bus/mass transit vehicles which use liquefied petroleum gas as a motor fuel shall be registered with the Liquefied Petroleum Gas Commission and shall be inspected annually by the Office of the Director or an acceptable qualified agency. An annual renewal registration fee of \$10

shall be paid to the Liquefied Petroleum Gas Commission upon the required annual inspection.

D. A liquefied petroleum gas dealer shall not fuel any school bus/mass transit vehicle covered under this Chapter which has not been inspected as required or to which a current registration decal is not permanently affixed.

E. No liquefied petroleum gas system shall be placed into service which does not comply with this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 24:

§205. Installation of Liquefied Petroleum Gas Systems Used As Engine Fuel System for School Bus/Mass Transit Vehicles

Installation of a liquefied petroleum gas system used as engine fuel system for school bus/mass transit vehicles shall be in accordance with the applicable sections of NFPA Number 58, 1995 Edition, Chapter 8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:1886 (August 1992), amended LR 24:

§207. Fueling

A. Vehicles covered in this Chapter are prohibited from being fueled at schools and other places of public assembly within 50 feet of the property line.

B. Vehicles are prohibited from being fueled while passengers are on board or while waiting to board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 24:

Chapter 12. School Bus/Mass Transit Installations [See new Chapter 2]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 20:1405 (December 1994), repealed LR 24:

The commission will hold a public hearing January 28, 1998, 1723 Dallas Drive, Baton Rouge, LA, at 1 p.m. in regard to these changes.

Written comments will be accepted through January 22, 1998 and should be sent to Charles M. Fuller at Box 66209, Baton Rouge, LA 70896. All interested persons will be afforded an opportunity to be heard at the public hearing. A preamble has not been prepared for the intended action.

Charles M. Fuller
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Liquefied Petroleum Gas Dealers; New Dealers; Container Manufacturers; Forms/Reports; Installation at Schools/Public Assembly Places; and Standards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be a small implementation cost to the state agency; however, the savings in cost of operating services is estimated to be more than the implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of the state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The affected group will experience a decrease in their costs and expenses as a result of these rule changes.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no impact or effect on competition and employment because of these rule changes.

Thomas H. Normile
Undersecretary
9712#098

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

Compulsory Insurance (LAC 55:III.Chapter 17)

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles hereby gives notice of intent to adopt rules pertaining to the implementation of the law authorizing the impoundment of motor vehicles when the operator is unable to provide proof of liability insurance to a law enforcement officer. The rules provide for the notice of violation issued by a law enforcement officer; service of the notice on the owner of the vehicle; administrative hearing rights; the revocation of registration privileges; the acceptable means of proving the motor vehicle is covered by a policy of liability insurance; the treatment of leased and rented motor vehicles; the treatment of the transfer of ownership of motor vehicles which have been the subject of a violation for no proof of insurance; and the procedure to be followed if a person desires a declaratory order or ruling regarding the compulsory insurance law.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 17. Compulsory Insurance

§1701. Definitions

As used in this Chapter, the following terms have the meanings described below.

Assistant Secretary—the assistant secretary of the Office of Motor Vehicles.

Department—the Department of Public Safety and Corrections, Office of Motor Vehicles.

New Owner—the person or persons who acquire, or who have previously acquired ownership of a motor vehicle that was the subject of a violation of this Chapter, but who do not appear on the records of the department as the registered owner of such motor vehicle.

Operator—the person operating the motor vehicle at the time the violation for no proof of insurance was issued by a law enforcement officer.

Owner—the person or persons who appear on the records of the department as the registered owner of a motor vehicle on the date the violation for no proof of insurance was issued.

Person—an individual, partnership, corporation, limited liability company, or other legal entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1703. Official Notification

A. The compulsory violation notice issued by a law enforcement officer to the operator of the motor vehicle at the time of the violation of R.S. 32:863.1 serves as official notification by the department that a violation of R.S. 32:863.1 has occurred, and such notice triggers all of the requirements for compliance contained in this Chapter and in R.S. 32:863.1 as are applicable.

B. Notification issued pursuant to this Chapter shall be on a form approved by the assistant secretary and shall include the following:

1. in those cases in which the motor vehicle is impounded, the notice shall inform the owner/operator that the motor vehicle shall remain impounded and the registration of the motor vehicle shall be revoked until such time as the owner provides satisfactory proof to the department that the motor vehicle is covered by a policy of liability insurance or such other security as is authorized by state law, and until such time as the owner pays all fees required by R.S. 32:863.1;

2. in those cases in which the motor vehicle is not impounded, the notice shall inform the owner/operator that the motor vehicle's registration will be revoked three days from the date the notice was issued, and the registration will remain revoked until such time as the owner provides satisfactory proof to the department that the motor vehicle is covered by a policy of liability insurance or such other security as is authorized by state law, and until such time as the owner pays all fees required by R.S. 32:863.1.

C.1. The notification issued pursuant to this Chapter shall be deemed served on the registered owner of the vehicle if the notice is served on the operator of the motor vehicle at the time of the violation. The owner of a motor vehicle shall be presumed to have designated the operator of the motor vehicle as the owner's agent for purposes of service of the notice of violation.

2. The assistant secretary or his designee may determine that the owner did not receive the notification, upon sufficient proof being provided to the department by the owner, that the

operator of the motor vehicle at the time of the violation did not have the owner's express or implied permission to operate the motor vehicle.

D. Any request for an administrative hearing must be submitted in writing to the Department of Public Safety and Corrections, Office of Motor Vehicles, Hearing Request, Box 64886, Baton Rouge, LA 70896-4886, or hand-delivered to the Office of Motor Vehicle Headquarters in Baton Rouge, LA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1705. Revocation of Registration Privileges

A. If the owner of the motor vehicle cited for being operated in violation of R.S. 32:863.1 provides proof of valid insurance in effect at the time of the violation within three days of the date of the violation, the registration for that motor vehicle shall not be revoked and the license plate shall be returned to the individual within a reasonable period upon its receipt by the department.

B. If the owner of the motor vehicle cited for being operated in violation of R.S. 32:863.1 does not provide proof of valid insurance in effect at the time of the violation within three days of the date of the violation, the registration for that motor vehicle shall be revoked and the license plate shall be destroyed.

C.1. Any period of revocation shall begin on the fourth day after the date of the violation. The registration shall remain revoked until the owner of the motor vehicle complies with requirements of R.S. 32:863.1 and this Chapter.

2. If a license plate was seized at the time of the violation, and a new plate issued for the motor vehicle in question, a pickup order shall be issued for the new plate.

3. Nothing in this Chapter shall be construed as limiting or prohibiting the department from taking any other action against a registered owner of a motor vehicle who subsequently applied for a new plate, after the previous plate was seized pursuant to R.S. 32:863.1, without the registered owner first complying with the provisions of R.S. 32:863.1 and the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1707. Proof of Insurance

A. The following are the only acceptable means of proving that the motor vehicle is covered by a policy of liability insurance or other statutorily authorized security when the owner or his representative appears in an Office of Motor Vehicles office in order to show compliance with the compulsory insurance law as is required in R.S. 32:863.1 and the vehicle weighs 20,000 pounds or less:

1. proof of a liability insurance policy providing at \$10,000/\$20,000 bodily injury and \$10,000 property damage as provided in R.S. 32:900(B) by:

a. the insurance identification card issued by the insurance company;

b. the declaration page of the policy of insurance issued by the insurance company;

c. the policy of liability insurance issued by the insurance company;

d. documentation from an insurance agent indicating that a timely binder for coverage had been issued if it is shown to the satisfaction of the assistant secretary or his designee that the agent had the authority to bind coverage by the insurance company;

2. proof of an approved motor vehicle liability bond issued by a surety or insurance company in the amount of \$30,000 with respect to the motor vehicle involved in the violation;

3. proof that a certificate was issued from the state treasurer stating that cash or securities in the amount of \$30,000 is on deposit with the state treasurer;

4. proof that a Louisiana Certificate of Self-Insurance was issued under R.S. 32:1042.

B. The following are the only acceptable means of proving that a motor vehicle with a gross weight of 20,001 pounds to 50,000 pounds is covered by a policy of liability insurance or other statutorily authorized security when the owner or his representative appears in an Office of Motor Vehicles office in order to show compliance with the compulsory insurance law as is required in R.S. 32:863.1:

1. proof of a liability insurance policy providing at \$25,000/\$50,000 bodily injury and \$25,000 property damage as provided in R.S. 32:900(B):

a. the insurance identification card issued by the insurance company;

b. the declaration page of the policy of insurance issued by the insurance company;

c. the policy of liability insurance issued by the insurance company;

d. documentation from an insurance agent indicating that a timely binder for coverage had been issued if it is shown to the satisfaction of the assistant secretary or his designee that the agent had the authority to bind coverage by the insurance company;

2. proof that a Louisiana Certificate of Self-Insurance was issued under R.S. 32:1042;

3. proof of single state registration (current form RS-3);

4. proof of Public Service Commission authority (current Intra-State ID Cab Card); or

5. proof that a Certificate of Self-Insurance was issued by the Interstate Commerce Commission (ICC) under R.S. 32:900(M)(3).

C. The following are the only acceptable means of proving that a motor vehicle with a gross weight of more than 50,000 pounds is covered by a policy of liability insurance or other statutorily authorized security when the owner or his representative appears in an Office of Motor Vehicles office in order to show compliance with the compulsory insurance law as is required in R.S. 32:863.1:

1. proof of a liability insurance policy providing at \$100,000/\$300,000 bodily injury and \$25,000 property damage as provided in R.S. 32:900(B):

a. the insurance identification card issued by the insurance company;

b. the declaration page of the policy of insurance issued by the insurance company;

c. the policy of liability insurance issued by the insurance company;

d. documentation from an insurance agent indicating that a timely binder for coverage had been issued if it is shown to the satisfaction of the assistant secretary or his designee that the agent had the authority to bind coverage by the insurance company;

2. proof that a Louisiana Certificate of Self-Insurance was issued under R.S. 32:1042;

3. proof of single state registration (current form RS-3);

4. proof of Public Service Commission authority (current Intra-State ID Cab Card); or

5. proof that a Certificate of Self-Insurance was issued by the Interstate Commerce Commission (ICC) under R.S. 32:900(M)(3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1709. Proof of Insurance for Rental or Leased Motor Vehicles

A. For purposes of this Chapter, a rental motor vehicle is a motor vehicle which is rented for a period of 30 days or less and which remains registered in the name of the rental company with the Office of Motor Vehicles.

B. For purposes of this Chapter, a leased motor vehicle is a motor vehicle which is leased for a period of more than 30 days or which is registered in the name of the lessee in addition to the name of the rental company with the Office of Motor Vehicles.

C. A rental motor vehicle shall not be subject to towing and impounded upon first violation. The law enforcement officer enforcing the provisions of R.S. 32:863.1 may contact the rental agent to determine if the rental agent wishes to retake possession of the motor vehicle. If the rental agent retakes possession of the motor vehicle, the rental motor vehicle shall not be impounded and the license plate of the rental motor vehicle shall not be seized.

D. A leased motor vehicle shall be subject to the impoundment provisions of R.S. 32:863.1 unless one of the exceptions applies.

E. Neither a rental nor a leased motor vehicle shall be subject to impoundment or other sanctions if:

1. at the time the operator is required to show proof of insurance to a law enforcement officer, the operator establishes that the rental or leased motor vehicle is temporarily replacing the operator's own motor vehicle; and

2. the operator provides proof that the motor vehicle which is temporarily replaced is covered by liability insurance as required in R.S. 32:863.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1711. Transfer of Title of a Vehicle Subject to the Provision of this Chapter

A. If the owner of a motor vehicle, which was the subject of a citation for violation of R.S. 32:863.1, desires to sell, donate, or transfer such motor vehicle, then the owner of such motor vehicle shall comply with the following:

1. there must be a bona fide sale, donation, transfer or assignment to a new owner of the motor vehicle which was the subject of a citation for violation of R.S. 32:863.1;

2. the new owner of the motor vehicle which was previously the subject of a citation for violation of R.S. 32:863.1 shall:

a. apply for and obtain a certificate of title for the motor vehicle;

b. pay the vehicle registration license tax; and

c. provide proof that the motor vehicle is covered by a valid policy of liability insurance or such other security as authorized by §1707;

3. all fees required by R.S. 32:863.1 shall be paid prior to the department processing the title transaction.

B. The new owner of the motor vehicle may pay the fees owed by the previous owner of the motor vehicle who was subject to the violation of R.S. 32:863.1, but the previous owner shall ultimately retain responsibility for the fees until the fees are paid to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1713. Declaratory Orders and Rulings

A. Any person desiring a ruling on the applicability of R.S. 32:863.1 or any other statute, or the applicability or validity of any rule, to the impoundment of motor vehicles for failing to have proof of liability insurance or other security shall submit a written petition to the assistant secretary. The written petition shall cite all constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

B. If the petition seeks an order or ruling on a transaction handled by the Office of Motor Vehicles, the person submitting the petition shall notify the person or persons who submitted the transaction, if other than the person submitting the petition. Such notice shall be sent by certified mail, return receipt requested. In such case, the petition shall not be considered until proof of such notice has been submitted to the assistant secretary, or until the person petitioning for the order or ruling establishes that the person or persons cannot be notified after a due and diligent effort. The notice shall include a copy of the petition submitted to the assistant secretary.

C. The assistant secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The assistant secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the assistant secretary or his

designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

D. Notice of the order or ruling shall be sent to the person submitting the petition as well as the persons receiving notice of the petition at the mailing addresses provided in connection with the petition.

E. The assistant secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in §1713.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1 and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

Persons having comments or inquiries may contact Stephen A. Quidd, Attorney for the Office of Motor Vehicles, by writing to Box 66614, Baton Rouge, LA 70896, by calling (504) 925-4068, or by sending a facsimile to (504) 925-3974. These comments and inquiries should be received by January 23, 1998.

A public hearing on these rules is currently scheduled for Tuesday, January 27, 1998, at 9 a.m. in the Middle Management Conference Room at the Office of Motor Vehicle Headquarters at 109 South Foster Drive, Baton Rouge, LA 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing.

Thomas H. Normile
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Compulsory Insurance**

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

There should be no change in the costs incurred in implementing the law requiring the impoundment of a motor vehicle when the operator fails to provide a law enforcement officer with proof that the motor vehicle is covered by a policy of liability insurance. Under the current law, law enforcement officers are currently seizing the license plate of the subject vehicle and sending the license plate to the Office of Motor Vehicles with a copy of the notice of violation. Under the new law, this process will not change.

There should be no change in the costs incurred by local governmental units. Those agencies are currently enforcing the compulsory insurance law through their law enforcement agencies.

The cost of storing the vehicle will be borne by the owner of the impounded vehicle.

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

There should be no change on the revenue collections of the state. The 1997 amendment to R.S. 32:863.1 did not change the amount of the reinstatement fees due to the department. The law

simply added a new sanction for violating the compulsory insurance law.

Under both the current law and the new law, the reinstatement fees are collected by the state. Local governmental units do not collect any fees under either the current law or the new law.

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

Those individuals who are cited with violation of the compulsory insurance law, R.S. 32:863.1, will incur the additional expense of having their motor vehicle towed and impounded for violation of the law unless one of the exceptions to impoundment apply.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment.

Thomas H. Normile
Undersecretary
9712#059

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

Out-of-State Inspection Stations (LAC 55:III.808)

The Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section hereby gives notice in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., of its intent to amend the rules implementing the 1997 Regular Session amendments to R.S. 32:1301 and R.S. 32:1305 authorizing the establishment of motor vehicle inspection stations by any business owning more than 40 motor vehicles registered pursuant to the International Registration Plan in Louisiana and operating at least one vehicle repair and maintenance shop. The 1997 amendment authorizes the establishment of such inspection stations within or without the state of Louisiana.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 8. Vehicle Inspection

Subchapter D. Appointment as an Inspection Station

§808. Out-of-State Inspection Stations

A. All inspections of motor vehicles registered in Louisiana pursuant to the International Registration Plan, if conducted outside the state of Louisiana, shall be conducted in the same manner as those inspections conducted in Louisiana.

B. All inspection reports shall be received by the Safety Enforcement Section no later than the fifth day of the month following the month in which the motor vehicle was inspected at the out-of-state inspection station. The reports shall be mailed to the Office of State Police, Safety Enforcement Section, Box 66614, Baton Rouge, LA 70896 or

hand-delivered at the Safety Enforcement Section headquarters at 265 South Foster Drive, Baton Rouge, LA 70806.

* * *

E. All inspection certificates shall be mailed directly to an address in Louisiana designated by the operator, and the operator shall be responsible for distributing the inspection certificates to each of the operator's inspection stations with a certificate of appointment. It shall be the responsibility of the fleet operator to maintain records reflecting the distribution, reallocation and use of the inspection certificates.

F. It shall be the responsibility of the contact person located at the out-of-state inspection station, upon receipt of the inspection certificates from the operator's designated Louisiana address, to notify the operator's Louisiana office of the receipt of the inspection certificates. The contact person shall verify the audit numbers of the certificates received and include a statement of this verification in the notice required in §808.F. The notification required by §808.F shall be in writing and shall be kept at the operator's Louisiana office.

G. The inspection log books shall be sent to the operator's Louisiana office, and the operator's Louisiana office shall have the responsibility of forwarding the log books to the out-of-state inspection station.

* * *

I. Repealed.

* * *

P. The deputy secretary of the Department of Public Safety and Corrections, Public Safety Services may impose conditions, restrictions, or limitations on any permit without regard as to whether any violation has occurred.

* * *

U.1. The operator shall be responsible for the reimbursement of the actual costs incurred by the department in administering the out-of-state inspection program. The costs shall include the expenses incurred for travel, meals, lodging and other related administrative expenses incurred in connection with the application for a certificate of appointment, the initial inspection in connection with commencement of operation of the out-of-state inspection station, and any subsequent inspection or investigation of the out-of-state inspection station to insure all requirements of state statutes, the rules regarding motor vehicle inspections, or any order issued by or on behalf of the Safety Enforcement Section are met.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 23:1701 (December 1997), amended LR 24:

Persons having comments or inquiries may contact Stephen A. Quidd, attorney for the Office of State Police, by writing to Box 66614, Baton Rouge, LA 70896, (504) 925-4068, or FAX (504) 925-3974. These comments and inquiries should be received by January 23, 1998.

A public hearing on these proposed rules is currently scheduled for Tuesday, January 27, 1998, at 10 a.m. in the Middle Management Conference Room at the Office of Motor Vehicle headquarters at 109 South Foster Drive, Baton Rouge, LA 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing.

Thomas H. Normile
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Out-of-State Inspection Stations**

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

There will be no change in the cost to the state in connection with the administration of the out-of-state inspection program. The department is in the process of concluding the promulgation process for the rules to implement the out-of-state inspection program. These changes reflect proposed amendments to the rules based on input received during the rule making process.

Local governmental units are not involved in this program and would have no costs to bear.

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

There will be no effect on revenue. The vehicles located at the out-of-state terminals are now required to be brought to Louisiana and inspected.

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

The economic benefit to these operators will be that they will not be required to have all of their out-of-state commercial vehicles return to Louisiana for their annual commercial inspection.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should have no effect on competition as all commercial fleet operators with a fleet of more than 40 vehicles will be able to establish out-of-state inspection stations.

Thomas H. Normile
Undersecretary
9712#057

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Tax Commission**

Ad Valorem Taxation (LAC 61:V.Chapters 1-35)

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

intends to adopt, amend and/or repeal sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 1998 (1999 Orleans Parish) tax year.

The text of these proposed rules may be viewed in their entirety in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed rules until 4 p.m., January 5, 1998, to E.W. "Ed" Leffel, Property Tax Specialist, Tax Commission, Box 66788, Baton Rouge, LA 70896.

Malcolm B. Price, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Ad Valorem Taxation**

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

Implementation costs to the agency are the costs of preparation, reproduction and distribution of updated regulations. These costs are estimated at \$6,000 for the 1997-98 fiscal year and are being reimbursed through an existing user service fee of \$15 per set.

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

Local Governmental Units. These revisions will generally increase 1998 certain real and personal property assessments for property of similar age and condition in comparison with equivalent assessments in 1997. Composite multiplier tables for assessment of most personal property will decrease by 1.73 percent. Specific valuation tables for assessment of oil and gas properties will generally increase by an estimated 7 percent on wells, 27.1 percent on pipelines and 163 percent on drilling rigs. Use value assessed marshlands will generally decrease by an estimated 34 percent. The net effect of these revisions is estimated to increase assessments by 0.34 percent and tax collections by \$1,151,000 on the basis of existing statewide average millage.

State Governmental Units. Under authority granted by R.S. 47:1838, the Tax Commission will receive state revenue collections generated by assessment service fees estimated to be \$309,000 from public service companies, and \$81,000 from financial institutions and insurance companies, all of which are assessed by the Tax Commission.

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

The effects of these new rules on assessments of individual items of equivalent real and personal property will generally be higher in 1998 than in 1997. Specific assessments will depend on the age and condition of the property subject to assessment.

The estimated costs that will be paid by affected persons as a result of the assessment and user service fees as itemized above total \$390,000 to be paid by public service property owners, financial institutions and insurance companies for 1997/98.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment cannot be quantified. Inasmuch as the proposed changes in assessments and charges are relatively small, the impact is thought to be minimal.

James D. Peters
Administrator
9712#069

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Rehabilitation Services
Commission for the Deaf**

Commission Role, Function, Composition, Committees,
Boards, Task Forces and Executive Director
(LAC 67:VII.305, 307, 329, and 331)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) proposes to revise the Commission for the Deaf's rules of operation.

The purpose of this notice of intent is to revise the rules governing Rehabilitation Services' Commission for the Deaf rules of operation to provide for the orderly conduct of the affairs of the commission.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 3. Commission for the Deaf

§305. Role and Function

A. Duties. The duties of the commission, as mandated by law, are to:

* * *

7. certify interpreters and maintain a registry of certified interpreters;

* * *

c. the commission shall establish and appoint a five-person Interpreter Certification Board, at least one of whom shall be deaf and at least one of whom shall be an educational interpreter;

* * *

e. the commission shall waive examination requirements for applicants with valid certification from another state, based on the board's recommendation for reciprocity/recognition;

* * *

10. establish, administer, and promote a statewide program to provide access to all public telecommunication services by persons who are deaf, deaf/blind, and others such as severely hearing impaired or severely speech impaired. This program shall include, but is not limited to:

a. the purchase and distribution of telecommunication devices and related devices for the person listed above;

b. the creation of a dual party relay system to function as a communications bridge between members of the deaf and hearing citizenry; and

c. the creation of a Telephone Access Program Board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:

§307. Composition of the Commission

Membership. Membership on the commission is specified by law and consists of 17 members. Ten members are legislated by position held, and seven members are appointed by the governor. These members include:

1. legislated members:

a. the coordinator of Vocational Rehabilitation Services to the Deaf, or designee;

b. the president of the Association of the Deaf, or designee;

c. the president of the Registry of Interpreters for the Deaf, or designee;

d. the superintendent of the School for the Deaf, or designee;

* * *

h. the speaker of the House of Representatives, or designee;

i. the president of the Senate, or designee; and

j. the secretary of the Department of Health and Hospitals, or designee.

2. appointed members:

* * *

b. two lay members who shall be parents of deaf individuals;

c. two lay members who shall be professionals who work with deaf individuals; and

d. one lay member who shall be a hard-of-hearing person.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:

§329. Committees, Boards and Task Forces

* * *

E. Interpreter Certification Board (ICB)

* * *

2. Composition Criteria. The Interpreter Certification Board (ICB) shall consist of five members who shall meet the following criteria:

* * *

d. one member must be deaf and one member must be an educational interpreter.

3. Appointments

a. While the Commission for the Deaf, the Association of the Deaf, the Registry of Interpreters for the Deaf, and the state Department of Education shall each recommend one person with the criteria in §329.E.2 to serve on the Interpreter Certification Board, final appointment rests with the commission, as delegated by legislation.

b. The chair of the commission shall appoint the ICB chair and one member making sure the minimum number of members who are deaf is met.

5. Terms of Service. The term of appointment to the ICB shall be for a period of two years, beginning in July of 1994. Terms of service between organizational members will be staggered such that at no time will the entire board be replaced. The first rotation off the board will occur in July 1995. It is understood that the term of office of the chair of the ICB is at the discretion of the chair of the commission. This will require organizations to recommend members every two years to replace the member rotating off the board.

F. Telephone Access Program Board (TAPB)

1. Purpose. The purpose of the Telephone Access Program Board is to assist the commission in the implementation and maintenance of LAC 67:VII.305.A.10.

2. Responsibilities of the TAPB. Responsibilities include, but are not necessarily limited to:

3. Membership of the TAPB. Membership shall consist of the following individuals:

i. a representative of Bell South, selected by Bell South Telephone Company;

4. Officers of the TAPB. The structure shall provide for:

a. the chair or designee of the Commission for the Deaf to preside as chair of the TAPB;

b. election of a vice chair to preside in the absence of the chair and to perform such duties as are assigned by the TAPB, or delegated by the chair;

c. election of other officer(s) of the TAPB, as deemed necessary;

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:

§331. Executive Director

B. Qualifications. The executive director shall be a trained professional, having experience with individuals who are deaf and skilled in the use of sign language. The

executive director may be either a person who is deaf or a person with normal hearing, but preference shall be given to a person who is deaf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:

Additional copies of the entire text of this revised policy manual may be obtained at Rehabilitation Services headquarters, 8225 Florida Boulevard, Baton Rouge, LA, at each of its nine regional offices, and at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA.

Interested persons may submit written comments for 40 days from the date of publication to May Nelson, 8225 Florida Boulevard, Baton Rouge, LA 70806. She is responsible for responding to inquiries regarding the proposed rule.

Madlyn B. Bagneris
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

RULE TITLE: Commission Role, Function, Composition,
Committees, Boards, Task Forces and Executive Director

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

There is no projected implementation cost. Although this rule changes the composition of the board, the cost would be negligible.

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

Rehabilitation Services has sufficient funds to provide for the operation of the Commission for the Deaf as Act 18 of 1997 was approved by the Louisiana Legislature. A total of \$1,515,805 has been appropriated to fund this program. Of this amount \$201,703 is State General Funds, \$8,000 is Self Generated, and \$1,306,102 is the Statutory Dedicated Telecommunication Fund.

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

There is no change in the estimated cost and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)

There is no proposed change in competition and employment in the public and private sectors.

May Nelson
Director
9712#090

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Weights and Measures**

**Minimum Standards for Reflectivity of
Work-Site Materials (LAC 73:III.Chapter 3)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to adopt a rule entitled "Minimum Standards for Reflectivity of Work-Site Materials," in accordance with Act 1330 of the 1997 Regular Session of the Louisiana Legislature.

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

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 the notice of intent to Jarvis Poche, Materials Engineer Administrator at the Material and Testing Section, 5080 Florida Boulevard, Baton Rouge, LA 70806, (504) 929-9166.

Frank M. Denton
Secretary

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the State
Employees Group Benefits Program**

**Plan Document—Pre-Existing Condition for
Overdue Application; and Special Enrollment**

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(A)(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 gives notice of intent to amend the Plan Document of Benefits.

The board finds that it is necessary to amend the Plan Document relative to the pre-existing condition exclusion for overdue applicants and to provide for special enrollments in order to implement changes included in the Health Insurance Portability and Accountability Act of 1996 (U.S. Public Law 104-191), effective July 1, 1997, and the rules and regulations promulgated pursuant thereto, in order to avoid sanctions or penalties from the United States.

The board intends to amend the Plan Document of Benefits for the State Employees Group Benefits Program in the following particulars:

Amendment Number 1

Amend the introduction to the Plan Document on page 3, after "Group Coverage: Self-insured and self-funded comprehensive medical benefits plan" by inserting the following on the next line:

Plan Year: July 1 - June 30

Amendment Number 2

Amend Article 1, Section I, by adding two new Subsections, designated as Subsections OO and PP, to read as follows:

OO. Group Health Plan—a plan (including a self-insured plan) of, or contributed to by, an employer (including a self-employed person) or employee organization to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families.

PP. *Health Insurance Coverage*—benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or HMO contract offered by a health insurance issuer. However, benefits described in Section 54.9804-1(b)(2) of the rules promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, are not treated as benefits consisting of medical care.

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

RULE TITLE: Minimum Standards for Reflective Materials

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

There will be no implementation costs to state or local governmental units. These reflectivity standards have been in effect for many years.

**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 will be no cost or economic benefit to directly affected persons or nongovernmental groups.

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

There will be no effect on competition and employment.

Frank M. Denton
Secretary
9712#054

Richard W. England
Assistant to the
Legislative Fiscal Officer

Amendment Number 3

Amend Article 1, Section II, Subsection B, Paragraph 2, to read as follows:

2. Effective Date of Coverage. Retiree coverage will be effective on the first of the month following the date of retirement, provided the employee and employer have agreed to make and are making the required contributions. Retirees shall not be eligible for coverage as overdue applicants or as special enrollees.

Amendment Number 4

Amend Article 1, Section II, Subsection D to read as follows:

D. Pre-Existing Condition - Overdue Application. The terms of the following paragraphs shall apply to all eligible employees who apply for coverage after 30 days from the date the employee became eligible for coverage and to all eligible dependents of employees and retirees for whom the application for coverage was not completed within 30 days from the date acquired.

- 1. ...
- 2. ...

3. Medical expenses incurred during the first 12 months that coverage for the employee and/or dependent is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the six-month period immediately prior to the effective date of such coverage. In no event will the provisions of this Paragraph apply to pregnancy.

4. If the covered person was previously covered under a group health plan, health insurance coverage, Part A or B of Title XVII of the Social Security Act (Medicare), Title XIX of the Social Security Act (Medicaid) other than coverage consisting solely of benefits under Section 1928 thereof, or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the rules and regulations promulgated pursuant thereto, the duration of the prior coverage will be credited against the initial 12-month period used by the program to exclude benefits for a pre-existing condition provided, however, that termination under the prior coverage occurred within 63 days of the date of enrollment for coverage under the program.

Amendment Number 5

Amend Article 1, Section II, by inserting a new Subsection E to read as follows, and redesignating current Subsections E, F, and G as Subsections F, H, and I, respectively:

E. Special Enrollments. In accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the regulations promulgated pursuant thereto, certain eligible persons for whom coverage was previously declined, and who would otherwise be considered overdue applicants, may enroll under the following circumstances, terms, and conditions for special enrollments:

1. Loss of Other Coverage. Special enrollment will be permitted for employees or dependents for whom coverage was previously declined because such employees or dependents had other coverage which has terminated due to:

- a. loss of eligibility through separation, divorce, termination of employment, reduction in hours, or death of the plan participant; or
- b. cessation of employer contributions for the other coverage, unless such employer contributions were ceased for cause or for failure of the individual participant; or
- c. the employee or dependent having had COBRA continuation coverage under another plan, and the COBRA continuation coverage has been exhausted, as provided in HIPAA.

2. After Acquired Dependents. Special enrollment will be permitted for employees or dependents for whom coverage was previously declined when the employee acquires a new dependent by marriage, birth, adoption, or placement for adoption.

3. Special enrollment application must be made within 30 days of the termination date of the prior coverage or the date the new dependent is acquired. Persons eligible for special enrollment for whom application is made more than 30 days after eligibility will be considered overdue applicants, subject to the provisions of Article 1, Section II, Subsection D above.

4. The effective date of coverage shall be the first of the month following the date of the receipt by the State Employees Group Benefits Program of all required forms for enrollment.

5. The program will require that all special enrollment applicants complete a statement of physical condition form and sign an acknowledgment of pre-existing condition form.

6. Medical expenses incurred during the first 12 months that coverage for the employee and/or dependent added through special enrollment is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the six-month period immediately prior to the effective date of such coverage. In no event will the provisions of this Paragraph apply to pregnancy.

7. If the employee and/or dependent added through special enrollment was previously covered under a group health plan, health insurance coverage, Part A or B of Title XVII of the Social Security Act (Medicare), Title XIX of the Social Security Act (Medicaid) other than coverage consisting solely of benefits under Section 1928 thereof, or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the rules and regulations promulgated pursuant thereto, the duration of the prior coverage will be credited against the initial 12-month period used by the program to exclude benefits for a pre-existing condition provided, however, that termination under the prior coverage occurred within 63 days of the date of coverage under the program.

Interested persons may present their views, in writing, to James R. Plaisance, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Friday, January 23, 1998.

James R. Plaisance
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Plan Document—Pre-Existing Condition
for Overdue Application; and Special Enrollment**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be an approximate cost to the State Employees Group Benefits Program of \$2.4 million as a result of changing the current pre-existing condition limitation from 12/24 exclusion to a 6/12 exclusion.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This benefit modification is made to bring the schedule of benefits into compliance with HIPAA regulations that went into effect on July 1, 1997.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Those persons that will be affected are those plan members that do not enroll or add eligible dependents within the first 30 days of eligibility and have not been covered with a previous group health insurance carrier. Prior to July 1, 1997, these persons were covered with a 12/24 pre-existing condition limitation (the first 24 months of coverage is excluded if related to a medical condition for which the person received treatment during the 12-month period ending prior to their effective date of coverage). This rule change will reduce this pre-existing condition limitation to a 12-month exclusion for medical conditions treated during the preceding six months.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition and employment will not be affected.

James R. Plaisance
Executive Director
9712#089

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the Teachers' Retirement System**

Rules Codification/Repromulgation
(LAC 58:III.Chapters 1-13)
(Repeal of §§101, 103, and 105)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees of Teachers' Retirement System of Louisiana (TRSL) approved the repeal of certain existing rules, as indicated in its newly codified version of its rules given herein. The rules to

be repealed refer to retirement laws concerning transfers of service credit and purchases of service credit. These retirement laws were superseded by the passage of R.S. 11:158. This repeal is to become effective upon final rule publication in the *Louisiana Register*.

Title 58

RETIREMENT

Part III. Teachers' Retirement System

Chapter 1. General Provisions

§101. Transfer to the System

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:143 and 11:730.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Teachers' Retirement System, LR 2:44 (January 1976), repealed LR 24:

§103. Service Credit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:142, 11:144, 11:727, and 11:786.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Teachers' Retirement System, LR 3:81 (February 1977), repealed LR 24:

§105. Cost Computations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:728.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Teachers' Retirement System, LR 9:849 (December 1983), repealed LR 24:

§107. Mandatory Submission of Contribution Reports

All employers with 125 or more employees being reported must submit information to Teachers' Retirement System of Louisiana (TRSL) by computer tape/diskette in the following manner:

1. Each month the employer shall certify to the Board of Trustees, by means of computer tape/diskette, the amounts of salary and deductions from the employees' salaries to be paid to the annuity savings fund and credited to the individual accounts of members from whose compensation the deductions were made.

2. All computer tape/diskette formats and specifications must be in accordance with criteria established by TRSL.

3. Both computer tapes/diskettes and printed copies thereof must be submitted by the fifteenth of the month following the end of the month covered by the report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:873(2).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1242 (December 1996), repromulgated LR 24:

Chapter 3. Re-Employment of Retirees

§301. Retirees Returning to Work at Charter Schools

A. Any retiree receiving a retirement benefit from Teachers' Retirement System of Louisiana (TRSL), who subsequently returns to work at a school chartered under the provisions of R.S. 17:3971-3982, shall be governed by the return-to-work provisions contained in R.S. 11:707,737,738, 739, 780.1, 783(A) or 791, whichever is applicable.

B. Local school systems granting charters will be responsible for reporting to TRSL, in accordance with R.S. 11:707, the employment of any TRSL retiree by the charter school. Failure to report this information will result in penalties assessed in accordance with R.S. 11:737.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3971 - 3982 and R.S. 11:707,737,738,739,780.1,783(A) and 791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of Teachers' Retirement System, LR 22:290 (April 1996), repromulgated LR 24:

Chapter 5. Deferred Retirement Option Plan

§501. Service Requirements

A. Members of the Teachers' Retirement System of Louisiana (TRSL), in lieu of terminating employment and accepting a retirement allowance, may elect to participate in the Deferred Retirement Option Plan (DROP) in accordance with R.S. 11:786-791 when the following eligibility requirements for plan participation are met:

1. Regular Plan members:
 - a. 30 years of service credit at any age;
 - b. 25 years of service credit and at least age 55;
 - c. 20 years of service credit and at least age 65 (excluding military service);
 - d. 10 years of service credit and at least age 60 (excluding military service);
 - e. those members with 10 years of service credit and who are at least age 60 will have retirement benefits calculated using a 2 percent benefit formula.
2. School Food Service Plan A members:
 - a. 30 years of service credit at any age;
 - b. 25 years of service credit and at least age 55; and
 - c. 10 years of service credit and at least age 60 (excluding military service).
3. School Food Service Plan B members:
 - a. 30 years of service credit and at least age 55; and
 - b. 10 years of service credit and at least age 60 (excluding military service).

B. DROP participation may begin or end any day of the month. The effective date for participation in DROP will be the date a properly executed DROP application, including the designation of a DROP account beneficiary(ies), is filed in the office of TRSL or the stated effective date on the properly executed DROP application, whichever is later. In the event an employer fails to submit the application in a timely fashion, the provisions of R.S. 11:761 shall apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:

§503. Management of Drop Accounts

A. Deposits to DROP accounts will be effective on the first day of each month of participation in the plan.

B. DROP account statements will be furnished on a quarterly basis as follows:

1. statements issued during DROP participation will reflect all account deposits for a quarterly period;

2. statements issued after completion of DROP participation and termination of employment will reflect all account withdrawals for a quarterly period; and

3. interest earnings will begin accruing the day after termination of DROP participation and will be deposited to DROP accounts in December of each year. Interest deposits will reflect the interest earned on the account during the previous fiscal year and will be entered on quarterly statements issued for the period of October 1 through December 31.

4. withdrawal payments from DROP accounts will be issued on the fifteenth day of each month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:

§505. Duration of Drop Participation

Participation in DROP may not exceed a period of three consecutive years. In order to participate for the maximum three consecutive years, the member must begin DROP participation within 60 calendar days after the first possible eligibility requirement for participation is met (refer to §501.A). The participation period must end not more than three years and 60 calendar days from the date the member first became eligible to participate. The participation period may only be shortened by the participant's termination of employment or death.

1. In lieu of a participation period not to exceed the remainder of the three-consecutive-year period from date of first eligibility, a member who became eligible for DROP on or before January 1, 1994, may, at any time, select a participation period which may not exceed two consecutive years.

2. Notwithstanding any other provision of law to the contrary, any member who is participating in the three-year deferred retirement option plan, as set forth in R.S. 11:786(B), may continue to participate in the plan for an additional period of time which equals the difference between the actual participation of that member in that plan and the three-year maximum term of participation, provided the member satisfies all of the following:

- a. on January 1, 1994, the member was not eligible for the full three-year period because of years of service credit or age requirements, or both;
- b. the member chose to participate in the three-year plan for the maximum period available;
- c. the member is participating in the three-year plan on June 30, 1995;
- d. the member furnishes written notice to the system prior to December 31, 1995 or the end of the participation period that the member initially selected, whichever date occurs first.

3. Any member of the Teachers' Retirement System of Louisiana who meets the criteria in §505, including the required written notice, will be allowed to extend their period of DROP participation through December 31, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:

§507. Retirement Benefits

Retirement benefits shall begin on the first day of the month immediately following termination of DROP in all of the following cases:

1. voluntary termination—the participant, for any reason, elects to withdraw from DROP prior to completing the selected participation period and also terminates employment;
2. involuntary termination—the participant is terminated by the employer prior to completing the selected participation period and is not rehired by another TRSL employer on the following day; and
3. completion of selected DROP participation period and termination of employment, except when the DROP participation period is completed on any day other than the last day of any month. In such cases, the DROP account deposit shall be prorated to coincide with the date of completion of DROP participation and termination of employment. Retirement benefits shall begin the day after completion of the DROP participation period and termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:

§509. Withdrawal of Funds from a Drop Account

Withdrawals from a DROP account are not permitted prior to the termination of DROP participation or during employment which continues immediately following the DROP participation period and shall be limited to the following methods:

1. withdrawal of the total DROP account balance at the termination of DROP participation and employment;
2. monthly withdrawals in an amount to be determined by the life expectancy of the participant. This periodic payment shall not vary from month to month (refer to §511.A);
3. monthly withdrawals based upon an amount to be withdrawn each month as specified by the participant. This periodic payment shall not vary from month to month, and the amount of the withdrawal must be greater than the amount necessary to liquidate the total account balance within the participant's life expectancy (refer to §511.A);
4. annual withdrawals in an amount to be determined by the life expectancy of the participant. This periodic payment shall not vary from year to year. The participant shall select the month in which the annual payment is to be made, and the first payment must be made within the 12-month period immediately following DROP participation and termination of employment (refer to §511.A);

5. annual withdrawals based upon an amount to be withdrawn each year, as specified by the participant. This periodic payment shall not vary from year to year, and the amount of the withdrawal must be greater than the amount necessary to liquidate the total account balance within the participant's life expectancy. The participant shall select the month in which the annual payment is to be made, and the first payment must be made within the 12-month period immediately following DROP participation and termination of employment (refer to §511.A); and

6. total DROP account balance withdrawal at any time after monthly or annual withdrawals have begun.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:

§511. Change of Drop Withdrawal Method

A. The participant will have one opportunity over the duration of DROP account withdrawals to change the chosen withdrawal method if the original method selected was either §509.A.2, 3, 4, or 5. Any change in the withdrawal method must be made in accordance with the life expectancy of the participant, and at no time may the disbursement from the account be less than the amount of the originally selected periodic payment.

B. When the life expectancy of the participant governs the selected periodic withdrawal method, disbursements from the DROP account shall be made in accordance with the following schedule:

LIFE EXPECTANCY SCHEDULE		
Age when DROP Participant Terminates Employment	Number of Months for Permitted Withdrawals	Number of Years for Permitted Withdrawals
Under 56	300 months	25 years
56 - 60	260 months	21 years
61 - 65	240 months	20 years
66 - 70	170 months	14 years
71 and older	120 months	10 years

C. The selection of a withdrawal method and the amount of the periodic payment must be designated by the participant 30 days prior to completion of DROP participation and termination of employment on the form prescribed by TRSL. Should a participant fail to choose a withdrawal method, or to notify TRSL that employment will continue, TRSL will consider the participant still employed. No benefit will be payable to the participant until official notification of termination of employment, on the prescribed form, is received in the office of TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:

§513. Termination of Drop Participation

A. When termination of the DROP participation period occurs because of the death of the participant, or if the death of the participant occurs in the absence of an executed Affidavit of Plan Election, the provisions of R.S. 11:783 shall apply.

B. In the event of the death of the participant during DROP participation, a spousal beneficiary shall select a withdrawal method from the options listed in §509.A. Except for a total DROP account balance withdrawal, the spousal beneficiary will not be permitted to change the withdrawal method previously selected by the participant if disbursements from the account began prior to the participant's death.

C. In the event of the death of the participant during DROP participation, a nonspousal beneficiary(ies) must either withdraw the total DROP account balance or elect equal monthly or annual payments from the DROP account for a period not to exceed five years, and the final distribution from the account shall be made no later than December 15 of the year in which the fifth anniversary of the death occurs. Except for a total DROP account balance withdrawal, the nonspousal beneficiary(ies) will not be permitted to change the withdrawal method previously selected by the participant if disbursements from the account began prior to the participant's death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:

§515. Death of Beneficiary

A. In the event of the death of a surviving spousal or nonspousal beneficiary, any remaining DROP account balance will be paid to the estate of the beneficiary.

B. DROP accounts will be subject to all Louisiana laws governing community property, inheritance, and estate matters and will be administered in accordance with applicable state laws and orders of the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:

§517. Affidavit of Plan Election

A. If a member fails to return a completely executed and notarized Affidavit of Plan Election to choose a retirement benefit option by 90 calendar days after his/her receipt of the unsigned affidavit or by 90 calendar days after the beginning of his/her DROP participation, whichever is later, he/she will

be deemed not to have elected to participate in DROP. Employee and employer contributions and appropriate interest or actuarial cost must then be remitted to TRSL for the prior period of TRSL employment in order to receive service credit for that period.

B. For purposes of §517.A, the signed affidavit must be postmarked no later than 90 calendar days after receipt by member of the unsigned affidavit or by 90 days after the beginning of his/her DROP participation, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:

§519. Application for Service Retirement

A member shall not begin his/her DROP participation until TRSL has received a fully completed, signed, and witnessed original Application for Service Retirement, Form 11A, and a fully completed, signed, and witnessed original Application for DROP, Form 11F. FAX copies will not be accepted for this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:

§521. Teaching Experience

Retirees who return to work under the provisions of R.S. 11:739 shall be governed by the following definition of *teaching experience*. Any work experience which would have qualified the member for TRSL membership under the provisions of R.S. 11:701(23) if the experience had been gained in the Louisiana public education system will be considered *teaching experience*. *Teaching experience* will include qualifying work (including work during DROP) in any recognized education setting, whether public or private, including both in-state and out-of-state locations. If the experience is not documented in the member's file, the member will be responsible for providing documentation from his/her previous employer in a timely manner. *Teaching experience* will not include unused leave, furlough, strike time, or unpurchased leave without pay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:

Chapter 7. Renunciation of Benefits

§701. General

Any person eligible to receive, or receiving, a benefit from the Teachers' Retirement System of Louisiana (TRSL), may renounce such benefits on the following terms and conditions:

1. The renunciation shall be unconditional and irrevocable. Once a benefit is renounced, TRSL shall have no further obligation or liability with respect to that benefit, and the person renouncing the benefit shall, under no circumstances, be eligible to receive that benefit.

2. A base benefit may only be renounced in its entirety. If a base benefit is renounced, there shall be no eligibility for later adjustment of benefits of any kind. An adjustment to a base benefit (cost-of-living adjustment or adjustment for inflation) may only be renounced in its entirety. If an adjustment is renounced, the base benefit need not be renounced.

3. A benefit may be renounced before or after payment begins. If the renunciation is after the start of payments, any payments received prior to the effective date of the renunciation are not affected.

4. If the party making the renunciation is married, the spouse must join in the renunciation.

5. If the person making the renunciation is subject to a court order or community property settlement submitted to and approved by TRSL, in accordance with R.S. 11:291, only that portion of the benefit due the person making the renunciation may be renounced, except as provided for in R.S. 11:783(D).

6. If the person making the renunciation is legally separated or divorced but is not subject to a court order or community property settlement submitted to and approved by TRSL, in accordance with R.S. 11:291, the renunciation must be approved by the court having jurisdiction over the separation or divorce.

7. If the person making the renunciation is retired and has named a joint and survivor beneficiary, the renunciation cannot affect the joint and survivor beneficiary or benefit, including adjustments to the joint and survivor benefit.

8. A renunciation must be made on a form provided by TRSL and must be executed before a notary public and two witnesses, neither of whom may be a spouse nor presently named beneficiary. The renunciation is effective and irrevocable when received by TRSL and may not be retroactive.

9. A person revoking, or participating in revocation of a benefit, must hold TRSL harmless from such action.

10. A revocation may not be used to terminate active participation in TRSL.

11. Amounts credited to a DROP account cannot be renounced.

12. TRSL makes no representation with respect to the effect of a revocation on a person's eligibility for receipt of any state or federal benefits or for participation in any private, local, state, or federal program. Eligibility for or participation in such programs or eligibility for or receipt of such benefits is an issue for which the person making the revocation is solely responsible. Ineligibility for or termination of participation in such programs or benefits shall not affect the irrevocable character of the renunciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 19:1602 (December 1993), repromulgated LR 24:

Chapter 9. Computation of Final Average Compensation

§901. Time Frames for Computation

A. Members of the Teachers' Retirement System of Louisiana (TRSL) retiring on or after July 1, 1995 will have their average compensation (highest 36 consecutive or joined months of earnable salary) computed as follows:

1. Full 12-month periods beginning before July 1, 1995 will be calculated using the law in effect on the day the 12-month period begins;

2. Full 12-month periods beginning on or after July 1, 1995 will be calculated using the law in effect on July 1, 1995.

B. A full 12-month period of the highest 36 consecutive or joined months of earnable salary is defined to be months one through 12, or months 13 through 24, or months 25 through 36.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:701(5).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 21:1266 (November 1995), repromulgated LR 24:

Chapter 11. Voluntary Deductions from Retiree Benefits Payroll

§1101. General

Any TRSL retiree, beneficiary, or survivor is eligible to participate in a program established for the voluntary deduction from his/her retirement benefit for life, health, supplemental, dental, cancer, or other insurance premiums and for deductions for savings, loans, or other payments to be sent to banks and credit unions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1243 (December 1996), repromulgated LR 24:

§1103. Application Process

Application for participation in the program must be made by the insurance carrier, bank, or credit union which is the provider of the coverage, product, service, or depositor of monies and shall be signed by two officers of the company, bank, or credit union. The completed application must be submitted to TRSL for approval prior to any deductions being withheld from the retiree's monthly benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1243 (December 1996), repromulgated LR 24:

§1105. Requirements

A. Domestic companies shall:

1. have been licensed to do business in the state of Louisiana for not less than five years;

2. have a current rating in A.M. Best of "B" or better;

3. have been doing business under the same name for not less than three years;

4. provide a like product, service, or coverage to citizens of Louisiana;

5. be in compliance with all procedural, accounting, and reporting requirements governing employee deductions.

B. Foreign companies shall:

1. have been licensed to do business in the state of Louisiana for not less than five years;
2. have a current rating in A.M. Best of "B+" or better;
3. have been doing business under the same name for not less than three years;
4. offer a like product, service, or coverage to citizens of Louisiana;
5. be in compliance with all procedural, accounting, and reporting requirements governing employee deductions.

C. Companies/credit unions must be regulated by the Department of Insurance or the Office of Financial Institutions.

D. Companies/credit unions are responsible for submitting a computer diskette of monthly deductions to TRSL by the twelfth day of the month preceding the month for which the deduction will be made, using the format and specifications established by TRSL. Diskettes received after the twelfth day will not be processed. Magnetic tapes will be accepted only under certain conditions. All deductions for a single vendor shall be submitted on one monthly diskette, and the retiree will be allowed only one monthly deduction per vendor. This deduction may cover more than one product for a single vendor. Only deductions received on computer tape/diskette will be processed.

E. Companies/credit unions shall be responsible for obtaining and maintaining appropriate deduction authorization from individual retirees. Copies shall be made available to TRSL upon request.

F. Companies/credit unions are responsible for contract/loan terms between companies/credit unions and retirees. TRSL assumes no responsibility for the contract or terms of agreement.

G. Retirees may discontinue any voluntary payroll deduction from their monthly benefit check by providing written notification to the vendor.

H. A retiree cannot authorize total deductions which would cause the net amount of the benefit to fall below \$5.

I. Companies/credit unions must have a minimum of 50 TRSL retirees to participate in the program; however, companies will be allowed six months after initial approval to meet the minimum participation requirements.

J. TRSL will not deduct monthly premium amounts for any retiree who owes monies to TRSL or has his/her benefit suspended.

K. Companies/credit unions shall notify TRSL immediately upon learning of the death of a retiree. In the event that TRSL has remitted funds to the company/credit union after the death of a retiree and these funds were not due the retiree, company/credit union shall refund said monies to TRSL after notification.

L. Upon learning of the death of a retiree, even if not notified by the company/credit union, TRSL shall be refunded any monies transmitted, but not due, after notification. The company/credit union will accept the certification of TRSL as to date of death of retiree as sufficient evidence of date of death in regard to any funds owed to TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1243 (December 1996), repromulgated LR 24:

§1107. Disclaimer

The company/credit union is prohibited from stating that any product offered has been endorsed or approved by TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1243 (December 1996), repromulgated LR 24:

§1109. Transmittal of Withheld Amounts

A. Amounts will normally be transmitted to company/credit union by wire transfer by the tenth of each month. If the tenth is a weekend, the first working day after the tenth will be the date of transmittal. In the event of computer/technical production problems beyond the control of TRSL, it is possible that transmittal of funds would not be made on the tenth day of the month.

B. TRSL will provide the company/credit union a computer printout of the names of individuals, Social Security Numbers, and the amounts withheld.

C. TRSL may adjust printout totals by amounts owed TRSL due to death of an individual. These individuals will be identified by name and Social Security Number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1243 (December 1996), repromulgated LR 24:

§1111. Termination of Payroll Deduction

A. The Board of Trustees may terminate the voluntary payroll deduction program by providing the company/credit union with at least 30 days written notice.

B. Immediately upon notice from TRSL individual company/credit unions may be terminated for unethical conduct or practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1243 (December 1996), repromulgated LR 24:

Chapter 13. Cost-of-Living

§1301. Cost-of-Living Adjustment

A. Effective July 2, 1995, the Board of Trustees of the Teachers' Retirement System of Louisiana shall increase the retirement benefit or other benefit of each retiree, or the beneficiary or survivor of any member eligible to receive benefits on account of the death of the member or retiree. This increase in benefit shall be provided from the Employee Experience Account held at the Teachers' Retirement System of Louisiana.

B. The increase in benefit granted from the Employee Experience Account shall be a monthly increase in the benefit of each eligible recipient, as determined in accordance with the formula, $X(A + B + C)$, where:

A = the number of years of credited service accrued at the time of retirement or death of the member or retiree;

B = the number of years since retirement or since death of the member or retiree to July 1, 1994;

C = the number of years of service credit greater than 30 years; and

X = one dollar.

C. No increase in benefit shall be paid to any retiree, beneficiary, or survivor unless such person was receiving benefits on, or prior to, July 1, 1994. In addition, no increase in benefits shall be paid to any former participant of the Deferred Retirement Option Plan unless both plan participation and employment were terminated by the plan participant on, or prior to, July 1, 1994.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:787(D) and 11:883.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 21:473 (May 1995), repromulgated LR 24:

Interested persons may comment on the proposed repeal of §§101, 103, and 105, in writing, until 4:30 p.m., February 26, 1998, to Bonita B. Brown, Assistant Director, Teachers' Retirement System of Louisiana, Box 94123, Baton Rouge, LA 70804-9123.

James P. Hadley, Jr.
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Rules Codification/Repromulgation**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This proposed rule repeals three previously promulgated rules which are outdated due to the passage of legislation making the contents of the rules obsolete. There will be no impact or implementation costs or savings to state or local governmental units. The balance of the notice of intent merely reissues already existing rules in codified form.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no impact on revenue collections of state or local governmental units by the repeal of these rules and the reissuance of existing rules.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no impact on costs or benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment as a result of the repeal of these rules.

James P. Hadley, Jr.
Director
9712#060

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Hunting Seasons—Farm-Raised
White-Tailed Deer and Exotics
(LAC 76:XIX.109)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules governing hunting of farm-raised white-tailed deer and exotic deer and antelope.

The text of this proposed rule may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may comment on the proposed rule in writing to Hugh Bateman, Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000, until 4:30 p.m. February 2, 1998.

Daniel J. Babin
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Hunting Seasons—Farm-Raised White-Tailed
Deer and Exotics**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
An annual printing cost of \$105 per fiscal year along with some additional distribution and enforcement costs will be incurred by the state. Since this is a new program, the cost of these activities cannot be quantified, but are not expected to be significant and will be absorbed in this year's current budget. The \$50 permit fee to be divided equally among the Department of Wildlife and Fisheries and the Department of Agriculture and Forestry will provide funding for future fiscal years. No costs or savings to local governmental units are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The amount of revenue collected will depend on the number of permits issued. Permits are \$50 each. This is a new permit so we are unable to determine the amount of revenue generated at

Legislation

LEGISLATION

State Legislature 1997 Regular Session

Administrative Procedure Act (R.S. 49:950 et seq.)

(*Editor's Note:* The following Act is the finished version of the APA, as reviewed by the LSU Law Institute and stored in the House of Representatives' Database.)

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Title 49

STATE ADMINISTRATION

Chapter 13. Administrative Procedure

§950. Title and Form of Citation

This Chapter shall be known as the Administrative Procedure Act and may be cited as the Administrative Procedure Act.

Added by Acts 1982, No. 129, §1.

§951. Definitions

As used in this Chapter:

(1) "Adjudication" means agency process for the formulation of a decision or order.

§952. Public Information; Adoption of Rules; Availability of Rules and Orders

Each agency which engages in rulemaking shall:

(1) File with the Department of the State Register a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests.

(2) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available.

(3) Make available for public inspection all rules, preambles, responses to comments, and submissions and all other written statements of policy or interpretations formulated, adopted, or used by the agency in the discharge of its functions and publish an index of such rules, preambles, responses to comments, submissions, statements, and interpretations on a regular basis.

(4) Make available for public inspection all final orders, decisions, and opinions.

Acts 1966, No. 382, §2, eff. July 1, 1967. Amended by Acts 1978, No. 252, §1; Acts 1979, No. 578, §1, eff. July 18, 1979; Acts 1990, No. 1085, §1, eff. July 31, 1990; Acts 1993, No. 386, §1.

§953. Procedure for Adoption of Rules

A. Prior to the adoption, amendment, or repeal of any rule, the agency shall:

(1)(a) Give notice of its intended action and a copy of the proposed rules at least ninety days prior to taking action on the rule. The notice shall include:

(i) A statement of either the terms or substance of the intended action or a description of the subjects and issues involved;

(ii) A statement, approved by the legislative fiscal office, of the fiscal impact of the intended action, if any; or a statement, approved by the legislative fiscal office, that no fiscal impact will result from such proposed action;

(iii) A statement, approved by the legislative fiscal office, of the economic impact of the intended action, if any; or a statement, approved by the legislative fiscal office, that no economic impact will result from such proposed action;

(iv) The name of the person within the agency who has the responsibility for responding to inquiries about the intended action;

(v) The time when, the place where, and the manner in which interested persons may present their views thereon; and

(vi) A statement that the intended action complies with the statutory law administered by the agency, including a citation of the enabling legislation.

(vii) A statement indicating whether the agency has prepared a preamble which explains the basis and rationale for the intended action, summarizes the information and data supporting the intended action, and provides information concerning how the preamble may be obtained.

(b)(i) The notice shall be published at least once in the *Louisiana Register* and shall be submitted with a full text of the proposed rule to the *Louisiana Register* at least one hundred days prior to the date the agency will take action on the rule.

(2) "Agency" means each state board, commission, department, agency, officer, or other entity which makes rules, regulations, or policy, or formulates, or issues decisions or orders pursuant to, or as directed by, or in implementation of the constitution or laws of the United States or the constitution and statutes of Louisiana, except the legislature or any branch, committee, or officer thereof, any political subdivision, as defined in Article VI, Section 44 of the Louisiana Constitution, and any board, commission, department, agency, officer, or other entity thereof, and the courts.

(3) "Decision" or "order" means the whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) of any agency, in any matter other than rulemaking, required by constitution or statute to be determined on the record after notice and opportunity for an agency hearing, and including non-revenue licensing, when the grant, denial, or renewal of a license is required by constitution or statute to be preceded by notice and opportunity for hearing.

(4) "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(5) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency, except that an agency is a "person" for the purpose of appealing an administrative ruling in a disciplinary action brought pursuant to Title 37 of the Louisiana Revised Statutes of 1950 prior to the final adjudication of such disciplinary action.

(6) "Rule" means each agency statement, guide, or requirement for conduct or action, exclusive of those regulating only the internal management of the agency and those purporting to adopt, increase, or decrease any fees imposed on the affairs, actions, or persons regulated by the agency, which has general applicability and the effect of implementing or interpreting substantive law or policy, or which prescribes the procedure or practice requirements of the agency. "Rule" includes, but is not limited to, any provision for fines, prices or penalties, the attainment or loss of preferential status, and the criteria or qualifications for licensure or certification by an agency. A rule may be of general applicability even though it may not apply to the entire state, provided its form is general and it is capable of being applied to every member of an identifiable class. The term includes the amendment or repeal of an existing rule but does not include declaratory rulings or orders or any fees.

(7) "Rulemaking" means the process employed by an agency for the formulation of a rule. Except where the context clearly provides otherwise, the procedures for adoption of rules and of emergency rules as provided in R.S. 49:953 shall also apply to adoption of fees. The fact that a statement of policy or an interpretation of a statute is made in the decision of a case or in an agency decision upon or disposition of a particular matter as applied to a specific set of facts involved does not render the same a rule within this definition or constitute specific adoption thereof by the agency so as to be required to be issued and filed as provided in this Subsection.

(ii) Upon publication of the notice, copies of the full text of the proposed rule shall be available from the agency proposing the rule upon written request within two working days.

(c) Notice of the intent of an agency to adopt, amend, or repeal any rule and the approved fiscal and economic impact statements, as provided for in this Subsection, shall be mailed to all persons who have made timely request of the agency for such notice, which notice and statements shall be mailed at the earliest possible date, and in no case later than ten days after the date when the proposed rule change is submitted to the *Louisiana Register*.

(d) For the purpose of timely notice as required by this Paragraph, the date of notice shall be deemed to be the date of publication of the issue of the *Louisiana Register* in which the notice appears, such publication date to be the publication date as stated on the outside cover or the first page of said issue.

(2)(a) Afford all interested persons reasonable opportunity to submit data, views, comments, or arguments, orally or in writing. In case of substantive rules, opportunity for oral presentation or argument must be granted if requested within twenty days after publication of the rule as provided in this Subsection, by twenty-five persons, by a governmental subdivision or agency, by an association having not less than twenty-five members, or by a committee of either house of the legislature to which the proposed rule change has been referred under the provisions of R.S. 49:968.

(b)(i) Make available to all interested persons copies of any rule intended for adoption, amendment, or repeal from the time the notice of its intended action is published in the *Louisiana Register*. Any hearing pursuant to the provisions of this Paragraph shall be held no earlier than thirty-five days and no later than forty days after the publication of the *Louisiana Register* in which the notice of the intended action appears. The agency shall consider fully all written and oral comments and submissions respecting the proposed rule.

(ii) The agency shall issue a response to comments and submissions describing the principal reasons for and against adoption of any amendments or changes suggested in the written or oral comments and submissions. In addition to the response to comments, the agency may prepare a preamble explaining the basis and rationale for the rule, identifying the data and evidence upon which the rule is based, and responding to comments and submissions. Such preamble and response to comments and submissions shall be furnished to the respective legislative oversight subcommittees at least five days prior to the day the legislative oversight subcommittee hearing is to be held on the proposed rule, and shall be made available to interested persons no later than one day following their submission to the appropriate legislative oversight subcommittee. If no legislative oversight hearing is to be held, the agency shall issue a response to comments and submissions and preamble, if any, to any person who presented comments or submissions on the rule and to any requesting person not later than fifteen days prior to the time of publication of the final rule.

(iii) The agency shall, upon request, make available to interested persons the report submitted pursuant to

R.S. 49:968(D) no later than one working day following the submittal of such report to the legislative oversight subcommittees.

(3)(a) For the purposes of this Subsection, the statement of fiscal impact shall be prepared by the proposing agency and submitted to the Legislative Fiscal Office for its approval. Such fiscal impact statement shall include a statement of the receipt, expenditure, or allocation of state funds or funds of any political subdivision of the state.

(b) For the purposes of this Subsection, the statement of economic impact shall be prepared by the proposing agency and submitted to the Legislative Fiscal Office for its approval. Such economic impact statements shall include an estimate of the cost to the agency to implement the proposed action, including the estimated amount of paperwork; an estimate of the cost or economic benefit to all persons directly affected by the proposed action; an estimate of the impact of the proposed action on competition and the open market for employment, if applicable; and a detailed statement of the data, assumptions, and methods used in making each of the above estimates.

B.(1) If an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon shorter notice than that provided in Subsection A of this Section and within five days of adoption states in writing to the governor of the state of Louisiana, the attorney general of Louisiana, the speaker of the House of Representatives, the president of the Senate, and the Department of the State Register, its reasons for that finding, it may proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency rule. The provisions of this Paragraph also shall apply to the extent necessary to avoid sanctions or penalties from the United States, or to avoid a budget deficit in the case of medical assistance programs or to secure new or enhanced federal funding in medical assistance programs. The agency statement of its reason for finding it necessary to adopt an emergency rule shall include specific reasons why the failure to adopt the rule on an emergency basis would result in imminent peril to the public health, safety, or welfare, or specific reasons why the emergency rule meets other criteria provided in this Paragraph for adoption of an emergency rule.

(2) Notice of the emergency rule shall be mailed to all persons who have made timely request of the agency for notice of rule changes, which notice shall be mailed within five days of adoption of the emergency rule. The office of the state register may omit from the *Louisiana Register* any emergency rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the emergency rule in printed or processed form is made available on application to the adopting agency, and if the *Louisiana Register* contains a notice stating the general subject matter of the omitted emergency rule, the reasons for the finding of the emergency submitted by the agency, and stating how a copy thereof may be obtained.

(3) The validity of an emergency rule or fee may be determined in an action for declaratory judgment in the district court of the parish in which the agency is located. The agency shall be made a party to the action. An action for a

declaratory judgment under this Paragraph may be brought only by a person to whom such rule or fee is applicable or who would be adversely affected by such rule or fee and only on the grounds that the rule or fee does not meet the criteria for adoption of an emergency rule as provided in Paragraph (1) of this Subsection. The court shall declare the rule or fee invalid if it finds that there is not sufficient evidence that such rule or fee must be adopted on an emergency basis for one or more of the reasons for adoption of an emergency rule as provided in Paragraph (1) of this Subsection. Notwithstanding any other provision of law to the contrary, the emergency rule or fee shall remain in effect until such declaratory judgment is rendered. The provisions of R.S. 49:963 shall not apply to any action brought pursuant to this Paragraph. The provisions of this Paragraph are in addition to R.S. 49:963 and shall not limit any action pursuant to R.S. 49:963.

(4)(a) Within sixty days after adoption of an emergency rule or fee, an oversight subcommittee of either house may conduct a hearing to review the emergency rule or fee and make a determination of whether such rule or fee meets the criteria for an emergency rule or fee as provided in Paragraph (1) of this Subsection and those determinations as provided in R.S. 49:968(D)(3). If within such time period an oversight subcommittee finds an emergency rule or fee unacceptable, it shall prepare a written report containing a copy of the proposed rule or proposed fee action and a summary of the determinations made by the committee and transmit copies thereof as provided in R.S. 49:968(F)(2).

(b) Within sixty days after adoption of an emergency rule or fee, the governor may review such rule or fee and make the determinations as provided in Subparagraph (a) of this Paragraph. If within such time period the governor finds an emergency rule or fee unacceptable, he shall prepare a written report as provided in Subparagraph (a) and transmit copies thereof to the agency proposing the rule change and the *Louisiana Register* no later than four days after the governor makes his determination.

(c) Upon receipt by the agency of a report as provided in either Subparagraph (a) or (b) of this Paragraph, the rule or fee shall be nullified and shall be without effect.

C. An interested person may petition an agency requesting the adoption, amendment, or repeal of a rule. Each agency shall prescribe by rule the form for petitions and the procedure for their submission, considerations, and disposition. Within ninety days after submission of a petition, the agency shall either deny the petition in writing, stating reasons for the denial, or shall initiate rule making proceedings in accordance with this Chapter.

D. When a rule is adopted, amended, or repealed in compliance with federal regulations, the adopting agency's notice of intent and the actual text of the rule as published in the *Louisiana Register*, must be accompanied by a citation of the Federal Register issue in which the determining federal regulation is published, such citation to be by volume, number, date, and page number.

E. Beginning January 1, 1987, no agency shall adopt, amend, or repeal any rule if the accompanying fiscal impact statement approved by the Legislative Fiscal Office indicates

that said rule change would result in any increase in the expenditure of state funds, unless said rule is adopted as an emergency rule pursuant to the requirements of this Section or unless the legislature has specifically appropriated the funds necessary for the expenditures associated with said rule change.

F.(1) Notwithstanding any other provision of this Chapter to the contrary, if the Department of Environmental Quality proposes a rule that is not identical to a federal law or regulation or is not required for compliance with a federal law or regulation, the Department of Environmental Quality shall adopt and promulgate such proposed rule separately from any proposed rule or set of proposed rules that is identical to a federal law or regulation or required for compliance with a federal law or regulation. However, if the only difference between the proposed rule or set of proposed rules and the corresponding federal law or regulation is a proposed fee, the Department of Environmental Quality shall not be required to adopt and promulgate such proposed rule or set of proposed rules separately. For purposes of this Subsection, the term "identical" shall mean that the proposed rule has the same content and meaning as the corresponding federal law or regulation.

(2) When the Department of Environmental Quality proposes a rule that is not identical to a corresponding federal law or regulation, or is not required for compliance with a federal law or regulation, the Department of Environmental Quality shall provide a brief summary which explains the basis and rationale for the proposed rule, identifies the data and evidence, if any, upon which the rule is based, and identifies any portions of the proposed rule that differ from federal law or regulation if there is a federal law or regulation which is not identical but which corresponds substantially to the proposed rule. Such summary shall be provided along with the notice of intent and shall be published in the *Louisiana Register* or made available along with the proposed rule as provided in Item A(1)(b)(ii) of this Section. The Department of Environmental Quality may also provide such a summary when proposing a rule identical to a corresponding federal law or regulation or proposing a rule which is required for compliance with federal law or regulation to explain the basis and rationale for the proposed rule.

(3) Notwithstanding any other provision of this Chapter to the contrary, when the Department of Environmental Quality proposes a rule that is identical to a federal law or regulation applicable in Louisiana, except as provided in Paragraph (4) of this Subsection, it may use the following procedure for the adoption of the rule:

(a) The department shall publish a notice of the proposed rule at least sixty days prior to taking action on the rule as provided below. The notice, which may include an explanation of the basis and rationale for the proposed rule, shall include all of the following:

(i) A statement of either the terms or substance of the intended action or a description of the subjects and issues involved.

(ii) A statement that no fiscal or economic impact will result from the proposed rule.

(iii) The name of the person within the department who has responsibility for responding to inquiries about the intended action.

(iv) The time, place, and manner in which interested persons may present their views thereon including the notice for a public hearing required by R.S. 30:2011(D)(1).

(v) A statement that the intended action complies with the law administered by the department, including a citation of the specific provision, or provisions, of law which authorize the proposed rule.

(b) Notice of the proposed rule shall be published at least once in the *Louisiana Register* and shall be submitted with a full text of the proposed rule to the *Louisiana Register* at least seventy days prior to the date the department proposes to formally adopt the rule. The office of the state register may omit from the *Louisiana Register* any such proposed rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the *Louisiana Register* contains a notice stating the general subject matter of the omitted proposed rule, the process being employed by the department for adoption of the proposed rule, and stating how a copy of the proposed rule may be obtained.

(c) Notice of the intent of the department to adopt the rule shall be mailed to all persons who have made timely request for such notice, which notice shall be mailed at the earliest possible date, and in no case later than ten days after the date when the proposed rule is submitted to the *Louisiana Register*.

(d) For the purpose of timely notice as required by this Paragraph, the date of notice shall be deemed to be the date of publication of the issue of the *Louisiana Register* in which the notice appears, such publication date to be the publication date as stated on the outside cover or the first page of said issue.

(e) The department shall afford all interested persons an opportunity to submit data, views, comments, or arguments related to the proposed rule, in writing, during a period of no less than thirty days. The department shall consider fully all written comments and submissions respecting the proposed rule.

(f) The department shall make available to all interested persons copies of the proposed rule from the time the notice of its adoption is published in the *Louisiana Register*.

(g) The department shall issue a response to comments and submissions describing the principal reasons for and against adoption of any amendments or changes suggested in the written comments and submissions and specifically addressing any assertion that the proposed rule is not identical to the federal law or regulation upon which it is based. The department shall issue such response to comments and submissions to any person who presented comments or submissions on the rule and to any requesting person no later than fifteen days prior to the time of publication of the final rule.

(h) No later than fifteen days prior to the time of publication of the final rule in the *Louisiana Register*, the secretary or any authorized assistant secretary of the department shall (i) certify, under oath, to the governor of the state of Louisiana, the attorney general of Louisiana, the speaker of the House of Representatives, the president of the

Senate, the chairman of the House Committee on the Environment, the chairman of the Senate Committee on Environmental Quality, and the office of the state register that the proposed rule is identical to a specified federal law or regulation applicable in Louisiana and (ii) furnish the chairman of the Senate Committee on Environmental Quality and the chairman of the House Committee on the Environment the response to comments and submissions required under Subparagraph (g) of this Paragraph, together with a copy of the notice required under Subparagraph (a) of this Paragraph.

(i) Unless specifically requested, in writing, by the chairman of the House Committee on the Environment or the chairman of the Senate Committee on Environmental Quality within ten days of the certification provided under Subparagraph (h) of this Paragraph, there shall be no legislative oversight of the proposed rule. If, however, legislative oversight is properly requested, R.S. 49:968 and Items A(2)(b)(ii) and (iii) of this Section, shall thereafter apply with respect to the proposed rule.

(j) In the absence of legislative oversight, the proposed rule may be adopted by the Department of Environmental Quality no earlier than sixty days, nor later than twelve months, after the official notice of the proposed rule was published in the *Louisiana Register*; provided, however, that the proposed rule shall be effective upon its publication in the *Louisiana Register*, said publication to be subsequent to the act of adoption.

(4) The procedures set forth in Paragraph (3) of this Subsection for the adoption by the Department of Environmental Quality of rules identical to federal laws or regulations applicable in Louisiana shall not be available for the adoption of any rules creating or increasing fees.

G.(1) Prior to or concurrent with publishing notice of any proposed policy, standard, or regulation pursuant to Subsection A of this Section and prior to promulgating any policy, standard, or final regulation whether pursuant to R.S. 49:954 or otherwise under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the Department of Environmental Quality, after August 15, 1995, shall publish a report, or a summary of the report, in the *Louisiana Register* which includes:

(a) A statement identifying the specific risks being addressed by the policy, standard, or regulation and any published, peer-reviewed scientific literature used by the department to characterize the risks.

(b) A comparative analysis of the risks addressed by the policy, standard, or regulation relative to other risks of a similar or analogous nature to which the public is routinely exposed.

(c) An analysis based upon published, readily available peer-reviewed scientific literature, describing how the proposed and final policy, standard, or regulation will advance the purpose of protecting human health or the environment against the specified identified risks.

(d) An analysis and statement that, based on the best readily available data, the proposed or final policy, standard, or regulation presents the most cost-effective method practically achievable to produce the benefits intended

regarding the risks identified in Subparagraph (a) of this Paragraph.

(2) No regulation shall become effective until the secretary complies with the requirements of Paragraph (1) of this Subsection.

(3) This provision shall not apply in those cases where the policy, standard, or regulation:

(a) Is required for compliance with a federal law or regulation.

(b) Is identical to a federal law or regulation applicable in Louisiana.

(c) Will cost the state and affected persons less than one million dollars, in the aggregate, to implement.

(d) Is an emergency rule under Subsection B of this Section.

(4) For purposes of this Subsection, the term "identical" shall mean that the proposed rule has the same content and meaning as the corresponding federal law or regulation.

(5) In complying with this Section, the department shall consider any scientific and economic studies or data timely provided by interested parties which are relevant to the issues addressed herein and the proposed policy, standard, or regulation being considered.

Acts 1966, No. 382, §3, eff. July 1, 1967. Amended by Acts 1974, No. 284, §1, eff. Jan. 1, 1975; Acts 1975, No. 730, §1; Acts 1976, No. 279, §1; Acts 1978, No. 252, §1; Acts 1980, No. 392, §1. Acts 1983, No. 713, §1; Acts 1984, No. 953, §1; Acts 1985, No. 371, §1, eff. July 9, 1985; Acts 1986, 1st. Ex. Sess., No. 11, §1, eff. Jan. 1, 1987; Acts 1987, No. 853, §1; Acts 1990, No. 1063, §1; Acts 1990, No. 1085, §§1 and 2, eff. July 31, 1990; Acts 1991, No. 104, §1, eff. June 30, 1991; Acts 1993, No. 119, §1; Acts 1993, No. 274, §1; Acts 1993, No. 386, §1; Acts 1995, No. 512, §1; Acts 1995, No. 642, §1; Acts 1995, No. 1057, §1, eff. June 29, 1995 and Jan. 8, 1996 (1/8/96 date applicable to Dept. of Health and Hospitals only); Acts 1996, 1st. Ex. Sess., No. 36, §3, eff. May 7, 1996.

§954. Filing; Taking Effect of Rules

A. No rule adopted on or after January 1, 1975, is valid unless adopted in substantial compliance with this Chapter. Each rule making agency shall file a certified copy of its rules with the Department of the State Register. No rule, whether adopted before, on, or after January 1, 1975, shall be effective, nor may it be enforced, unless it has been properly filed with the Department of the State Register. No rule, adopted on or after November 1, 1978, shall be effective, nor may it be enforced, unless prior to its adoption a report relative to the proposed rule change is submitted to the appropriate standing committee of the legislature or to the presiding officers of the respective houses as provided in R.S. 49:968. No rule, adopted on or after September 12, 1980, shall be effective, nor may it be enforced, unless the approved economic and fiscal impact statements, as provided in R.S. 49:953A, have been filed with the Department of State Register and published in the *Louisiana Register*. The inadvertent failure to mail notice and statements to persons making request for such mail notice, as provided in R.S. 49:953, shall not invalidate any rule adopted hereunder. A proceeding under R.S. 49:963 to contest any rule on the grounds of noncompliance with the procedures for adoption, as given in this Chapter, must be commenced within two years from the date upon which the rule became effective.

B. Each rule hereafter adopted shall be effective upon its publication in the *Louisiana Register*, said publication to be subsequent to the act of adoption, except that:

(1) If a later date is required by statute or specified in the rule, the later date is the effective date.

(2) Subject to applicable constitutional or statutory provisions, an emergency rule shall become effective on the date of its adoption, or on a date specified by the agency to be not more than sixty days future from the date of its adoption, provided written notice is given within five days of the date of adoption to the governor of Louisiana, the attorney general of Louisiana, the speaker of the House of Representatives, and the president of the Senate, and the Department of the State Register as provided in R.S. 49:953(B). Such emergency rule shall not remain in effect beyond the publication date of the *Louisiana Register* published in the month following the month in which the emergency rule is adopted, unless such rule and the reasons for adoption thereof are published in said issue; provided, however, that any emergency rule so published shall not be effective for a period longer than one hundred twenty days, except as provided by R.S. 49:967(D), but the adoption of an identical rule under Paragraphs (1), (2) and (3) of Subsection A of R.S. 49:953 is not precluded. The agency shall take appropriate measures to make emergency rules known to the persons who may be affected by them.

Acts 1966, No. 382, §4, eff. July 1, 1967. Amended by Acts 1968, No. 474, §1; Acts 1974, No. 284, §1, eff. Jan. 1, 1975; Acts 1975, No. 730, §1; Acts 1978, No. 252, §1; Acts 1980, No. 392, §1; Acts 1990, No. 248, §1; Acts 1990, No. 1085, §1, eff. July 31, 1990.

§954.1. Louisiana Administrative Code and Louisiana Register; Publication; Distribution; Copies; Index; Interagency Rules

A. The Department of the State Register shall compile, index, and publish a publication to be known as the *Louisiana Administrative Code*, containing all effective rules adopted by each agency subject to the provisions of this Chapter, and all boards, commissions, agencies and departments of the executive branch, notwithstanding any other provision of law to the contrary. The *Louisiana Administrative Code* shall also contain all executive orders issued by the governor on or after May 9, 1972, which are in effect at the time the *Louisiana Administrative Code* is published. The *Louisiana Administrative Code* shall be supplemented or revised as often as necessary and at least once every two years.

B. The Department of the State Register shall publish at least once each month a bulletin to be known as the *Louisiana Register* which shall set forth the text of all rules filed during the preceding month and such notices as shall have been submitted pursuant to this Chapter. It shall also set forth all executive orders of the governor issued during the preceding month and a summary or digest of and fiscal note prepared for each such order as required by the provisions of R.S. 49:215. In addition, the Department of the State Register may include in the *Louisiana Register* digests or summaries of new or proposed rules; however, if any conflict should arise between the written digest of a rule and the rule, the rule shall take precedence over the written digest.

C. The Department of the State Register shall publish such rules, notices, statements, and other such matters as submitted by the rulemaking agency without regard to their validity.

However, the State Register may omit from the *Louisiana Register* or *Louisiana Administrative Code* any rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the rule in printed or processed form is made available on application to the adopting agency, and if the *Louisiana Register* or *Louisiana Administrative Code*, as the case may be, contains a notice stating the general subject matter of the omitted rule and stating how a copy thereof may be obtained.

D. One copy, or multiple copies if practical, of the *Louisiana Register* and *Louisiana Administrative Code* shall be made available upon request to state depository libraries free of charge, and to other agencies or persons at prices fixed by the department of the state register to recover all or a portion of the mailing and publication costs. Notwithstanding the provisions of R.S. 49:951(2) of this Chapter to the contrary, the department of the state register shall provide free copies of the *Louisiana Register* and the *Louisiana Administrative Code* to the David R. Pointer Legislative Research Library, the Senate Law Library, and the Huey P. Long Memorial Law Library.

E. The Department of the State Register shall prescribe a uniform system of indexing, numbering, arrangement of text and citation of authority and history notes for the *Louisiana Administrative Code*.

F. The Department of the State Register may publish advertisements for bids and other legal notices in the *Louisiana Register* in addition to other publications thereof required by law.

G. The Department of the State Register is hereby authorized and empowered to promulgate and enforce interagency rules for the implementation and administration of this Section.

H. The governor shall be the publisher of the *Louisiana Administrative Code* and *Louisiana Register* provided for through the Department of the State Register.

Added by Acts 1974, No. 284, §1, eff. Jan. 1, 1975. Amended by Acts 1975, No. 730, §1; Acts 1976, No. 279, §1; Acts 1978, No. 252, §1; Acts 1982, No. 687, §1, eff. Aug. 2, 1982; Acts 1988, No. 604, §1, eff. July 14, 1988; Acts 1988, No. 937, §1, eff. July 26, 1988; Acts 1990, No. 9, §2; Acts 1993, No. 119, §1.

§954.2. Unified Oil and Gas Development Regulatory Index; Summary

A. All regulatory agencies which have authority to issue or promulgate any general or special rule or regulation, or which issue, monitor compliance with, or otherwise regulate any permit or license, relative to oil and gas development, all as defined in this Section, shall index and summarize the rules or regulations in a manner which, if the language of the rule or regulation has general applicability to other types of businesses or other situations, plainly state or otherwise indicate:

(1) The extent of their applicability to oil and gas development.

(2) The types of permits or licenses which will be required, or which may be required, of any entity in the oil and gas development business.

B. Such index and summaries shall be filed with the office of the commissioner of conservation within the Department of Natural Resources, hereafter referred to as "the

commissioner", by December 1, 1992. The commissioner shall make a written acknowledgment of his receipt of the index and summaries and the date thereof.

C. Any agency required to index and summarize its rules and regulations related to oil and gas development shall also file with the commissioner the information required in Subsection A regarding any agency rule or regulation which is finally promulgated or adopted after December 1, 1992, within twenty days of such final promulgation or adoption, along with an indication of its place in the index and summary previously filed with the commissioner.

D. The commissioner may make a written critique of any submission of an index and summaries which the commissioner determines to be unclear or confusing as it relates to oil and gas development, which critique shall contain reasons and/or clarifying questions. The agency shall respond to the critique in a form acceptable to the commissioner within twenty days. It is the intention of this Section that the various departments and offices which have authority to issue rules and regulations under law retain that authority. The commissioner shall only have the authority under this Section to critique submitted indexes and summaries so as to require a satisfactory response to his written reasons or questions concerning how they relate to oil and gas development.

E. After the commissioner has received and approved all of the indexes and summaries required to be received by December 1, 1992, he shall then proceed to merge and compile the indexes and summaries received so as to create a Unified Oil and Gas Regulatory Index. The commissioner shall complete the index within six months. Upon completion of such unified index, the commissioner shall proceed to promulgate such index, and any subsequent amendments, in the manner provided for in this Chapter. However, the commissioner shall only make such technical revisions of the index during such procedure as is authorized by the agency which promulgated the original rule or regulation.

F. One copy of the Unified Oil and Gas Development Regulatory Index shall be made available to each of the regulatory agencies and to other persons at a reasonable price to be set by the commissioner.

G. Notwithstanding any other law to the contrary, no rule or regulation or permit or license provided for in Subsection A shall be effective, nor shall it be enforced, nor shall its content be considered by any court or any administrative hearing officer or board or other judicial or quasi-judicial body as a valid administrative construction or interpretation of any law, to the detriment of any applicant for a permit related to oil and gas development after December 1, 1992, in any civil or criminal action or proceeding if the filing, or the response to a critique by the secretary, of the index and summaries containing such rule or regulation or license or permit has not been timely made as required in this Section.

H. For purposes of this Section, the following terms shall have the following definitions:

(1) "Index and summaries" means a list of all rules and regulations in numerical order which have general or specific applicability to oil and gas development and environmental

matters, with accompanying summaries indicating how the rule applies to oil and gas development.

(2) "Oil and gas development" means the activity of exploring for, locating, transporting property to an oil or gas well drilling site, and the constructing, operating, or maintaining of the land, equipment, buildings, structures, or other property at such site until the well is completed and capable of producing.

(3) "Permit or license" means any permit, license, variance, registration, compliance schedule, order, or any other grant of right or privilege, or any change, renewal, or extension thereof, relative to oil and gas development.

(4) "Regulatory agency" means any office or unit of the Department of Environmental Quality, the Department of Natural Resources, the Department of Revenue, the Mineral Board, and the Wildlife and Fisheries Commission or Department.

(5) "Rule or regulation" means any general or special rule, as that term is defined in R.S. 49:951(6), relative to oil and gas development.

Acts 1991, No. 735, §1, eff. July 18, 1991; Acts 1992, No. 589, §1, eff. July 15, 1992.

§954.3. Environmental Regulatory Code

The Department of Environmental Quality shall codify its rules and regulations in effect on March 1, 1992, in the Environmental Regulatory Code, and thereafter, shall update such codification of its rules and regulations on a quarterly basis. The secretary shall complete and offer for sale at cost the initial codification within one hundred and eighty days from March 1, 1992.

Acts 1991, No. 735, §2, eff. July 18, 1991.

§955. Adjudication; Notice; Hearing; Records

A. In an adjudication, all parties who do not waive their rights shall be afforded an opportunity for hearing after reasonable notice.

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 agency or other party 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. Opportunity shall be afforded all parties to respond and present evidence on all issues of fact 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. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default.

E. The record in a case of adjudication shall include:

(1) All pleadings, motions, intermediate rulings;

(2) Evidence received or considered or a resume 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;

(6) Any decision, opinion, or report by the officer presiding at the hearing.

F. The agency shall make a full transcript of all proceedings before it when the statute governing it requires it, and, in the absence of such requirement, 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 unless the governing statute or constitution provides that it shall be furnished without cost.

G. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

Acts 1966, No. 382, §5, eff. July 1, 1967.

§956. Rules of Evidence; Official Notice; Oaths and Affirmations; Subpoenas; Depositions and Discovery; and Confidential Privileged Information

In adjudication proceedings:

(1) Agencies may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. They shall give effect to the rules of privilege recognized by law. Agencies may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

(2) All evidence, including records and documents in the possession of the agency of which it desires to avail itself, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence.

(3) Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

(4) Any agency or its subordinate presiding officer conducting a proceeding subject to this Chapter shall have the power to administer oaths and affirmations, regulate the course of the hearings, set the time and place for continued hearings, fix the time for filing of briefs and other documents, and direct the parties to appear and confer to consider the simplification of the issues.

(5)(a) Any agency or its subordinate presiding officer shall have power to sign and issue subpoenas in the name of the agency requiring attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671.

(b) A subpoena issued pursuant to this Section shall be served by any agent of the agency, by the sheriff, or by any other officer authorized by law to serve process in this state. Witnesses subpoenaed to testify before an agency only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witness as may be fixed by the agency with reference to the value of the time employed and the degree of learning or skill required.

(c) Whenever any person summoned under this Section neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the agency may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt. It shall be the duty of the judge to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him, to proceed to a hearing of the case; and upon such hearing, the judge shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

(6) The agency or a subordinate presiding officer or any party to a proceeding before it may take the depositions of witnesses, within or without the state and may conduct discovery in all manners as provided by law in civil actions. Depositions so taken and admissions, responses, and evidence produced pursuant to discovery shall be admissible in any proceeding affected by this Chapter. The admission of such depositions, admissions, responses, and evidence may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by the agency or presiding officer in accordance with the rules of evidence provided in this Chapter.

(7) *Repealed by Acts 1995, No. 760, §2, eff. June 27, 1995.*

(8)(a) Records and documents, in the possession of any agency or of any officer or employee thereof including any written conclusions drawn therefrom, which are deemed confidential and privileged shall not be made available for adjudication proceedings of that agency and shall not be subject to subpoena by any person or other state or federal agency.

(b) Such records or documents shall only include any private contracts, geological and geophysical information and

data, trade secrets and commercial or financial data, which are obtained by an agency through a voluntary agreement between the agency and any person, which said records and documents are designated as confidential and privileged by the parties when obtained, or records and documents which are specifically exempt from disclosure by statute.

(c) Any violation of this prohibition shall be a waiver of governmental immunity from suit for damage resulting from any such disclosure.

Acts 1966, No. 382, §6, eff. July 1, 1967. Amended by Acts 1976, No. 524, §1, eff. Aug. 5, 1976; Acts 1989, No. 156, §1; Acts 1995, No. 760, §§1, 2, eff. June 27, 1995.

§957. Examination of Evidence by Agency

When in an adjudication proceeding a majority of the officials of the agency who are to render the final decision have not heard the case or read the record, or the proposed order is not prepared by a member of the agency, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made final until a proposed order is served upon the parties, and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the officials who are to render the decision. The proposed order shall be accompanied by a statement of the reasons therefor and of the disposition of each issue of fact or law necessary to the proposed order, prepared by the person who conducted the hearing or by one who has read the record. No sanction shall be imposed or order be issued except upon consideration of the whole record and as supported by and in accordance with the reliable, probative, and substantial evidence. The parties by written stipulation may waive, and the agency in the event there is no contest may eliminate, compliance with this Section.

Acts 1966, No. 382, §7, eff. July 1, 1967.

§958. Decisions and Orders

A final decision or order adverse to a party in an adjudication proceeding shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties shall be notified either personally or by mail of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record. The parties by written stipulation may waive, and the agency in the event there is no contest may eliminate, compliance with this Section.

Acts 1966, No. 382, §1, eff. July 1, 1967.

§959. Rehearings

A. A decision or order in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the agency, within ten days from the date of its entry. The grounds for such action shall be either that:

(1) The decision or order is clearly contrary to the law and the evidence;

(2) The party has discovered since the hearing evidence important to the issues which he could not have with due diligence obtained before or during the hearing;

(3) There is a showing that issues not previously considered ought to be examined in order properly to dispose of the matter; or

(4) There is other good ground for further consideration of the issues and the evidence in the public interest.

B. The petition of a party for rehearing, reconsideration, or review, and the order of the agency granting it, shall set forth the grounds which justify such action. Nothing in this Section shall prevent rehearing, reopening or reconsideration of a matter by any agency in accordance with other statutory provisions applicable to such agency, or, at any time, on the ground of fraud practiced by the prevailing party or of procurement of the order by perjured testimony or fictitious evidence. On reconsideration, reopening, or rehearing, the matter may be heard by the agency, or it may be referred to a subordinate deciding officer. The hearing shall be confined to those grounds upon which the reconsideration, reopening, or rehearing was ordered. If an application for rehearing shall be timely filed, the period within which judicial review, under the applicable statute, must be sought, shall run from the final disposition of such application.

Acts 1966, No. 382, §9, eff. July 1, 1967.

§960. Ex Parte Consultations and Recusations

A. Unless required for the disposition of ex parte matters authorized by law, members or employees of an agency assigned to render a decision or to make findings of fact and conclusions of law in a case of adjudication noticed and docketed for hearing shall not communicate, directly or indirectly, in connection with any issue of fact or law, with any party or his representative, or with any officer, employee, or agent engaged in the performance of investigative, prosecuting, or advocating functions, except upon notice and opportunity for all parties to participate.

B. A subordinate deciding officer or agency member shall withdraw from any adjudicative proceeding in which he cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of a subordinate deciding officer or agency member, on the ground of his inability to give a fair and impartial hearing, by filing an affidavit, promptly upon discovery of the alleged disqualification, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined promptly by the agency, or, if it affects a member or members of the agency, by the remaining members thereof, if a quorum. Upon the entry of an order of disqualification affecting a subordinate deciding officer, the agency shall assign another in his stead or shall conduct the hearing itself. Upon the disqualification of a member of an agency, the governor immediately shall appoint a member pro tem to sit in place of the disqualified member in that proceeding. In further action, after the disqualification of a member of an agency, the provisions of R.S. 49:957 shall apply.

Acts 1966, No. 382, §10, eff. July 1, 1967.

§961. Licenses

A. When the grant, denial, or renewal of a license is required to be preceded by notice and opportunity for hearing, the provisions of this Chapter concerning adjudication shall apply.

B. When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license shall not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

C. No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gives notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee is given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

Acts 1966, No. 382, §11, eff. July 1, 1967.

§962. Declaratory Orders and Rulings

Each agency shall provide by rule for the filing and prompt disposition of petitions for declaratory orders and rulings as to the applicability of any statutory provision or of any rule or order of the agency. Declaratory orders and rulings shall have the same status as agency decisions or orders in adjudicated cases.

Acts 1966, No. 382, §12, eff. July 1, 1967; Acts 1995, No. 947, §6, eff. Jan. 1, 1996.

§962.1. Judicial Review, Rule to Show Cause for Permit Applicants

A. If the secretary does not grant or deny a permit, license, registration, variance, or compliance schedule for which the applicant had applied within the time period as provided for in R.S. 30:26 and 2022(C), R.S. 49:214.30(C)(2), and R.S. 56:6(26), the applicant has the authority, on motion in a court of competent jurisdiction, to take a rule on the secretary to show cause in not less than two nor more than thirty days, exclusive of holidays, why the applicant should not be granted the permit, license, registration, variance, or compliance schedule for which the applicant had applied. The rule may be tried out of term and in chambers.

B. In any trial or hearing on the rule, the applicant shall be entitled to a presumption that the facts as stated in the affidavit of the applicant, which shall be attached to the rule are true. The rule of the applicant shall be denied by the court only if the secretary provides clear and convincing evidence of an unavoidable cause for the delay. However, in denying the rule, the court shall decree that the secretary shall grant or deny the application within a time set by the court, or the application shall be granted without further action of the secretary or the court.

C. If the rule is made absolute, the order rendered thereon shall be considered a judgment in favor of the applicant granting the applicant the permit, license, registration, variance, or compliance schedule for which the applicant had applied.

D. The provisions of Subsections A, B, and C of this Section shall not apply to permit applications submitted under the Louisiana Pollutant Discharge Elimination System (LPDES) program under the Louisiana Department of Environmental Quality.

Acts 1991, No. 828, §2; Acts 1995, No. 601, §2.

§963. Judicial Review of Validity or Applicability of Rules

A.(1) The validity or applicability of a rule may be determined in an action for declaratory judgment in the district court of the parish in which the agency is located.

(2) The agency shall be made a party to the action.

B.(1) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court.

(2) The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

C. The court shall declare the rule invalid or inapplicable if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or was adopted without substantial compliance with required rulemaking procedures.

D. An action for a declaratory judgment under this Section may be brought only after the plaintiff has requested the agency to pass upon the validity or applicability of the rule in question and only upon a showing that review of the validity and applicability of the rule in conjunction with review of a final agency decision in a contested adjudicated case would not provide an adequate remedy and would inflict irreparable injury.

E. Upon a determination by the court that any statement, guide, requirement, circular, directive, explanation, interpretation, guideline, or similar measure constitutes a rule as defined by R.S. 49:951(6) and that such measure has not been properly adopted and promulgated pursuant to this Chapter, the court shall declare the measure invalid and inapplicable. It shall not be necessary that all administrative remedies be exhausted.

Acts 1966, No. 382, §13, eff. July 1, 1967; Acts 1991, No. 639, §1, eff. July 17, 1991; Acts 1997, No. 1043, §1, eff. July 11, 1997.

§964. Judicial Review of Adjudication

A. Except as provided in R.S. 15:1171 through 1177, a person who is aggrieved by a final decision or order in an adjudication proceeding is entitled to judicial review under this Chapter whether or not he has applied to the agency for rehearing, without limiting, however, utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy and would inflict irreparable injury.

B. Proceedings for review may be instituted by filing a petition in the district court of the parish in which the agency is located within thirty days after mailing of notice of the final

decision by the agency or, if a rehearing is requested, within thirty days after the decision thereon. Copies of the petition shall be served upon the agency and all parties of record.

C. The filing of the petition does not itself stay enforcement of the agency decision. The agency may grant, or the reviewing court may order, a stay ex parte upon appropriate terms, except as otherwise provided by Title 37 of the Louisiana Revised Statutes of 1950, relative to professions and occupations. The court may require that the stay be granted in accordance with the local rules of the reviewing court pertaining to injunctive relief and the issuance of temporary restraining orders.

D. Within thirty days after the service of the petition, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

E. If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

F. The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the agency, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

G. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or

(6) Not supported and sustainable by a preponderance of evidence as determined by the reviewing court. In the application of this rule, the court shall make its own determination and conclusions of fact by a preponderance of evidence based upon its own evaluation of the record reviewed in its entirety upon judicial review. In the application of the rule, where the agency has the opportunity to judge the credibility of witnesses by first-hand observation of demeanor on the witness stand and the reviewing court does not, due regard shall be given to the agency's determination of credibility issues.

NOTE: R.S. 49:964(G)(7) suspended through the 60th day after final adjournment of the 1998 R.S. by H.C.R. 89 of the 1997 R.S.

(7) In cases covered by R.S. 15:1171 through 1177, manifestly erroneous in view of the reliable, probative, and substantial evidence on the whole record. In the application of the rule, where the agency has the opportunity to judge the credibility of witnesses by firsthand observation of demeanor on the witness stand and the reviewing court does not, due regard shall be given to the agency's determination of credibility issues.

Acts 1966, No. 382, §14, eff. July 1, 1967; Acts 1995, No. 1105, §1, eff. June 29, 1995; Acts 1997, No. 128, §1, eff. June 12, 1997; Acts 1997, No. 1216, §2; Acts 1997, No. 1224, §1; H.C.R. No. 89, 1997 R.S., eff. June 2, 1997.

NOTE: See Acts 1995, No. 1105, §2.

NOTE: See Acts 1997, No. 128, §2 relative to applicability of Act.

§965. Appeals

An aggrieved party may obtain a review of any final judgment of the district court by appeal to the appropriate circuit court of appeal. The appeal shall be taken as in other civil cases.

Acts 1966, No. 382, §15, eff. July 1, 1967.

§965.1. Expenses of Administrative Proceedings; Right to Recover

A. When a small business files a petition seeking: (1) relief from the application or enforcement of an agency rule or regulation, (2) judicial review of the validity or applicability of an agency rule, (3) judicial review of an adverse declaratory order or ruling, or (4) judicial review of a final decision or order in an adjudication proceeding, the petition may include a claim against the agency for the recovery of reasonable litigation expenses. If the small business prevails and the court determines that the agency acted without substantial justification, the court may award such expenses, in addition to granting any other appropriate relief.

B. A small business shall be deemed to have prevailed in an action when, in the final disposition, its position with respect to the agency rule or declaratory order or ruling is maintained, or when there is no adjudication, stipulation, or acceptance of liability on its part. However, a small business shall not be deemed to have prevailed, if the action was commenced at the instance of, or on the basis of a complaint by, anyone other than an officer, agent, or employee of the agency and was dismissed by the agency on a finding of no cause for the action or settled without a finding of fault on the part of the small business.

C. An agency shall pay any award made against it pursuant to this Section from funds in its regular operating budget and shall, at the time of its submission of its proposed annual budget, submit to the division of administration and to the presiding officer of each house of the legislature a report of all such awards paid during the previous fiscal year.

D. As used in this Section:

(1) "Reasonable litigation expenses" means any expenses, not exceeding seven thousand five hundred dollars in connection with any one claim, reasonably incurred in opposing or contesting the agency action, including costs and expenses incurred in both the administrative proceeding and the judicial proceeding, fees and expenses of expert or other witnesses, and attorney fees.

(2) "Small business" means a small business as defined by the Small Business Administration, which for purposes of size eligibility or other factors, meets the applicable criteria set forth in 13 Code of Federal Regulations, Part 121, as amended.

Added by Acts 1982, No. 497, §1.

§966. Construction and Effect; Judicial Cognizance

A. Nothing in this Chapter shall be held to diminish the constitutional rights of any person or to limit or repeal additional requirements imposed by statute or otherwise recognized by law. Notwithstanding the foregoing, and except as provided in R.S. 49:967, any and all statutory requirements regarding the adoption or promulgation of rules other than those contained in Sections 953, 954, 954.1 and 968 of this Title are hereby superseded by the provisions of this Chapter and are repealed. Except as otherwise required by law, all requirements or privileges relating to evidence or procedure shall apply equally to agencies and persons. Every agency is granted all authority necessary to comply with the requirements of this Chapter through the issuance of rules or otherwise.

B. If any provision of this Chapter or the application thereof is held invalid, the remainder of this Chapter or other applications of such provision shall not be affected. No subsequent legislation shall be held to supersede or modify the provisions of this Chapter except to the extent that such legislation shall do so expressly.

C. The courts of this state shall take judicial cognizance of rules promulgated in the State Register under the provisions of this Chapter.

D. *Repealed by Acts 1978, No. 252, §3.*

Acts 1966, No. 382, §16, eff. July 1, 1967. Amended by Acts 1979, No. 578, §§1, 2, eff. July 18, 1979.

§967. Exemptions from Provisions of Chapter

A. Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950 shall not be applicable to the Board of Tax Appeals, the Department of Revenue, with the exception of the Louisiana Tax Commission that shall continue to be governed by this Chapter in its entirety, unless otherwise specifically provided by law, and the administrator of the Louisiana Employment Security Law; however, the provisions of R.S. 49:951(2), (4), (5), (6), and (7), 952, 953, 954, 954.1, 968, 969, and 970 shall be applicable to such board, department, and administrator.

B.(1) The provisions of R.S. 49:968(F) and 970 shall not be applicable to any rule promulgated by the State Civil Service Commission or the Public Service Commission.

(2) The provisions of this Chapter shall not be applicable to entities created as provided in Part V of Chapter 6 of Title 34 of the Louisiana Revised Statutes of 1950.

C. The provisions of R.S. 49:963, 964, and 965 shall not be applicable to any rule, regulation, or order of any agency subject to a right of review under the provisions of R.S. 30:12.

D.(1) The provisions of R.S. 49:968 shall not apply to any rule or regulation promulgated by the Department of Wildlife and Fisheries or the Wildlife and Fisheries Commission relative to hunting seasons, trapping seasons, alligator seasons, shrimp seasons, oyster seasons, finfish seasons and size limits, and all rules and regulations pursuant thereto. The

Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission may employ the provisions of R.S. 49:953(B) in promulgating rules and regulations relative to hunting seasons, trapping seasons, alligator seasons, shrimp seasons, oyster seasons, and finfish seasons and size limits, and all rules and regulations pursuant thereto.

(2) Those rules adopted annually pursuant to this Subsection by the Department of Wildlife and Fisheries which open and close the offshore and fall shrimp seasons, the oyster season, the marine finfish seasons, the webless migratory game bird hunting season, and the trapping season shall be effective for a period of time equal to the length of the respective season.

Acts 1983, No. 409, §2. Acts 1984, No. 244, §1; Acts 1985, No. 869, §1, eff. July 23, 1985; Acts 1986, No. 494, §1; Acts 1990, No. 248, §1; Acts 1992, No. 53, §1; Acts 1997, No. 1172, §9, eff. June 30, 1997; Acts 1997, No. 1484, §1, eff. July 16, 1997.

§968. Review of Agency Rules; Fees

A. It is the declared purpose of this Section to provide a procedure whereby the legislature may review the exercise of rule-making authority and the adoption, increasing, or decreasing of fees, extensions of the legislative lawmaking function, which it has delegated to state agencies.

B. Prior to the adoption, amendment, or repeal of any rule or the adoption, increasing, or decreasing of any fee, the agency shall submit a report relative to such proposed rule change or fee adoption, increase, or decrease to the appropriate standing committees of the legislature and the presiding officers of the respective houses as provided in this Section. The report shall be so submitted on the same day the notice of the intended action is submitted to the *Louisiana Register* for publication in accordance with R.S. 49:953(A)(1). The report shall be submitted to each standing committee at the committee's office in the state capitol by certified mail with return receipt requested or by messenger who shall provide a receipt for signature. The return receipt or the messenger's receipt shall be proof of receipt of the report by the committee.

(1) The Department of Economic Development and all of the agencies made a part of it shall submit the report to the House Committee on Commerce and the Senate Committee on Commerce.

(2) Corrections services of the Department of Public Safety and Corrections and all the agencies of the department related to corrections and concealed weapons and concealed weapon permits, except as otherwise provided in this Subsection, the Louisiana State Board of Private Security Examiners, and the gaming enforcement section of the office of state police within the Department of Public Safety and Corrections shall submit all reports other than reports on proposed rule changes affecting prison enterprise programs, to the House Committee on Administration of Criminal Justice and the Senate Committee on Judiciary, Section C; however, the Crime Victims Reparation Board shall submit the report to the House Committee on the Judiciary and the Senate Committee on the Judiciary, Section B.

(3) The Department of Culture, Recreation and Tourism and all of the agencies made a part of it, except as otherwise provided in this Paragraph, shall submit the report to the

House Committee on Municipal, Parochial and Cultural Affairs and the Senate Committee on Commerce.

(a) The office of the state library, the office of the state museum, the State Board of Library Examiners, the Louisiana Archaeological Survey and Antiquities Commission, the Board of Directors of the Louisiana State Museum, the Board of Commissioners of the State Library of Louisiana, the Louisiana State Arts Council, the Louisiana State Capitol Fiftieth Anniversary Commission, and the Louisiana National Register Review Committee shall submit the report to the House Committee on Municipal, Parochial and Cultural Affairs and the Senate Committee on Education.

(b) The office of state parks and the State Parks and Recreation Commission shall submit the report to the House Committee on Municipal, Parochial and Cultural Affairs and the Senate Committee on Natural Resources.

(c) The office of tourism and promotion and the Louisiana Tourist Development Commission shall submit the report to the House Committee on Commerce and the Senate Committee on Commerce.

(4) The Department of State and all of the agencies made a part of it shall submit a report to the House Committee on House and Governmental Affairs and the Senate Committee on Senate and Governmental Affairs.

(5) The Department of Labor and all of the agencies made a part of it shall submit the report to the House Committee on Labor and Industrial Relations and the Senate Committee on Labor and Industrial Relations.

(6) The Department of Transportation and Development and all of the agencies made a part of it shall submit the report, to the House Committee on Transportation, Highways and Public Works and the Senate Committee on Transportation, Highways and Public Works. The department shall also submit to the standing committees any policies or priorities developed for the expenditure or distribution of any monies from the Transportation Trust Fund as created by Article VII, Section 27 of the Constitution of Louisiana. The policies and priorities shall be submitted for review purposes only.

(7) The Department of Elections and Registration and all of the agencies made a part of it shall submit the report to the House Committee on House and Governmental Affairs and the Senate Committee on Senate and Governmental Affairs.

(8) The Department of Justice and all of the agencies made a part of it shall submit the report to the House Committee on the Judiciary and the Senate Committee on the Judiciary, Section C.

(9) The Department of Civil Service and all of the agencies made a part of it shall submit the report to the House Committee on House and Governmental Affairs and the Senate Committee on Senate and Governmental Affairs.

(10) The Department of Revenue and Taxation and all of the agencies made a part of it shall submit the report to the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

(11) The Department of Natural Resources and all of the agencies made a part of it shall submit the report to the House Committee on Natural Resources and the Senate Committee on Natural Resources.

(12) Public Safety Services of the Department of Public Safety and Corrections and all the agencies of the department related to public safety, except as otherwise provided in this Subsection, shall submit the report to the House Committee on the Judiciary and the Senate Committee on the Judiciary, Section B; however, the office of motor vehicles shall submit the report to the House Committee on Transportation, Highways and Public Works and the Senate Committee on the Judiciary, Section B.

(13) The Department of Wildlife and Fisheries and all of the agencies made a part of it shall submit the report to the House Committee on Natural Resources and the Senate Committee on Natural Resources.

(14) The Department of Insurance and all of the agencies made a part of it shall submit the report to the House Committee on Insurance and the Senate Committee on Insurance.

(15)(a) The Department of the Treasury and all of the agencies made a part of it, except as otherwise provided in this Paragraph, shall submit the report to the House Committee on Appropriations and the Senate Committee on Finance.

(b) Each retirement system made a part of the Department of the Treasury shall submit the report to the House Committee on Retirement and the Senate Committee on Retirement.

(16) The Department of Health and Hospitals and all of the agencies made a part of it shall submit the report to the House Committee on Health and Welfare and the Senate Committee on Health and Welfare.

(17) The Department of Social Services and all of the agencies made a part of it shall submit the report to the House Committee on Health and Welfare and the Senate Committee on Health and Welfare.

(18) The Department of Agriculture and all of the agencies made a part of it shall submit all reports, and the Department of Public Safety and Corrections and all the agencies made a part of it shall submit reports on proposed rule changes affecting prison enterprise programs, to the House Committee on Agriculture and the Senate Committee on Agriculture.

(19) The Department of Education and all of the agencies made a part of it shall submit the report to the House Committee on Education and the Senate Committee on Education.

(20) The Department of Public Service and all of the agencies made a part of it shall submit the report to the House Committee on Commerce and the Senate Committee on Commerce.

(21)(a) The office of the governor and the office of the lieutenant governor and all of the agencies within or part of either and any other agency for which provisions are not otherwise made in this Subsection, shall submit the report to the speaker of the House of Representatives and the president of the Senate, except that executive orders duly issued by the governor and attested to by the secretary of state are exempt from the provisions of this Chapter. The speaker of the House of Representatives and the president of the Senate shall promptly forward the report to the appropriate standing committee of their respective houses.

(b) The Louisiana Workforce Commission shall submit the report to the House Committee on Labor and Industrial Relations and the Senate Committee on Labor and Industrial Relations.

(22) The Department of Environmental Quality and all of the agencies made a part of it shall submit the report to the House Committee on the Environment and the Senate Committee on Environmental Quality.

(23) The Louisiana Sentencing Commission shall submit the report to the House Committee on the Administration of Criminal Justice and the Senate Committee on the Judiciary, Section C.

(24) In addition to the submission of a report relative to a proposed rule change or fee adoption, increase, or decrease by an agency to the appropriate standing committee as specified in Paragraphs (1) through (23) of this Subsection, whenever the fiscal impact of the rule or fee adoption, increase, or decrease, as indicated by the statement of fiscal impact required by R.S. 49:968(C)(5), exceeds one million dollars, the report on the proposed rule change or fee adoption, increase, or decrease shall also be submitted to the Senate Committee on Finance and the House Committee on Appropriations and shall be subject to review by those committees in the same manner and to the same extent as the review of the standing committees provided for in Paragraphs (1) through (23) of this Subsection.

C. The report, as provided for in Subsection B of this Section, shall contain:

(1) A copy of the rule as it is proposed for adoption, amendment, or repeal and a statement of the amount of the fee to be adopted or the amount of the proposed increase or decrease.

(2) A statement of the proposed action, that is, whether the rule is proposed for adoption, amendment, or repeal; a brief summary of the content of the rule if proposed for adoption or repeal; and a brief summary of the change in the rule if proposed for amendment.

(3) The specific citation of the enabling legislation purporting to authorize the adoption, amending, or repeal of the rule or purporting to authorize the adoption, increasing, or decreasing of the fee.

(4) A statement of the circumstances which require adoption, amending, or repeal of the rule or the adoption, increasing, or decreasing of the fee.

(5) A statement of the fiscal impact of the proposed action and a statement of the economic impact of the proposed action, both approved by the Legislative Fiscal Office.

D.(1)(a) The chairman of each standing committee to which reports are submitted shall appoint an oversight subcommittee, which may conduct hearings on all rules that are proposed for adoption, amendment, or repeal and on all proposed fee adoptions, increases, or decreases. Any such hearing shall be conducted after any hearing is conducted by the agency pursuant to R.S. 49:953(A)(2).

(b) The agency shall submit a report to the subcommittee, in the same manner as the submittal of the report provided for in Subsection B of this Section, which shall include:

(i) A summary of all testimony at any hearing conducted pursuant to R.S. 49:953(A)(2).

(ii) A summary of all comments received by the agency, a copy of the agency's response to the summarized comments, and a statement of any tentative or proposed action of the agency resulting from oral or written comments received.

(iii) A revision of the proposed rule if any changes to the rule have been made since the report provided for in Subsection B of this Section was submitted, or a statement that no changes have been made.

(iv) A concise statement of the principal reasons for and against adoption of any amendments or changes suggested.

(2)(a) Except as provided in Paragraph H(2) of this Section, any subcommittee hearing on a proposed rule shall be held no earlier than five days and no later than thirty days following the day the report required by Subparagraph (1)(b) of this Subsection is received by the subcommittee.

(b) The oversight subcommittee may consist of the entire membership of the standing committee and shall consist of at least a majority of the membership of the standing committee, at the discretion of the chairman of the standing committee, with the concurrence of the speaker of the House of Representatives or the president of the Senate. House and Senate oversight subcommittees may meet jointly or separately to conduct hearings for purposes of rules review.

(3) At such hearings, the oversight subcommittees shall:

(a) Determine whether the rule change or action on fees is in conformity with the intent and scope of the enabling legislation purporting to authorize the adoption thereof.

(b) Determine whether the rule change or action on fees is in conformity and not contrary to all applicable provisions of law and of the constitution.

(c) Determine the advisability or relative merit of the rule change or action on fees.

(d) Determine whether the rule change or action on fees is acceptable or unacceptable to the oversight subcommittee.

E.(1)(a) Each such determination shall be made by the respective subcommittees of each house acting separately. Action by a subcommittee shall require the favorable vote of a majority of the members of the subcommittee who are present and voting, provided a quorum is present.

(b) No later than three weeks before the deadline for legislative oversight action, the chairman of the subcommittee may request, by letter, the consent of the subcommittee members to have a mail ballot instead of a meeting to consider a proposed rule or proposed fee action. If no objection is received within ten days of the chairman's request, the chairman shall cause a mail ballot to be sent to the members of the subcommittee. In order for the subcommittee to reject a proposed rule or proposed fee action, a majority of ballots returned to the chairman at least twenty-four hours prior to the deadline for legislative oversight action must disapprove the change. Any determination by the subcommittee shall be made within the period provided for oversight hearings in Paragraph D(2) of this Section.

(2) Failure of a subcommittee to conduct a hearing or to make a determination regarding any rule proposed for adoption, amendment, or repeal shall not affect the validity of a rule otherwise adopted in compliance with this Chapter.

F.(1) If either the House or Senate oversight subcommittee determines that a proposed rule change or proposed fee action

is unacceptable, the respective subcommittee shall provide a written report which contains the following:

(a) A copy of the proposed rule or a statement of the amount of the proposed fee action.

(b) A summary of the determinations made by the subcommittee in accordance with Subsections D and E of this Section.

(2) The written report shall be delivered to the governor, the agency proposing the rule change, and the *Louisiana Register* no later than four days after the committee makes its determination.

G. After receipt of the report of the subcommittee, the governor shall have ten calendar days in which to disapprove the action taken by the subcommittee. If the action of the subcommittee is not disapproved by the governor within ten calendar days from the day the subcommittee report is delivered to him, the rule change shall not be adopted by the agency until it has been changed or modified and subsequently found acceptable by the subcommittee, or has been approved by the standing committee, or by the legislature by concurrent resolution. If a proposed rule change is determined to be unacceptable by an oversight committee and such determination is not disapproved by the governor as provided in this Section, the agency shall not propose a rule change or emergency rule that is the same or substantially similar to such disapproved proposed rule change nor shall the agency adopt an emergency rule that is the same or substantially similar to such disapproved proposed rule change within four months after issuance of a written report by the subcommittee as provided in Subsection F of this Section nor more than once during the interim between regular sessions of the legislature.

H.(1) If both the House and Senate oversight subcommittees fail to find a proposed rule change unacceptable as provided herein, or if the governor disapproves the action of an oversight subcommittee within the time provided in R.S. 49:968(G), the proposed rule change may be adopted by the agency in the identical form proposed by the agency or with technical changes or with changes suggested by the subcommittee, provided at least ninety days and no more than twelve months have elapsed since notice of intent was published in the *State Register*.

(2) Substantive changes to a rule proposed for adoption, amendment, or repeal occur if the nature of the proposed rule is altered or if such changes affect additional or different substantive matters or issues not included in the notice required by R.S. 49:953(A)(1). Whenever an agency seeks to substantively change a proposed rule after notice of intent has been published in the *Louisiana Register* pursuant to R.S. 49:953(A)(1), the agency shall hold a public hearing on the substantive changes preceded by an announcement of the hearing in the *Louisiana Register*. A notice of the hearing shall be mailed within ten days after the date the announcement is submitted to the *Louisiana Register* to all persons who have made request of the agency for such notice. Any hearing by the agency pursuant to this Paragraph shall be held no earlier than thirty days after the publication of the announcement in the *Louisiana Register*. The agency hearing shall conform to R.S. 49:953(A)(2)(b), and a report on the

hearing shall be made to the oversight committees in accordance with Subparagraph D(1)(b) of this Section. The agency shall make available to interested persons a copy of such report no later than one working day following the submittal of such report to the oversight committees. Any determination as to the rule by the oversight committees, prior to gubernatorial review as provided in Subsection G of this Section, shall be made no earlier than five days and no later than thirty days following the day the report required by this Paragraph is received from the agency.

(3) If a rule or part of a rule that is severable from a larger rule or body of rules proposed as a unit is found unacceptable, the rules or parts thereof found acceptable may be adopted by the agency in accordance with Paragraph (1) of this Subsection.

I. If the governor disapproves the action of an oversight subcommittee, he shall state written reasons for his action and shall deliver a copy of his reasons to the House and Senate oversight subcommittees, the agency proposing the rule change, and the State Register.

J. The State Register shall publish a copy of the written report of an oversight subcommittee and the written report of the governor in disapproving any such action, or if unduly cumbersome, expensive, or otherwise inexpedient, a notice stating the general subject matter of the omitted report and stating how a copy thereof may be obtained.

K. Each year, thirty days prior to the beginning of the regular session of the legislature, each agency which has proposed the adoption, amendment, or repeal of any rule or the adoption, increase, or decrease of any fee during the previous year, shall submit a report to the appropriate committees as provided for in Subsection B of this Section. This report shall contain a statement of the action taken by the agency with respect to adoption, amendment, or repeal of each rule proposed for adoption, amendment, or repeal and a report of the action taken by the agency with respect to any proposed fee adoption, increase, or decrease.

L. After submission of the report to the standing committee, a public hearing may be held by the committee for the purpose of reviewing the report with representatives of the proposing agency.

M. No later than the second legislative day of the regular session of the legislature, a standing committee to which proposed rule changes or proposed fee changes are submitted may submit a report to the legislature. This report shall contain a summary of all action taken by the committee or the oversight subcommittee with respect to agency rules and fees during the preceding twelve months. The report shall also contain any recommendations of the committee for statutory changes concerning the agency, particularly in statutes authorizing the making and promulgation of rules and fees of the agency.

N. A standing committee may, at any time, exercise the powers granted to an oversight subcommittee under the provisions of this Section.

Acts 1990, No. 312, §1; Acts 1990, No. 938, §1; Acts 1990, No. 1085, §1, eff. July 31, 1990; Acts 1991, No. 21, §2, eff. June 14, 1991; Acts 1991, No. 938, §5; Acts 1992, No. 377, §4, eff. June 17, 1992; Acts 1992, No. 447, §3, eff. June 20, 1992; Acts 1993, No. 119, §1; Acts 1993, No. 733, §1; Acts 1995, No. 1057, §1, eff. June

29, 1995 and Jan. 8, 1996 (1/8/96 date is applicable to Dept. of Health and Hospitals only); Acts 1996, 1st Ex. Sess., No. 36, §3, eff. May 7, 1996; Acts 1997, No. 1, §5, eff. April 30, 1997; Acts 1997, No. 1001, §1.

§969. Legislative Veto, Amendment, or Suspension of Rules, Regulations, and Fees

In addition to the procedures provided in R.S. 49:968 for review of the exercise of the rulemaking authority delegated by the legislature to state agencies, as defined by this Chapter, the legislature, by Concurrent Resolution, may suspend, amend, or repeal any rule or regulation or body of rules or regulations, or any fee or any increase, decrease, or repeal of any fee, adopted by a state department, agency, board, or commission. The *Louisiana Register* shall publish a brief summary of any Concurrent Resolution adopted by the legislature pursuant to this Section. Such summary shall be published not later than forty-five days after signing of such Resolution by the presiding officers of the legislature.

Added by Acts 1980, No. 660, §1. Acts 1995, No. 1109, §1, eff. Oct. 1, 1995.

Chapter 13-A. Revision of Louisiana's Administrative Code

§981. Continuous Revision under Supervision of Division of Administration, Office of the State Register

The office of the state register, as the official entity to receive, compute, index, and publish the *Louisiana Register* and *Louisiana Administrative Code*, shall direct and supervise the continuous revision, clarification, and coordination of the *Louisiana Register* and *Louisiana Administrative Code* in a manner not inconsistent with the provisions of this Chapter.

Acts 1993, No. 379, §1.

§982. New Regulation; Incorporation in Louisiana Register and Louisiana Administrative Code; Resolution of Conflicting Rules

A. Upon receipt of any rules promulgated under the Administrative Procedure Act, the office of the state register shall prepare the "*Louisiana Register*", containing the rules to be promulgated in the *Louisiana Administrative Code* as they may have been amended or repromulgated and omitting therefrom those sections that have been repealed. There shall also be incorporated therein, in an appropriate place and classification, the text of all the new rules of a general and public nature, assigning to these rules an appropriate title, part, chapter, and section number, and indicating the statutory authority of the rules from which they are taken.

B. When a conflict between two or more rules affecting the same subject matter in the same provision or regulation cannot be resolved for the purpose of incorporating the text into the *Louisiana Administrative Code*, the office of the state register shall so notify the secretary of the department or administrative officer charged with the promulgation of the rule prior to preparing the *Louisiana Administrative Code*. The secretary or administrative officer shall be notified of the proposed correction. If no written disapproval of the secretary or administrative officer, or his designee, of the proposed correction is received by the office of the state register within seven days after the secretary or administrative officer receives the notice, the office of the state register shall then direct the printer to incorporate into the *Louisiana*

Administrative Code the text of the provision of the rule properly promulgated.

Acts 1993, No. 379, §1.

§983. Incorporation of Current Rules and Regulations Procedure

A. In preparing the *Louisiana Register* or the *Louisiana Administrative Code* as provided for in R.S. 49:981, the office of the state register shall not alter the sense, meaning, or effect of any rule properly promulgated under the Administrative Procedure Act, but it may:

- (1) Renumber and rearrange sections or parts of sections.
- (2) Transfer sections or divide sections so as to give to distinct subject matters a separate section number, but without changing the meaning.
- (3) Insert or change the wording of headnotes.
- (4) Change reference numbers to agree with renumbered parts, chapters, or sections.
- (5) Substitute the proper section, chapter, or part number for the terms "this part", "the preceding section", and the like.
- (6) Strike out figures where they are merely a repetition of written words and vice-versa.
- (7) Change capitalization for the purpose of uniformity.
- (8) Correct manifest typographical and grammatical errors.
- (9) Make any other purely formal or clerical changes in keeping with the purpose of the revision.

B. The office of the state register shall notify the secretary or administrative officer charged with promulgation of the rule prior to making any proposed revision authorized by this Section. If no written disapproval of the secretary or administrative officer, or his designee, of the proposed revision is received by the office of the state register within seven days after the secretary or administrative officer receives the notice, the office of the state register shall proceed with the revision.

Acts 1993, No. 379, §1.

§984. Alphabetical or Numerical Sequence of Laws

A. Whenever a rule defines terms, enumerates provisions or items, or otherwise sets forth provisions of a rule in a numerical or alphabetical listing or sequence, and such provision, as promulgated, fails to establish or fails to maintain an existing alphabetical or numerical sequence, the office of the state register, in preparing the *Louisiana Register* and the *Louisiana Administrative Code* as provided for by R.S. 49:983, shall rearrange and renumber or redesignate the provisions to the extent necessary to place all of them in consistent order.

B. The office of the state register shall notify the secretary or administrative officer charged with promulgation of the rule prior to making any proposed revision authorized by this Section. If no written disapproval of the secretary or administrative officer, or his designee, is received by the office of the state register within seven days after the secretary or administrative officer receives the notice, the office of the state register shall proceed with the revision.

C. This requirement is in addition to any other authority granted to the office of the state register in the preparation of the *Louisiana Register* or the *Louisiana Administrative Code*, particularly by R.S. 49:983.

Acts 1993, No. 379, §1.

§985. Submitting Copy to the Proper Party

A draft of the *Louisiana Administrative Code* prepared by the office of the state register shall be submitted to the appropriate secretary or administrative officer charged with the promulgation of any rule prior to transmittal to the printer.

Acts 1993, No. 379, §1.

§986. Filing of Copy with Commissioner of Administration; Certificate of Correctness; Printing

Any edition of the *Louisiana Administrative Code*, or of any supplement thereto, prepared in the manner provided in R.S. 49:982 and 983, shall be certified by the office of the state register that each section therein has been compared with the original sections in the official copy of the *Louisiana Register* with the final provisions of the promulgated rules from which the sections were derived, and that with the exception of the changes of form permitted in R.S. 49:983, the sections are correct. The office of the state register shall order the printing of an edition sufficient in number to supply the demand. When the edition has been printed, the office of the state register shall affix to one copy of the printed edition the office of the state register's original certificate and file the same for record in his office. All other copies of the same edition may contain a printed facsimile of the office's certificate.

Acts 1993, No. 379, §1.

§987. Printing and Publication of Louisiana Register; Proof of Certified Edition

The office of the state register may enter into contracts with private publishers for the printing, publication, sale, and distribution of any edition of the *Louisiana Register* and the *Louisiana Administrative Code* prepared by the office of the state register and certified by it pursuant to the provisions of this Chapter. Those editions so authorized by the office of the state register and containing the printed facsimile of the office of the state register's certificate of correctness shall be admissible as prima facie evidence of the rules contained therein.

Acts 1993, No. 379, §1.

Chapter 13-B. Division of Administrative Law

Part A. Administrative Law

§991. Creation of Division of Administrative Law

The division of administrative law, hereafter referred to as "division", is created in the Department of State Civil Service.

Acts 1995, No. 739, §2, eff. Oct. 1, 1996; Acts 1997, No. 1162, §2, eff. July 1, 1998.

§992. Applicability; Exemptions

A.(1) Prior to October 1, 1996, the provisions of the Administrative Procedure Act shall apply to all adjudications as defined by that Act.

(2) On and after October 1, 1996, the division shall commence and handle all adjudications in the manner required by the Administrative Procedure Act provided that the provisions of that Act are not inconsistent with the provisions of this Chapter.

B.(1) Notwithstanding any other provision of the law to the contrary except as provided by R.S. 49:967 and the provisions of this Section, all adjudications shall be resolved exclusively as required by the provision of this Chapter and the Administrative Procedure Act.

(2) In an adjudication commenced by the division, the administrative law judge shall issue the final decision or order, whether or not on rehearing, and the agency shall have no authority to override such decision or order.

(3) Nothing in this Section shall affect the right to or manner of judicial appeal in any adjudication, irrespective of whether or not such adjudication is commenced by the division or by an agency.

C. The positions appointed by the director pursuant to this Chapter shall be in the classified service.

D.(1) Except as provided in Paragraphs (2) through (8) of this Subsection, the provisions of this Chapter shall apply to any board, commission, department, or agency of the executive branch of state government.

(2) Any board, commission, department, or agency which is required, pursuant to a federal mandate and as a condition of federal funding, to conduct or to render a final order in an adjudication proceeding shall be exempt from the provisions of this Chapter to the extent of the federal mandate.

(3) The office of workers' compensation administration in the Department of Labor shall be exempt from the provisions of this Chapter.

(4) The office of regulatory services in the Department of Labor shall be exempt from this Chapter.

(5) State professional and occupational licensing boards shall be exempt from the provisions of this Chapter.

(6) The Department of Agriculture shall be exempt from the provisions of this Chapter.

(7) All adjudications by the assistant secretary of the office of conservation pursuant to Chapter 1 and 7 of Subtitle 1 of Title 30 of the Louisiana Revised Statutes, except determinations of violations of laws, rules, regulations and orders, and determinations of penalties for such violations, shall be exempt from the provisions of this Chapter.

(8) The Public Service Commission and any entity which by law has its adjudications handled by the Public Service Commission shall be exempt from the provisions of this Chapter.

E. The provisions of this Chapter shall apply to all adjudications as defined in the Administrative Procedure Act pursuant to the Procurement Code.

F. Any board or commission authorized by law to conduct hearings may continue to hold such hearings.

Acts 1995, No. 739, §2, eff. Oct. 1, 1996; Acts 1997, No. 1172, §9, eff. June 30, 1997; Acts 1997, No. 1484, §1, eff. July 16, 1997.

§993. Definitions; Rules

A. The definitions for terms as provided by R.S. 49:951 shall apply to such terms used in this Chapter.

B. The division may promulgate rules according to the Administrative Procedure Act to insure compliance with the provisions of this Chapter.

Acts 1995, No. 739, §2, eff. Oct. 1, 1996.

§994. Administrative Law Judges

A. The director of the division shall employ the administrative law judges for the division, each of whom shall have the following qualifications:

(1) An administrative law judge shall be a resident of Louisiana.

(2) An administrative law judge shall be licensed to practice law in Louisiana.

(3) An administrative law judge shall have been engaged in the actual practice of law for at least five years prior to his appointment.

B. An administrative law judge shall be an employee of the division.

C. Notwithstanding the provisions of this Section, all persons employed in affected agencies on October 1, 1996, who handle adjudications and whether or not they meet the qualifications of this Chapter shall, unless the person declines, be transferred to and employed in the division created by this Chapter to handle adjudications in the manner provided in this Chapter. However, no person other than those provided for in this Subsection shall be employed as an administrative law judge who does not meet the requirements of this Section.

D. The administrative law judge shall have the authority to:

(1) Regulate the adjudicatory proceedings assigned to him.

(2) Issue such decisions and orders as are necessary to promote a fair, orderly, and prompt adjudication.

(3) Exercise those powers vested in the presiding officer in the Administrative Procedure Act.

Acts 1995, No. 739, §2, eff. Oct. 1, 1996.

§995. Director

A. The governor shall appoint, and the Senate shall confirm, a director for the division, who shall have the following qualifications:

(1) The director shall be a resident of Louisiana.

(2) The director shall be licensed to practice law in Louisiana.

(3) The director shall have been engaged in the actual practice of law for at least five years prior to his appointment.

B.(1) The director shall serve a six-year term and may be reappointed and confirmed for subsequent six-year terms without limitation.

(2) If a vacancy occurs during the director's term, the governor shall appoint a successor to fill the remainder of the vacant term.

(3) The first director shall be appointed on July 1, 1996, and shall take such action in compliance with this Chapter as necessary to ensure that the provisions of this Chapter are implemented by October 1, 1996.

C. The director shall be a full-time unclassified employee of the division and he shall not accept or engage in additional employment of any kind.

Acts 1995, No. 739, §2, eff. Oct. 1, 1996.

§996. Duties of the Director

The director of the division shall take the following actions:

(1) Administer and cause the work of the division to be performed in such a manner and pursuant to such a program as may be appropriate.

(2) Organize the division into such sections as may be appropriate.

(3) Assign administrative law judges as appropriate to perform duties vested in or required by the division.

(4) Develop and maintain a program for the continual training and education of administrative law judges and agencies in regard to their responsibilities under this Chapter and the Administrative Procedure Act.

(5) Secure, compile, and maintain all records of adjudications held pursuant to this Chapter or the Administrative Procedure Act, and such reference materials and supporting information as may be appropriate.

(6) Develop uniform standards, rules of evidence, and procedures, including but not limited to standards for determining whether or not a summary or ordinary hearing should be held, to regulate the conduct of adjudications.

(7) Promulgate and enforce rules for the prompt implementation and coordinated administration of this Chapter as may be appropriate.

(8) Administer and supervise the conduct of adjudications.

(9) Assist agencies in the preparation, consideration, publication, and interpretation of rules as appropriate pursuant to the Administrative Procedure Act.

(10) Access information concerning the several agencies to assure that they properly promulgate rules required by law.

(11) Employ the services of the several agencies and their employees in such manner and to such extent as may be agreed upon by the director and the chief executive officer of such agency.

Acts 1995, No. 739, §2, eff. Oct. 1, 1996.

§997. Program of Judicial Evaluation

A. The director shall develop and implement a program of judicial evaluation to aid in the performance of his duties.

B. The judicial evaluation shall focus on three areas of judicial performance including competence, productivity, and demeanor. It shall include consideration of the following:

(1) Industry and promptness in adhering to schedules.

(2) Tolerance, courtesy, patience, attentiveness, and self-control in dealing with litigants, witnesses, and counsel and in presiding over adjudications.

(3) Legal skills and knowledge of the law and new legal developments.

(4) Analytical talents and writing abilities.

(5) Settlement skills.

(6) Quantity, nature, and quality of caseload disposition.

(7) Impartiality and conscientiousness.

C. The director shall develop standards and procedures for the judicial evaluation which shall include taking comments from randomly selected litigants and lawyers who have appeared before the administrative law judge under evaluation.

D. The judicial evaluation shall include a review of the methods used by the administrative law judge. The judicial evaluation shall not include a review of any result as determined by an administrative law judge in any adjudication.

E. Before implementing any action based on the findings of the judicial evaluation, the director shall discuss the findings and the proposed action with the affected judge.

F. The judicial evaluation and supporting documents shall be confidential and shall not be subject to open records provisions of R.S. 44:1 et seq.

Acts 1995, No. 739, §2, eff. Oct. 1, 1996.

§998. Prehearing Conference

A. The administrative law judge may conduct a prehearing conference pursuant to a motion of any party or on his own motion.

B. The administrative law judge shall set the time and place for the prehearing conference.

C. The administrative law judge shall give reasonable notice of the prehearing conference to all parties.

D. The prehearing conference may be conducted for the purpose of dealing with one or more of the following matters:

(1) Exploration of settlement possibilities.

(2) Preparation of stipulations.

(3) Clarification of issues.

(4) Rulings on the identities and limitation on the number of witnesses.

(5) Objections to proffers of evidence.

(6) Order of presentation of evidence and cross-examination.

(7) Rulings regarding issuance of subpoenas and protective orders.

(8) Schedules for the submission of written briefs.

(9) Schedules for the conduct of a hearing.

(10) Any other matter to promote the orderly and prompt conduct of the adjudication.

E. The administrative law judge shall issue a prehearing order, which he may direct one or more of the parties to prepare, incorporating the matters determined at the prehearing conference.

F. An administrative law judge assigned to render a decision or to make findings of fact and conclusions of law in a case of adjudication noticed and docketed for hearing shall not communicate, directly or indirectly, in connection with any issue of fact or law, with any party or his representative, or with any officer, employee, or agent engaged in the performance of investigative, prosecuting, or advocating functions, except upon notice and opportunity for all parties to participate.

Acts 1995, No. 739, §2, eff. Oct. 1, 1996.

§999. Disqualification and Withdrawal of Administrative Law Judge

A. An administrative law judge shall voluntarily disqualify himself and withdraw from any adjudication in which he cannot accord a fair and impartial hearing or consideration, or when required to by applicable rules governing the practice of law in Louisiana.

B.(1) Any party may request the disqualification of an administrative law judge by filing an affidavit, promptly upon learning of the basis for the disqualification, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded.

(2) The director shall promptly determine whether or not to disqualify an administrative law judge based on the request, or alternatively, he may hold a preliminary hearing at least ten calendar days prior to the hearing date for the purpose of receiving evidence relating to the grounds alleged for disqualification.

Acts 1995, No. 739, §2, eff. Oct. 1, 1996.

Part B. Suspension and Revocation of License or Permit for Felonious Activity

§999.21. Suspension and Ultimate Revocation of License or Permit; Felony Conviction

A. As used in this Part, the following terms shall have the following definitions:

(1) "Enforcing authority" means any of the following who have authority to enforce the provisions of this Part:

- (a) The issuing agency which issued the license or permit.
- (b) The attorney general.

(2) "Holder of a license or permit" means the natural person or other entity in whose name a license or permit is issued and who holds such license or permit.

(3) "Issuing agency" means a state agency, board, commission, department, or other entity of the state which issues a license or permit.

(4) "License or permit" means any license or permit issued to any person or other entity by a state agency, except for any license or permit issued pursuant to any provisions of the law in Title 37 or Title 3 of the Louisiana Revised Statutes of 1950.

B. Notwithstanding any other provision of law to the contrary, and in addition to any other sanction or penalty which may be imposed, any license or permit issued by any issuing agency may be suspended and ultimately revoked in accordance with the procedures provided for in this Part if the natural person who is the holder of such permit or license, the natural person who owns in excess of fifty percent of an entity which holds the license or permit, or the natural person who is the chief executive officer of an entity which holds the license or permit has been convicted of, or has entered a plea of guilty or nolo contendere to, any crime which is a felony under state or federal law related to obtaining or keeping the license or permit.

C. The license or permit may be suspended and its revocation shall be recommended to the courts by the issuing agency which has issued the license or permit upon its determination in the manner provided for in this Part that a person provided for in this Section has been convicted of, or has entered a plea of guilty or nolo contendere to, a felony under state or federal law related to obtaining or keeping the license or permit.

D. Such license or permit shall be revoked upon a final judgment by a court that the action of the issuing agency in suspending the license was in accord with the facts and law.

Acts 1997, No. 1162, §1, eff. July 1, 1998.

§999.22. Enforcing Authority; Initiation of Action

A. Any enforcing authority may bring an action against the holder of a license or permit to suspend and ultimately revoke such license or permit in the manner and according to the procedure provided for in this Part if the enforcing authority obtains knowledge that the natural person who is the holder of the permit or license, or the natural person who owns in excess of fifty percent of the entity which holds the license or permit, or the natural person who is the chief executive officer of the entity which holds the license or permit has been convicted of, or has entered a plea of guilty or nolo contendere to, a crime which is a felony under state or federal law related to obtaining or keeping the license or permit.

B. The enforcing authority may initiate the action by providing written notice by certified mail of its intention to suspend and ultimately revoke the license or permit of the holder pursuant to this Part, sent to the holder of the license or permit, the person alleged to have been convicted of, or to have entered a plea of guilty or nolo contendere to, a felony

under state or federal law related to obtaining or keeping the license or permit, and to the issuing agency which issued the license or permit, if different from the enforcing authority.

Acts 1997, No. 1162, §1, eff. July 1, 1998.

§999.23. Hearing Before the Issuing Agency

A. An action to enforce the provisions of this Part shall be initiated by written application made by the enforcing authority to the issuing agency issuing the license or permit requesting such agency to order the suspension and recommend to the courts the revocation of the license or permit.

B. No determination shall be made and no license shall be ordered suspended and ultimately revoked without an adjudicatory hearing conducted in accordance with the Administrative Procedure Act and Part A of this Chapter.

C. Notwithstanding the provisions of R.S. 49:992 or any other law to the contrary, any hearing conducted pursuant to this Part may, at the request of the issuing agency, be conducted by an administrative law judge in an adjudicatory hearing pursuant to Part A of this Chapter.

D. For purposes of this Part, the enforcing authority shall prove by a preponderance of the evidence that a person has been convicted of, or has entered a plea of guilty or nolo contendere to, a crime which is a felony under state or federal law related to the obtaining or keeping of the license at issue.

Acts 1997, No. 1162, §1, eff. July 1, 1998.

§999.24. Revocation

A.(1) Within thirty days after the issuance of a written determination and order by an administrative law judge or an issuing agency that the license or permit of a holder should be suspended, and a recommendation to the courts that such license or permit should be revoked, the enforcing authority shall file a petition in the Nineteenth Judicial District Court requesting such judge or court to uphold the determination of such issuing agency and order the revocation of the license or permit. A copy of the written determination and order of the administrative law judge or the issuing agency and a certified transcript of all proceedings had, if any, shall be filed with the court at the same time as the petition of the enforcing authority.

(2) The holder of the license or permit that has been ordered suspended may also file a petition requesting that the order of the administrative law judge or the issuing agency be set aside at any time after it is issued.

B.(1) After or in conjunction with the filing of a petition as provided for in Subsection A of this Section, the holder of the license or permit that has been ordered suspended may file an application with the court with supporting affidavits requesting the court to make an initial determination as to whether the suspension of the license or permit by the administrative law judge or the issuing agency should be upheld.

(2) The court shall assign a hearing on the application for the initial determination not less than two nor more than ten days after the filing of such application, in open court or in chambers.

(3) The court shall review the written determination and order of the administrative law judge or issuing agency, any

affidavits which were filed with the application, and the transcript of the proceedings, if any.

(4) If the court upon a review of such documents and consideration of the issues involved finds both that it is not probable that the order of the administrative law judge or the issuing agency will be upheld and that the suspension of the license or permit will result in irreparable injury, loss, or damage to the holder of the license or permit, the court shall issue an order enjoining the suspension until it renders a final judgment on the matter.

C.(1) Except for the procedure as provided in Subsection B of this Section, all of the cases provided for in this Section shall be tried in the same manner as civil cases and shall be heard and determined as speedily as possible.

(2) If the court finds that the action of the administrative law judge or the issuing agency is in accordance with the facts and law, the court shall render a judgment upholding the order of the administrative law judge or the issuing agency and revoking the license or permit of the holder. If not, the court shall either dismiss the order of the administrative law judge or the issuing agency and enjoin the suspension of the license or permit, or it shall remand the case to the administrative law judge or the issuing agency for further proceedings either with or without maintaining the suspension of the license or permit.

Acts 1997, No. 1162, §1, eff. July 1, 1998.

§999.25. Additional Ground or Cause

Notwithstanding any other law to the contrary, the provisions of this Part shall provide an additional ground or cause of action for suspension or revocation of a license or permit issued by an issuing agency and shall be in addition to any other sanction or penalty which such agency is specifically authorized to impose.

Acts 1997, No. 1162, §1, eff. July 1, 1998.

TIMETABLE FOR ADOPTION OF RULES, FEES, EMERGENCY RULES AND EMERGENCY FEES BY LOUISIANA STATE AGENCIES

DAY	TIME REQUIREMENT	ACTION
<u>Agency Rule and Fee Proposal</u> 10 days prior to Day 1	10 days prior to publication date of <i>State Register</i> in which notice of rulemaking or feesetting intent is published (always 10th day of month) (R.S. 49:951(7), 953(A)(1)(b)(i) and 968(B)).	Last day for agency to submit notice of intent of rulemaking or feesetting to <i>State Register</i> and legislative committee and presiding officers.
Day 1	<i>State Register</i> publication date (always the 20th day of month)	Notice of intent is published. By this date, also must submit notice to interested persons who have requested notice.

Day 36-41	Agency hearing, if requested, no earlier than 35 days and no later than 40 days after notice publication (R.S. 49:953(A)(2)).	The agency must conduct a hearing on the proposed rule or fee, if requested as specified in the law, and must provide for written comments.
***	Prior to legislative oversight, agency report to legislative committees (R.S. 49:968(D)).	A report of the hearing, of comments received, and of any proposed revision must be provided to the legislative committee, with an explanation of agency action on changes suggested.
<u>Legislative Oversight of Rules and Fees</u> Day 1	Delivery of agency report to legislative committee (R.S. 49:968(D))	When the agency has completed its report and is ready for oversight, the report is submitted to the legislative committees. This starts the timetable for legislative oversight hearings.
Day 6-31	Legislative hearing no earlier than 5 days and no later than 30 days after agency report of hearing, comments, and/or revision (R.S. 49:968(D)(2) and 953(A)(2)(b)(ii)).	The legislative committees having jurisdiction may conduct a hearing to review and determine if the rule change or fee action is acceptable or unacceptable.
4th day after determination	Committee report to the governor, the agency, and the <i>State Register</i> not later than 4th day after committee determination, if the rule or fee is found unacceptable (R.S. 49:968(F)).	If rule is found unacceptable, the committee must submit a report to the governor, the agency, and the <i>State Register</i> summarizing its determination.
10th day after receipt by governor	The governor has 10 days after receipt of committee report to disapprove committee action (R.S. 49:968(G)).	The governor may disapprove committee action. If he <u>does not</u> disapprove committee action the agency <u>may not adopt</u> rule unless modified and approved by committee. If he <u>does</u> disapprove committee action, the agency <u>may adopt</u> rule.
<u>Legislative and Gubernatorial Oversight for Emergency Rules and Emergency Fees</u> Day 1	Adoption of emergency rule or emergency fee (R.S. 49:953(B)(4)(a) and (b)).	Adoption of emergency rule or emergency fee begins time period for review by oversight subcommittee or by governor.

Day 2-61	Oversight subcommittee hearing or gubernatorial review within 60 days of adoption of emergency rule or emergency fee (R.S. 49:953(B)(4)(a) and (b)).	Oversight subcommittee may conduct a hearing or governor may review to determine if such rule or fee meets criteria as emergency and determinations as provided in R.S. 49:968(D)(3).
4th Day after determination	Committee report to the governor, the agency, and the <i>State Register</i> and gubernatorial report to the agency and <i>State Register</i> not later than 4th day after committee or gubernatorial determination, if the rule is found unacceptable (R.S. 49:953(B)(4)(a) and (b) and 968(F)).	If rule is found unacceptable, the committee must submit a report to the governor, the agency, and the <i>State Register</i> or the governor must submit a report to the agency and <i>State Register</i> summarizing their determination. Upon agency receipt of report from committee or governor, rule is null and ineffective.
<u>Adoption and Effectiveness</u> <i>Rules and Fees</i> 90 days after publication	First day agency may adopt rule or fee is 90 days after publication of notice in <i>State Register</i> and after compliance with rulemaking and oversight requirements (Last day for adoption is 12 months after notice publication) (R.S. 49:953(A)(1) and 968(H)).	Agency may adopt rule if the legislative committees of both houses fail to find the rule unacceptable or, if found unacceptable by a legislative committee of either house, if the governor disapproves committee action. Otherwise, it may not adopt the rule unless changed and approved by the committee. Agency may adopt fee if a legislative committee of one house fails to find the fee unacceptable. The governor has no authority to disapprove.

***	Effective date of adopted rule or fee is date of <i>State Register</i> publication of such rule or fee, unless rule or law provides later date	Final rules or fees are effective after adoption by the agency and upon publication in the <i>State Register</i> , unless a later date is provided in the rule, fee, or by law.
<i>Emergency Rules and Emergency Fees</i> Adoption or 60 days from adoption	Emergency rule or emergency fee is effective on date of adoption, or date specified by agency not more than 60 days from adoption provided written notice is given within 5 days of adoption to governor, attorney general, speaker, president, and Department of State Register (R.S. 49:951(7) and 954(B)(2)).	Agency may adopt emergency rule or emergency fee if emergency criteria are met. Emergency rule may be invalidated by declaratory judgment that it does not meet emergency criteria. (R.S. 49:953(B)(3)) Emergency rule is null upon agency receipt of report from oversight committee or governor that the rule is unacceptable. (R.S. 49:953(B)(4))
***	Not effective beyond publication date of <i>State Register</i> published in month following the month adopted, unless such rule or fee and the reasons for adoption are published (however, not effective for longer than 120 days) (R.S. 49:954(B)(2)).	Agency must publish emergency rule or emergency fee and the reasons for adoption in the <i>State Register</i> published the month after the month of adoption to continue effectiveness, provided not effective longer than 120 days.

This table uses the term legislative committee to include oversight committees of legislative committee. It should be noted that the APA authorizes and provides for oversight subcommittees of legislative committees to conduct hearings and make determinations; however, it also provides that the full committee may exercise this authority.

This table is a summary and does not purport to fully reflect the law. Please refer to the APA at LSA R.S. 49:950 et seq.

Revised by House Legislative Services 1/18/96

9712#096



Potpourri

POTPOURRI

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

Retail Floristry Examination

The next retail floristry examination will be given January 26-30, 1998 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 December 12, 1997. No applications will be accepted after December 12, 1997.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, telephone (504) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to December 12, 1997. Refer questions to (504) 925-7772.

Bob Odom
Commissioner

9712#029

POTPOURRI

Department of Economic Development
Office of Financial Institutions

1998 Judicial Interest Rate

Pursuant to LSA-C.C. Article 2924(B)(3), as amended by Act 275 of 1997, the commissioner of Financial Institutions has made the determination that the rate of judicial interest beginning January 1, 1998 and ending December 31, 1998 will be 7.30 percent per annum, in accordance with the formula mandated by LSA-C.C. Article 2924(B)(3).

The commissioner was informed on October 1, 1997 that the last auction of fifty-two week U.S. Treasury Bills was on September 11, 1997 and that, according to "Publication H-15" of the Federal Reserve Bank, "the coupon issue yield equivalent" was 5.30 percent.

LSA-C.C. Article 2924(3)(a) mandates that "[o]n and after January 1, 1998, the rate shall be equal to the rate as published annually, ... by the commissioner of financial institutions. The commissioner of financial institutions shall ascertain, on the first day of October of each year, the coupon issue yield equivalent, as determined by the secretary of the United States Treasury, of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled immediately prior to the first day of October of each year. The effective judicial interest rate for the calendar year following

the calculation date shall be two percentage points above the coupon issue yield equivalent as ascertained by the commissioner."

The effective judicial interest rate for the calendar year beginning on January 1, 1998 shall be 7.30 percent per annum.

This calculation and its publication in the *Louisiana Register* shall not be considered rulemaking, within the intentment of R.S. 49:950 et seq., the Administrative Procedure Act, particularly R.S. 49:953, thus, neither a fiscal impact statement nor a notice of intent is required.

Larry L. Murray
Commissioner

9712#022

POTPOURRI

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

Triennial Review for Breton Wilderness Area

The Louisiana Department of Environmental Quality (LDEQ), Air Quality Division, has completed the triennial review of the State Implementation Plan (SIP) for visibility protection of the Breton Wilderness Area, a chain of barrier islands approximately 30 miles off the southeast coast of Louisiana. The Wilderness Area is classified as a Class I Federal Area, and is afforded visibility protection under the Clean Air Act, Part C, Section 169, and 40 CFR Part 51.

The information used in the review included air emission inventories of sources within 100 km distance of the Class I area; Prevention of Significant Deterioration permit reviews which require an analysis of the impact of Class I areas from proposed projects; and consultation with the Federal Land Manager (FLM), U.S. Department of Fish and Wildlife Service.

Based on the triennial review, the LDEQ has determined that the SIP is adequate for preventing impairment of visibility as required by applicable 40 CFR Part 51 requirements. At this time, no additional measures beyond the current program are necessary.

The 1997 report, "Louisiana's Progress Toward Visibility Protection of the Breton Wilderness Area," is available for public review at the LDEQ Headquarters, 7290 Bluebonnet Boulevard, Second Floor, Baton Rouge, LA, and at the LDEQ Southeast Regional Office, 3501 Chateau Boulevard West Wing, Kenner, LA.

Gus Von Bodungen
Assistant Secretary

9712#093

POTPOURRI

Office of the Governor Oil Spill Coordinator's Office

Damage Assessment and Restoration Plan—Myette
Point Blowout and Oil Spill (St. Mary Parish)

Description of the Incident

On November 26, 1996, Parker and Parsley, now known as Pioneer Natural Resources, discovered a leaking flange on the Louisiana State Lease 5706 Number 2 wellhead in St. Mary Parish, LA. Pioneer commenced repairs to the wellhead but on December 1 the well blew out, spraying and spilling condensate oil and produced water into the adjacent canal and surrounding freshwater swamps. During a 5-day interval, an estimated 4,762 barrels of condensate oil and produced water sprayed into the environment. The well was capped on December 5, 1996, and clean up operations began. The well is located within the Attakapas Wildlife Management Area, a property under the management of the Department of Wildlife and Fisheries for wildlife and fisheries conservation.

Affected Environment

1. The spill occurred in a man-made canal off the Atchafalaya River. When the well blew out, it sprayed an oil-water emulsion over an area of approximately 160 acres. The area had been impacted by Hurricane Andrew in 1992, and the vegetation community is characteristic of recent disturbance. The area is a bottomland hardwood with the following species present: bald cypress (*Taxodium distichum*) primarily in the flooded areas, sycamore (*Platanus occidentalis*), willow (*Salix nigra*), and Chinese tallow trees (*Sapium sebiferum*) on the spoil bank. The under story is dominated by wax myrtle (*Myrica serifera*), and also contains *Rubus* spp., swamp dogwood (*Cornus drummondii*), goldenrod (*Solidago* spp.), and various fern species.

2. Vegetation in a 29-acre area immediately surrounding the wellhead and a pond adjacent to the production facility was heavily coated with oil-water emulsion. An additional 29 acres were moderately oiled, and 106 acres were lightly oiled. The area of Attakapas WMA in the vicinity of the wellhead is favored by hunters and was unavailable during much of the deer hunting season as a result of this spill. The boat landing at Myette Point is used by hunters and recreational and commercial fishermen and was closed between December 3, 1996 and December 24, 1996.

Natural Resource Trustees and Authorities

Pursuant to 33 U.S.C. §§2702 and 2706(c), the Oil Spill Coordinator's Office and the Natural Resource Trustees of the State of Louisiana, to wit, the Department of Wildlife and Fisheries and the Department of Environmental Quality, have authority to pursue damages resulting from the incident. Trusteeship authority is designated according to Section 2706(b) of the Oil Pollution Act of 1990 (OPA) and Subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan. State Natural Resource Trustees are designated by the Governor of the State of Louisiana. Under Article IX of the 1974 Constitution, the control and

supervision of the wildlife of the state, including all aquatic life, is vested in the Wildlife and Fisheries Commission. Under Title 36, the Department of Wildlife and Fisheries and the Department of Environmental Quality are mandated to protect wildlife and fishery resources, and air and water quality, respectively. The Louisiana Oil Spill Prevention and Response Act (LOSPRA), R.S. 30: 2451 et seq., created the Oil Spill Coordinator's Office within the Office of the Governor, and charged that office with the authority to assess natural resources' damages. These agencies are jointly responsible for assessing injuries to natural resources resulting from unauthorized discharges of oil, and ensuring that the public is made whole for the losses of natural resources and services through the restoration, replacement, or acquisition of the equivalent of the injured resources.

Injury Assessment and Restoration Planning

Injury assessment techniques used for the three categories of natural resource injury are discussed individually, as are the restoration alternatives and evaluations. Selection criteria used by the trustees to evaluate restoration alternatives include the following: results of response actions, relationship to assessed injury, relationship to natural recovery, likelihood of success, site requirements, potential for additional natural resource injury, multiple benefits, sustainability of a given restoration action, consistency with policies and compliance with the law, and cost effectiveness.

Forested Wetland Area

Vegetation in a 29-acre area immediately surrounding the wellhead, including a pond adjacent to the production facility, was heavily coated with oil-water emulsion. Twenty-nine additional acres were moderately oiled, and 106 acres were lightly oiled. Chemical analyses of the oil and the oil-water emulsion indicated that the product had low concentrations of toxic compounds based on analysis of total petroleum hydrocarbons and semivolatile compounds. This was confirmed by sediment samples, taken from the area of spill impact during December 1996. They showed no areas of high contamination, based on analysis of total petroleum hydrocarbons, and semivolatile concentrations in the sediment.

Joint trustee-pioneer teams evaluated the recovery of the oiled areas in March and June of 1997. The lightly oiled areas had, in the team's opinion, already recovered, showing no qualitative differences with the unoiled control areas. The moderately oiled areas showed a 30 percent approximate reduction in new green shoots, while some parts of the heavily oiled areas showed a 90 percent approximate reduction. Ten acres of the 29 acres originally mapped in the heavily oiled zone are actually a pond that was originally a flare pit. The trustees agreed that although the pond had fallen within the boundaries of the heavily oiled zone, it had recovered rapidly, and since the water bottoms showed no significant contamination, the area of the flare pit was not considered part of the impacted area. Based on that, the trustees determined that there were 19 acres of heavily oiled area, and 29 acres of moderately oiled area. The trustees then determined that a calculation of loss of habitat could be based on the percent reduction in vegetation. Thus, the trustees calculated that a 90 percent reduction in vegetation on 19 acres means a loss of

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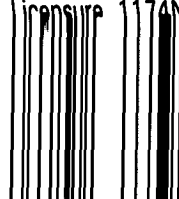
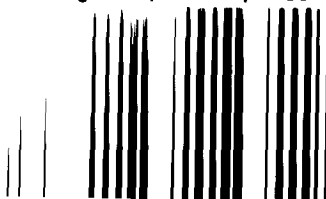
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Fur Harvest, 1110ER

Game hunting, 373N, 871R

Migratory bird, 939ER

Muzzleloader, 940ER

Oyster, 34ER, 192ER, 941ER, 1637ER

Pheasant, 941ER

Proof of income, 1278ER, 1279ER, 1280ER, 1453N, 1454N,
1454N

Red Snapper, 400ER, 1108ER, 1278ER

Reef fish, 372N, 1585N

Sheepshead, 211R

Shrimp, 552ER, 852ER, 940ER, 942ER, 942ER

Spanish Lake, 374N, 872R

Toledo Bend, 514N, 998R

Turkey, 401ER, 908N, 1535R, 1711R

Waddill Wildlife Refuge, 912N, 1538R

Waterfowl, 1110ER