

CONTENTS

I. EXECUTIVE ORDERS	
E.O. No. 85—Combines the responsibilities and functions of the Governor's Council on Environmental Quality and the Louisiana Trails Advisory Council . . . . .	.202
II. EMERGENCY RULES	
Engineers Selection Board, Louisiana—Rules of Selection Procedure . . . . .	.203
III. RULES	
Dairy Stabilization Board, Louisiana—Distribution Stabilization Plan No. 1 . . . . .	.205
Engineers Selection Board, Louisiana—Rules of Organization . . . . .	.217
Health and Human Resources Administration, Division of Family Services—Determination of Dependents Needs for Individuals in Approved Title XIX Nursing Facilities . . . . .	.219
Health and Human Resources Administration, Division of Family Services—Food Stamp Program . . . . .	.220
Motor Vehicle Commission, Louisiana—Amendment to Rule 9, Section 20 . . . . .	.249
Public Works, Louisiana Department of—Rules, Regulations, and Procedures for Water Well Registration . . . . .	.249
Soil and Water Conservation Committee, Louisiana State—Rules for the annual election of Soil and Water Conservation District Supervisors . . . . .	.253
IV. NOTICES OF INTENT	
Consumer Protection, Governor's Office of . . . . .	.254
Dairy Stabilization Board, Louisiana . . . . .	.255
Elementary and Secondary Education, State Board of . . . . .	.256
Engineers Selection Board, Louisiana . . . . .	.256
Facility Planning and Control, Department of . . . . .	.256
Higher Education Assistance Commission, Louisiana . . . . .	.257
Liquified Petroleum Gas Commission . . . . .	.257
Public Works, Louisiana Department of . . . . .	.257
Regents, Board of . . . . .	.258
Stream Control Commission and Division of Health, Louisiana Health and Human Resources Administration: Mermentau—Vermilion—Tech Basin and Atchafalaya River Basins Water Quality Management Plans and Waste Load Allocation Studies . . . . .	.258
Red River Basin Water Quality Management Plan . . . . .	.259
Pearl River Basin, Terrebonne Basin and Mississippi River Basin above Old River Control Structure Water Quality Management Plans and Waste Load Allocation Studies . . . . .	.260
Stream Control Commission: Water Pollution Control Plan, Fiscal Year 1976 . . . . .	.261
Meeting June 30, 1975 . . . . .	.262
Wildlife and Fisheries Commission, Louisiana . . . . .	.262

Executive Orders

EXECUTIVE ORDER NO. 85

WHEREAS, the Governor's Clean-up and Beautification Project, initiated by Act 432 of the 1974 Legislature, has been organized and directed by the Governor's Council on Environmental Quality, and

WHEREAS, regional committees have been appointed and are functioning throughout the State, and

WHEREAS, the initial planning for the program has been completed and clean-up campaigns are in operation in some areas and are ready for state wide application in others, and

WHEREAS, the meetings, organizations and staff requirements for the success of the program are similar to the requirements of the Louisiana Trails Council operating under Executive Orders No. 68 and No. 84, and

WHEREAS, to avoid duplication and to enhance efficiency of the operations of these functions it is to the advantage of the State to combine these functions in one staff,

NOW, THEREFORE, in order to promote and assist both programs in a manner beneficial to the interests of the State,

I, EDWIN W. EDWARDS, by virtue of the authority vested in me as Governor of the State of Louisiana, pursuant to the Constitution and applicable statutes of the State of Louisiana, do order as follows:

1. The responsibilities and functions assigned to the Governor's Council on Environmental Quality by Act 432 of the 1974 Legislature and the responsibilities and functions assigned the Coordinator of the Louisiana Trails Advisory Council assigned by Executive Orders No. 68 and No. 84 are hereby combined under the direction of the Coordinator of the Louisiana Trails Advisory Council, who shall assume the title of Coordinator of the Governor's Clean-up and Beautification Project, in addition to other duties as Coordinator of the Louisiana Trails Advisory Council and other duties previously assigned.
2. The existing organization of citizens serving at the local level throughout the State shall con-

tinue to serve and to assist at the State level, there shall be an Advisory Committee consisting of the Commissioner of Administration, Charles E. Roemer; the Director of the State Highway Department, W. T. Taylor; the Superintendent of State Police, Colonel Donald Thibodeaux and the Director of the Louisiana Tourist Commission, Bob LeBlanc.

3. The Coordinator shall have the authority to accept and disburse funds from State, Federal, or private sources for the purposes of this order, and to enter into contracts, agreements, and other instruments, and to accept and disburse or utilize bequests of property or money in the name of the State for the purposes of this order.
4. All personnel, office equipment, supplies, ongoing contractual arrangements, and funds under the control of the Governor's Council on Environmental Quality assigned to the Governor's Clean-up and Beautification Project are hereby transferred to the Coordinator.
5. The budget request for fiscal year 1975-76 submitted by the Council for Environmental Quality for the purposes of Act 432 of 1974, shall be submitted to the Legislature as part of the Executive Budget and shall be assigned to the Coordinator for the purposes of this order.
6. The preparation of legislation to remedy the solid waste disposal problems shall continue to be undertaken by the staff of the Governor's Council on Environmental Quality.

IN WITNESS WHEREOF, I have hereunto 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, the 14th day of April, A.D. 1975.

EDWIN EDWARDS
Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

Louisiana Engineers Selection Board

Emergency Rule Effective June 9, 1975

The Louisiana Engineers Selection Board on May 12, 1975, exercised the emergency provision of the Administrative Procedures Act (R.S. 49:953B) to make effective on June 9, 1975, the following Rules of Selection Procedure.

Rules of Selection Procedure

Pursuant to the provisions of Executive Order No. 76, Edwin W. Edwards, Governor of Louisiana, the Louisiana Engineers Selection Board, hereinafter referred to as Board, has promulgated such rules and procedures as it deemed necessary to carry out the provisions of the said Executive Order. These rules were established by the Board, and are subject to change by said Board.

Article I

Information

Any person may obtain information concerning the Board, its rules, regulations and procedures from the Board's Executive Secretary at the offices of Facility Planning and Control Department, Office of the Governor, 5th Floor State Capitol Building, Post Office Box 44095, Baton Rouge, Louisiana 70804. Request for information shall be made in writing and there may be a nominal fee charged to defray printing cost of information furnished.

Article II

Public Notification

Section 1. Upon being advised by the Division of Administration, Facility Planning and Control, that an agency intends to contract for professional engineering services, the Board shall cause the official notification to be advertised, within five days of the date of the official notification, one time in:

- a. The Official State Journal
- b. The Daily Journal of Commerce
- c. A major newspaper within the multi-parish

planning region, in which the project is to be constructed, as follows:

1. Orleans region
2. Baton Rouge region
3. Houma region
4. Lafayette region
5. Lake Charles region
6. Alexandria region
7. Shreveport region
8. Monroe region

Section 2. The official notification specified above shall include the following information:

- a. The name, location and user agency for which the engineer is to be selected;
- b. Time and instructions for applicants to submit a request for selection consideration to the Board;
- c. General description of the project, and the availability of details upon request;
- d. Time frame in which the engineer must complete his work;
- e. The project budget;
- f. The fee, as determined by the Division of Administration, together with the contractual obligations as contained in the Capital Improvement Projects 1974 Procedure Manual for Planning, Design, Construction, or the latest published revision thereof.
- g. Any special criteria relative to the particular project as the Board may determine.

Article III

Scope of Work

The official notification shall contain a general description of the project. A more detailed scope of the work for the project shall be prepared by the Division of Administration, Facility Planning and Control, upon request of the Board, and shall be made available to interested firms upon request as provided in the official notification.

Article IV

Application for Consideration

Section 1. Any engineering firm (proprietorship, partnership, corporation or joint venture of any of these)

having an established office, licensed to practice in the State of Louisiana, and performing professional engineering services, may submit an application for selection consideration for a particular project upon which official notification has been published. The information submitted shall contain data concerning its experience, previous projects undertaken, present state projects now being performed, scope and amount of work on hand, and any other information that may be appropriate in being considered for selection.

Section 2. The Louisiana Engineers Selection Board hereby adopts the use of Federal Forms 254 and 255 as the format for submitting a firm's experience to the Board. In addition, any special information requested in the advertisement shall be submitted.

Section 3. All requests for selection consideration shall be filed with the Executive Secretary within 19 days of the date of the official notification. The Secretary shall time date when received, all requests for selection consideration. All applications are to be received by the Board at the Facility Planning and Control Department during the time prescribed in the advertisement. The burden for timely submittal lies solely with the applicant, and will in no way be affected by non-delivery of the application by the US Postal Service or other common carrier.

Section 4. The submission of a request for selection consideration by a firm on a particular project as advertised, shall be considered by the Board to mean:

- a. That the firm has made itself fully aware of the scope of work of the project.
- b. That the firm can perform the work within the time frame stated.
- c. That the firm concurs that the project budget is reasonable based on available information.
- d. That the fee stated is equitable.
- e. That the engineering contract shall contain a prohibition against contingent fees.
- f. That the firm is familiar with the terms and conditions set forth in the Capitol Improvement Projects 1974 Procedure Manual for Planning, Design, Construction, or the latest published revision thereof, and will comply therewith.

Should a firm determine that any of the above items are incomplete, inadequate, or insufficient, the firm is invited to submit a letter stating in detail the firm's

findings, and the Board will consider this information in the selection process. The Board reserves the right to reject all requests for selection consideration and to readvertise any official notification.

Article V

Preliminary Selection

A special meeting of the Board shall be called within 14 days after the deadline for submitting the requests for selection consideration. At this meeting, a review of the experience records of all applicants shall be made, and a "short list" determined.

Article VI

Final Selection

Section 1. After the determination of the "short list", the Board shall make its final selection. The Board reserves the right to require interviews, or additional information, when it deems necessary.

Section 2. Upon the final selection of the firm, the Chairman shall notify the Division of Administration, Facility Planning and Control, said notification to be within 60 days from the date of the official notification.

Article VII

Severability

If any provision or item of these rules or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of these which can be given effect without the invalid provisions, items, or applications, and to this end the provisions of these rules are hereby declared severable.

George Gele
Executive Secretary

Rules

RULES

Louisiana Dairy Stabilization Board

Distribution Stabilization Plan No. 1

I. Distribution Marketing Areas

One distribution marketing area is hereby established which shall include all of the State of Louisiana.

II. Pricing Formulas

(Editor's Note: Pricing formulas will be adopted at a later date.)

III. Volume Discounts

A. Fluid Milk Products

1. The volume discounts herein established shall remain in effect until April 1, 1976, unless sooner modified, amended or repealed by the Board.

2. Licensed processors and licensed distributors are authorized to give discounts to licensed non-processing retailers in accordance with the Volume Discount Eligibility Certificate for Fluid Milk Products issued to each eligible non-processing retailer by the Board.

Volume Discount Eligibility Certificates for Fluid Milk Products shall be issued annually, shall become effective on the first day of April, and shall not be effective beyond the last day of March of the following year. Non-processing retailers who desire to receive such volume discounts from suppliers shall file an application for a Volume Discount Eligibility Certificate for Fluid Milk Products on an application form to be supplied by the Board. Such applicants shall supply the Board with the information requested by the Board on such application forms including specifically the total value of purchases of fluid milk products by the applicant from each supplier during the months of August, September, and October of the year preceding the year during which the certificate becomes effective.

The application submitted by a non-processing retailer for the volume discount year during which such retailer commences business shall include the total value

of purchases of fluid milk products from each supplier during any calendar month of that volume discount year selected by the non-processing retailer. The calendar month selected by such non-processing retailer shall be the base period for the volume discount year during which such non-processing retailer commences business and, if the non-processing retailer commences business subsequent to the first day of August of that volume discount year, the calendar month selected shall also be the base period for the succeeding volume discount year. However, the Volume Discount Eligibility Certificate issued by the Board for the volume discount year during which such non-processing retailer commences business shall list the effective date of such certificate as the first day of the calendar month selected by such non-processing retailer; provided, that if the calendar month selected by such non-processing retailer is the calendar month that immediately follows the month during which such non-processing retailer commences business, and if the non-processing retailer commenced business subsequent to the first day of the month, the effective date of such certificate shall be the date on which business was commenced.

No discounts may be given on sales to non-processing retailers which take place prior to the effective date shown on the non-processing retailer's Volume Discount Eligibility Certificate for Fluid Milk Products. The effective date to be shown on such certificates shall be (a) the first day of the volume discount year (except as set forth in the preceding paragraph) or (b) any date authorized by the Board's Dairy Stabilization Plan No. 1.

In the event of a change of ownership in the retail establishment to which any such certificate is issued, the said certificate shall be automatically suspended until such time as the Director, in response to an application from the new owner, authorizes the transfer of the certificate from the previous owner to the new owner.

The Board shall issue a Volume Discount Eligibility Certificate for Fluid Milk Products to each non-processing retailer whose purchases of fluid milk products from all suppliers fall into one of the categories set forth hereinafter. Such certificates shall authorize the non-processing retailer to receive and processors and distributors to give volume discounts at not more than the following rate:

Average Monthly Purchases of Fluid Milk Products from All Suppliers

<u>During the Base Period</u>	<u>Discount Rate</u>
\$1,000.00 to \$1,500.00	3%
\$1,500.01 to \$2,500.00	4%
\$2,500.01 to \$3,500.00	5%
\$3,500.01 to \$4,500.00	6%
\$4,500.01 and over	7%

Volume Discount Eligibility Certificates for Fluid Milk Products shall remain in effect throughout the volume discount year for which issued regardless of changes in volume purchased.

The term "volume discount year" is hereby defined to be that period of twelve months commencing on the first day of April and ending on the last day of March in the year which immediately follows.

B. Frozen Desserts

1. The volume discounts herein established shall remain in effect until April 1, 1976, unless sooner modified, amended or repealed by the Board.

2. Licensed processors and licensed distributors are authorized to give discounts on frozen desserts to non-processing retailers in accordance with the Volume Discount Eligibility Certificate for Frozen Desserts issued to each eligible non-processing retailer by the Dairy Stabilization Board.

Non-processing retailers who desire to receive such discounts from suppliers shall file an application for a Volume Discount Eligibility Certificate for Frozen Desserts on an application form to be supplied by the Board. Each such applicant shall supply the Board with the information requested by the Board on such application forms including specifically the total value of purchases of frozen desserts by the applicant from each supplier during the twelve-month period which ends on the 30th day of September which immediately precedes the calendar year during which the Volume Discount Eligibility Certificate for Frozen Desserts is in effect.

Any applicant who commences business less than fifteen months prior to the beginning of the calendar year for which such certificate is sought shall supply the Board with information showing the total purchases of frozen desserts by such applicant from each supplier during the twelve calendar months commencing with the first day of the first full month during which such applicant is in business. This twelve-month base period shall be the base period for such applicant for both the calendar year during which such applicant commences business and for the following calendar year.

In the event of a change of ownership in the retail establishment to which any such certificate is issued, the said certificate shall be automatically suspended until such time as the Director, in response to an application from the new owner, authorizes the transfer of the certificate from the previous owner to the new owner.

The Board shall issue a Volume Discount Eligibility Certificate for Frozen Desserts to each non-processing retailer whose purchases of frozen desserts from all suppliers fall into one of the categories set forth below. Such certificate shall authorize the non-processing retailer to receive and processors and distributors to give volume discounts at not more than the rate shown below:

<u>Annual Purchases of Frozen Desserts from all Suppliers During Base Period</u>	<u>Discount Rate</u>
\$ 4,000.00—\$ 6,000.00	3%
6,000.01— 8,000.00	4%
8,000.01— 11,000.00	5%
11,000.01— 15,000.00	6%
15,000.01 and over	7%

Volume Discount Eligibility Certificates for Frozen Desserts will remain in effect throughout the calendar year for which issued regardless of changes in volume purchased.

IV. Sales to Institutions

A. General

1. In order to insure that institutions are adequately supplied with dairy products at all times each supplier shall set aside an adequate supply of one-half pints of homogenized milk and an adequate supply of all other dairy products in order to satisfy the needs of institutions.

B. Prices

1. Sales of dairy products to institutions shall be made at the following prices:
 - (a) Homogenized milk, one-half pints, paper or glass: wholesale price less ten percent.
 - (b) All other dairy products: wholesale price less five percent.
2. Each annual or other term contract covering sales of dairy products to an institution shall contain a clause declaring that:

"Prices at which dairy products will be sold under this contract are subject to being

adjusted during the existence of the contract in order to enable the supplier to comply at all times with the prices established by the Louisiana Dairy Stabilization Board.”

C. Schools

1. No wholesale price established by a distribution stabilization plan shall apply to the purchase of dairy products by any parish or city school board or to the purchase of such products by any school board or other governing authority of any elementary or secondary school of this State.

V. Licensing, Assessments and Records

A. Licenses

(1) Issuance

- (a) Each application for license must be on a form approved by the Board.
- (b) Before applying for a license from the Board, each applicant shall obtain the necessary permit(s) from the Louisiana State Board of Health.
- (c) A new license is required whenever there is a change of ownership, a change of location, or a change in the name or trade name of the licensee.
- (d) When issued, each license shall continue to be effective without renewal until suspended or revoked or until the licensee discontinues operating the business for which the license was obtained.
- (e) Whenever the Director has reason to believe that an applicant for a license is ineligible for that license because of non-compliance with the Act, the regulations, or the Distribution Stabilization Plan, or for any other reason, the Director shall mail to such applicant a notice of the time, date and place of a hearing at which the Board will consider evidence presented by the Board staff and by or on behalf of the applicant relative to the eligibility of the applicant for the license sought. All such hearings shall be conducted in accordance with the provisions of General Regulations and the Administrative Procedures Act.

(2) Suspension or Revocation

The license of any licensee who fails to comply with the provisions of the Act, the regulations or any Distribution Stabilization Plan issued by the Board may be suspended or revoked.

B. Obligations of Licensees

(1) Delinquent Accounts

Each processor and each distributor shall report to the Board on or before the 25th of each month, the names and addresses of all non-processing retailers who, on the 20th day of that month were delinquent in the payment of their accounts to such processor or distributor.

Each processor shall report to the Board on or before the 25th day of each month, the names and addresses of all distributors who, on the 20th day of that month were delinquent in the payment of their accounts to such processor.

An account is delinquent on the date specified by the seller, but the date specified by the seller may not be later than the 15th day of the month following the close of the month during which delivery of the fluid milk products or the frozen desserts takes place. In the event the seller fails to specify the due date, the account shall be due on the 15th day of the month following the close of the month during which delivery of the fluid milk products or the frozen desserts takes place. An account will not be considered delinquent if the purchaser is billed once each week and if payment is received by the seller within 30 days of the last day of the week for which the statement was rendered.

(2) Assessments

Each processor shall pay his assessment when due under the Act. Processors who are delinquent in the payment of their assessment shall add to the amount due a sum equal to one percent of the amount due for each day of delinquency. In computing the amount of the assessment, frozen desserts shall be converted to milk equivalent as follows: total milk solids non-fat times 5.79 plus total pounds of fat times 12.5. In the case of dairy products

processed by one processor and transferred to a second processor for resale, the assessment due in connection with Class II items is to be paid by the transferor and the assessment due in connection with Class I items is to be paid by the transferee. No processor shall be required to pay assessments on products processed in the State of Louisiana and sold outside of this State. Processors whose total annual assessments amount to less than \$25.00 shall be permitted to pay their assessments annually.

(3) Purchasing of Stock

Processors and distributors shall notify the Board 30 days prior to any purchases of stock in a corporation which holds one or more non-processing retailer licenses or which has announced it will engage in the sale of fluid milk products or frozen desserts.

(4) Disposal of Equipment

Each processor and each distributor shall notify the Director of the processor's or distributor's intention to discard or junk any item of equipment normally used by non-processing retailers, such as frozen food cabinets, milk dispensers, milk display cases, and motor vehicles. Such notification shall be given at least 72 hours prior to the intended action.

(5) Books and Records

(a) Each licensee shall maintain such books and records as are customary in the industry and as are necessary for a determination by the Board or its staff as to whether the licensee has complied with the Act, the Distribution Stabilization Plan and regulations.

(b) All records required by these regulations to be kept by licensees shall be kept on file by the licensees for at least 24 months. All such records shall be so organized and located as to facilitate examination by representatives of the Board.

(c) Records to be maintained by processors and distributors are as follows:

(i) Route loadout and settlement records including:

Route number (or name of route-man) and date.

Beginning inventory of saleable units of dairy products.

Number of units of dairy products loaded on truck.

Number of saleable units of dairy products returned to cooler or remaining in truck inventory as of date on which truck inventory is taken; provided that at least one such truck inventory must be taken in each 60 day period.

Number of spoiled units of dairy products returned to loading dock.

Number of units of dairy products sold.

Value of dairy products totaled.

Amounts of cash and charge sales stated separately.

Route collections on charge accounts listed, showing customer's name and amounts.

Amounts of route money short or over.

(ii) Accounts receivable records including:

Retail home delivery records to show customer's name, address, date of delivery, number of units delivered and value extended for each delivery period with grand total shown with any applicable taxes.

Retail home delivery collections posted to customer's account showing dates each such collection is received.

Wholesale or retail charge sales records showing identifiable charges and credits. Charge sales must be identifiable by sales invoices; credits must be identifiable by cash receipts or other records. Each

processor or distributor shall maintain ledger accounts for each non-processing retailer who purchases dairy products on credit unless such non-processing retailer regularly pays for dairy products within 20 days of delivery.

- (iii) Cash receipts and disbursements records including:

Cash receipts records showing cash received identifiable by route settlement sheets, collection on accounts, and other miscellaneous cash sales or income.

Disbursement records showing all monies expended. These disbursement records should include supporting documents such as cancelled checks and paid invoices. Petty cash expenditures should be itemized and properly supported. Disbursements made in connection with reimbursement of employee expenses should be supported by detailed statements relating fully the circumstances under which each such employee expense item was incurred.

- (iv) Cash and charge sales invoice records including:

Invoices must show business name of non-processing retailer, address (or store number), and date of sale, number of units of dairy products sold or delivered to non-processing retailer with value of such products extended and totaled. In lieu of showing addresses on sales invoices to non-processing retailers, the processor or distributor may maintain on file in his office a list of all non-processing retailer customers showing the names and addresses of such customers by routes. However, if the processor or distributor elects to follow this latter procedure, the processor or distributor must maintain sales invoices by routes.

All invoices should show units of

dairy products exchanged or returned.

- (v) Demonstration records showing:

Date of demonstration.

Type of dairy products used.

The names and addresses of non-processing retailer licensees where demonstrations were held.

Name of person conducting in-store demonstration.

Quantity of product used.

Whether the samples were taken from the non-processing retailer's stock or supplied directly by processor or distributor.

- (d) Each processor and each distributor shall keep detailed equipment records showing brand or make, size, type, serial number, date acquired, name and address of person from whom acquired, and the location of the equipment. Such records shall also show the date on which the item of equipment was sold, exchanged, or junked, together with the name and address of the person to whom the item of equipment was transferred, the price (if sold), and a full description of any merchandise or equipment received in exchange. In the event the sale of the equipment was a credit transaction, the records should show the amount of the down payment and the schedule of payments. Such records relating to equipment shall include leased as well as owned equipment.
- (e) Each processor of frozen desserts shall keep all recording thermometer records relating to mix pasteurization.
- (f) Jug deposits and refunds shall be shown on each invoice from a processor or distributor to a non-processing retailer even in instances where the number of jugs received from the non-processing retailer equals the number of jugs delivered.

- (g) Any credit on an invoice must be fully explained on the face of the invoice.
- (h) Processors and distributors shall keep on file either in their offices or in the office of an advertising agency copies of any advertisements appearing in publications, television advertising copy and radio advertising copy.
- (i) Each processor and each distributor shall maintain detailed records relating to work performed by refrigeration mechanics. Such records shall show the name and address of each non-processing retailer in whose establishment work is performed by such mechanic, the nature of the work performed, the parts used, the time required to perform the work, and the charge made, if any.
- (j) All records of transactions relating to dairy products sold to licensed non-processing retailers or to residents of the State of Louisiana shall be maintained in an office located within the State of Louisiana; provided, that the Director may authorize a licensee to keep such records in an office located outside the State of Louisiana if such licensee demonstrates that the keeping of such records inside the State of Louisiana would cause an unnecessary hardship on such licensee and that the auditing activities of the Board staff would not be made substantially more difficult or expensive as a result of the arrangement proposed.

VI. Sales of Dairy Products

- A. Except as provided for volume or other authorized discounts, no processor or distributor shall sell and no retailer shall purchase any dairy product at a wholesale price which is less than the wholesale price established by a Distribution Stabilization Plan for such product.
- B. Except as provided herein, no processor or distributor shall sell and no retailer shall purchase any dairy product at a wholesale price which exceeds the wholesale price established by a Distribution Stabilization Plan for such product.
- C. Trademarked breed dairy products and other premium dairy products exceeding minimum stan-

dards shall be exempt from the maximum price requirements of this Distribution Stabilization Plan when approval is obtained therefore. An applicant for such exemption shall make application on a form provided by the Board which shall describe the product, shall contain an explanation for the claim that the product exceeds minimum standards, shall include a proposed wholesale price for the product and shall contain supporting costs and justification data. After investigation, the Director may approve such application if he finds that the product exceeds minimum standards and that the proposed wholesale price is reasonable. If the Director finds that such product does not exceed minimum standards or that the proposed wholesale price is not reasonable then he shall disapprove the application. Any person aggrieved by the decision of the Director may, within ten days after notification of such decision, appeal in writing to the Board for review of the Director's decision.

VII. Sales Practices

A. General

1. No processor or distributor shall give or offer to give and no retailer shall receive or offer to receive any discount or rebate in connection with the sale of any dairy product, unless such discount is in accordance with the provisions of a Distribution Stabilization Plan.
2. No processor or distributor shall furnish, give, lend, sell or rent and no retailer shall accept, receive, buy or rent any signs and display materials except those advertising only the supplier's own products. Such signs and display materials shall not contain the name or products of any retailer.
3. No processor or distributor shall make any payment of money, credit, gifts or loans to retailers or their employees and no retailer or his employee shall receive such for rental for the storage or display of any fluid milk product.
4. No processor or distributor shall sell to any retailer and no retailer shall purchase from any supplier any new fixture or equipment for less than a mark-up to cover the supplier's cost of doing business which shall be deemed, in the absence of specific proof, to be ten percent. Any used equipment sold to a retailer by a processor or distributor shall be sold on the basis of the manufacturer's cost,

less depreciation, plus a mark-up to cover the supplier's cost of doing business which shall be deemed, in the absence of specific proof, to be ten percent of the depreciated book value, provided that in no case shall equipment be transferred to a retailer at less than a reasonable value of the equipment at the time of sale and in no case shall such transfer be less than 25 percent of the original purchase price of such equipment. No sales of new or used equipment shall be consummated with the effect or intent of obtaining an exclusive account.

5. No processor or distributor shall make any loan, guarantee or procure another to guarantee or to underwrite any financial obligation of a retailer and no retailer shall accept or receive any such loan guarantee or underwriting from a supplier.
6. No processor or distributor shall maintain or make repairs of any equipment owned by a retailer at less than charges comparable to competitive commercial fees, including service and parts and no retailer shall accept or receive any such repairs.
7. No processor or distributor shall make any gift of money, merchandise, services or materials of any value to any retailer to assist him in the conduct of his business and no retailer shall receive any such, except authorized discounts as provided in a Distribution Stabilization Plan.
8. No person who is licensed by the Board shall, with the intent or with the effect of unfairly diverting trade from a competitor, or of otherwise injuring a competitor or of destroying competition, or of creating a monopoly, advertise, give, offer to sell or sell any dairy product with any other commodity or service at a combined price which is less than the aggregate of the prices from which such product and other commodity or services are offered for sale. Proof of the advertising, giving, offering to sell or sale of such product with any other commodity or service at a combined price which is less than the aggregate of the price for which such product and the other commodity or service are offered for sale shall be prima facie evidence of a violation of this regulation.
9. No processor or distributor shall, with the

intent or with the effect of unfairly diverting trade from a competitor or of otherwise injuring a competitor, or destroying competition, or of creating a monopoly, give or offer to give any purchaser of any dairy product any rebate, discount (unless authorized by a Distribution Stabilization Plan), free service or services, equipment for rent, any advertising allowances, pay for advertising space, donation, rent on space used by any retailer for storing or displaying the supplier's merchandise, financial aid, free equipment (except as otherwise authorized by a Distribution Stabilization Plan), or any other thing of value.

Proof of the giving or the offering to give of any such thing by a processor or distributor shall be prima facie evidence of a violation of this regulation.

10. No retailer shall accept from any supplier any rebate, discount (unless authorized by the provisions of a Distribution Stabilization Plan), free service or services, equipment for rent, any advertising allowance, pay for advertising space, donation, rent on space used by such retailer for storing or displaying the supplier's merchandise, financial aid, free equipment, or any other thing of value. Proof of the acceptance of such thing by the retailer shall be prima facie evidence of a violation of this regulation.
11. In the case of frozen desserts nothing contained in this section shall prevent a processor or distributor from providing to a retailer storage cabinets and display cabinets with restriction for the storage and display of only such processor's or distributor's products, and nothing herein shall be construed to prohibit the operation of a retail outlet by a processor, or to prohibit the use by such processor, in such retail outlet of any equipment or advertising or miscellaneous property owned by such processor when such retail outlet is under the direct ownership, control and management of such processor.
12. No equipment furnished to a retailer by a frozen dessert processor or distributor shall be used for the storage or display of frozen desserts other than those sold to such retailer by such frozen desserts processor or distributor. The storage or display of products other than frozen desserts received from such pro-

cessor or distributor, in such storage or display cabinet by a non-processing retailer shall constitute prima facie evidence of the violation of this regulation.

13. No person shall be deemed to be in violation of these regulations when:

- (1) Fluid milk products are sold upon final liquidation of any business.
- (2) Such items are sold by an officer acting under the direction of any court; or
- (3) In the case of a processor or distributor who sells or disposes of frozen desserts to a retailer who owns and provides his own refrigerated equipment for the display or storage of the products of such processor, or distributor, a differential from the list prices of such frozen desserts to such retailer is allowed, provided that in no case shall such differential exceed five percent of the applicable list price for such frozen desserts.
- (4) The price(s) of similar or comparable products are made in good faith to meet legal competition.

14. No person licensed by the Board shall sell, offer to sell or advertise any product or service at a price which is available only to purchasers of a dairy product.

B. Disruptive Trade Practices

The following trade practices are hereby declared to be disruptive trade practices:

1. Pricing of Dairy Products

- (a) The selling or offering to sell by a retailer of any dairy product at a price which is different from the price charged by such retailer for other dairy products of the same type, quality, or grade, unless such price differential is equal to the difference in the prices paid by the retailer for the products in question. In short, retailers shall not discriminate as to price between dairy products solely because of the difference in brand names.
- (b) The purchasing of dairy products at less than wholesale prices established by the board where such purchases are made by

a processor or a distributor for resale through a retail outlet which is owned by such processor or distributor, or in which such processor or distributor has an interest.

2. Sales of Dairy Products on Which Minimum Prices Have Not Been Established:

- (a) The selling of a new dairy product or the selling of any dairy product in a container of a size or type not specifically included in a Distribution Stabilization Plan issued by the Board until 30 days have elapsed from the date on which written notice of intention to sell a new dairy product or a dairy product in a container of such size or type is mailed to the Board by the processor; provided, that the Director is authorized to permit such sales before the expiration of the 30 day period if the person desiring to make such sales submits to the Director in writing sufficient information (including the price to be charged) to demonstrate that the price specified by the applicant is reasonable when compared with prices already established by the Board. The 30 day period may be extended in a particular case if the Board finds that good cause exists for doing so.

3. Discounts, Gifts, Loans, Etc.

- (a) The giving of anything of value to the purchaser of any dairy product when such item is not also available free of charge to non-purchasers of such dairy product.
- (b) The requiring by a retailer or any employee of the giving of anything of value by a distributor or processor in order for such distributor or processor to obtain or keep display space or in order for such distributor or processor to be accorded courtesies normally extended to dairy product suppliers by the retailer or his employees.
- (c) Giving or offering to give a discount unless such discount is authorized by the Act, the regulations or a Distribution Stabilization Plan.

- (d) The giving by a processor or distributor to a retailer of an electric clock, stool covers, menus, menu covers, or other advertising devices having intrinsic value.
- (e) The giving or lending of insulated boxes (doorstep boxes) by processors or distributors to home delivery customers.
- (f) The guaranteeing by a processor or a distributor of the payment of any obligation of any customer, or the acting by a processor or distributor as a co-signer on a promissory note or other obligation of such customer, or the depositing by a processor or distributor of money or collateral with persons or organizations in order that such persons or organizations will lend money or extend credit to any customer; the acquisition by a processor or distributor of any promissory note, bond, debenture, mortgage, deed of trust, or any indebtedness of any non-processing retailer where such acquisition constitutes the making of a loan to a customer; and the purchasing of stock by a processor or distributor in a corporation which holds one or more "non-processing retailer" licenses if the intent or effect of such purchase is to supply additional funds to such corporation for use in its business.
- (g) The allowing of a price differential on frozen desserts sold to a retailer on account of his ownership of refrigeration equipment unless such retailer owns all of the refrigeration equipment used for the storage and display of frozen desserts. However, if a processor or distributor furnishes a cabinet to a retailer to be used exclusively for the storage and display of novelties, the retailer may still receive the five percent refrigeration discount on all frozen desserts other than novelties purchased from such supplier, if the following procedure is observed:

Where such a cabinet is furnished to a retailer by a supplier, such supplier must make a separate invoice (sales ticket) for all novelties sold to such retailer and no refrigeration discount may be given in

connection with the sale of such novelties.

- (h) The offering by a processor or distributor of a refund or rebate to any purchaser of a dairy product, regardless of whether the offer is conditional or unconditional, and, if conditional, regardless of how conditioned, unless the refund or rebate is authorized by the Board in accordance with La. R.S. 40:930 et seq.

4. Equipment

- (a) The computation of depreciation on frozen desserts cabinets on a basis of less than eight years for cabinets containing 13.3 cubic feet or more of storage space and of less than five years for cabinets containing less than 13.3 cubic feet of storage space.
- (b) The supplying by a processor or a distributor to a retailer of a frozen desserts cabinet(s) whose cost is more than 1½ times as great as the sales of frozen desserts made by such processor or distributor to such retailer during the one year period which immediately follows the date on which such cabinet(s) is installed.

5. Employment Practices

- (a) The employment by a processor or distributor of a retailer or any employee or representative of a retailer to sell, advertise or demonstrate any of a processor's or distributor's fluid milk products or frozen desserts, regardless of the location at which such work is performed.
- (b) The employment by a processor or a distributor of retailers, their employees, their agents, their representatives, or persons closely connected with such retailers, where such person is employed for the purpose of soliciting customers for such processor or distributor.

6. Signs

- (a) The attaching by any person of a sign or

other advertising device to a sign erected by or caused to be erected by a processor or distributor on or near the premises of any retailer.

- (b) The making of repairs by a processor or distributor to a sign which would have been illegal if erected on the day preceding such repairs.

7. Miscellaneous

- (a) The execution of any contract or agreement, whether verbal or written, wherein a processor or distributor agrees to sell to a retailer or a group of retailers fluid milk products or frozen desserts, some of which are to be delivered to points outside the State of Louisiana, and some of which are to be delivered to points within the State of Louisiana.

- (b) The selling of any fluid milk product or frozen dessert by a processor or distributor to any person who purchases for the purpose of resale and who is unlicensed or whose license has been suspended or revoked by the Board.

- (c) The advertising by a processor or a distributor in a publication owned or published by one or more retailers or published exclusively for one or more retailers.

- (d) The selling of anything of value (other than fluid milk products, frozen desserts, and equipment) by a processor or distributor to a customer at a price less than its fair market value.

- (e) The offering by a processor or a distributor of prizes or awards as a part of an undertaking commonly known as a "sweepstakes" or in connection with any contest; or the offering by a processor, distributor or retailer to sell anything of value under circumstances where the offer is limited to persons purchasing one or more fluid milk products or frozen desserts.

- (f) Furnishing personnel in connection with new store openings; provided, that nothing contained in these regulations shall prohibit a processor or a distributor

from providing to a retailer the in-store service in connection with dairy products that are normal and customary in the Louisiana dairy industry, provided further, that nothing contained in these regulations shall prohibit a processor or a distributor from furnishing one person to a retailer in connection with such store opening for not more than three consecutive eight hour working days even though the services provided by such person are in connection with commodities other than those sold by such processor or distributor. Any processor or distributor furnishing such assistance to such a retailer in accordance with the preceding sentence shall file a report with the Board within ten days after the termination of such services. This report shall be submitted on a form provided by the Board and shall provide the Board with at least the following information:

- (i) The name of the person furnished.
- (ii) The name and address of the retailer to whom such person was furnished.
- (iii) The dates on which such person performed services for such retailer.

- (g) Submitting false information to the Board.

- (h) Submitting to an institution a bid that includes both dairy products and items other than dairy products.

- (i) The employment of a distributor by a retailer or the establishment of any other relationship or arrangement between a retailer and a distributor which results in the payment by the retailer of a price which is less than the applicable wholesale price established by the Board or which operates to nullify the wholesale pricing provisions of any Distribution Stabilization Plan.

- (j) The packaging of minimum grade ice milk or minimum grade mellorine in a half gallon round container.

- (k) The stationing of any persons by a processor or a distributor on the pre-

mises of a retailer for the purpose of encouraging customers of the said retailer to purchase dairy products processed or distributed by such processor or distributor.

- (l) Extending further credit to a retailer who is more than 30 days delinquent in the payment of his account.
- (m) The purchasing by processors of containers for private label dairy products from the retailer for whom such products are to be packaged without prior approval by the Board.

C. Permissible Practices

1. No person shall be deemed to be in violation of the Act or of these regulations on account of giving to any other person advertising novelties unless the nature and value of the advertising novelty is such as to justify the belief that the giver intended to use such gift to induce a non-processing retailer to divert business from a competitor to the giver.
2. Nothing contained in either the Act or these regulations is to be interpreted as prohibiting the normal social activities of any person or the entertainment by any processor or distributor (or any processor's or distributor's officers and employees) of any customer unless the expenditure involved in such entertainment is excessive or unreasonable.
3. Processors and distributors may make gifts of cash or equipment to hospitals, schools, and charitable institutions if, prior to the making of such gift, the donor makes written application to the Board for permission to make such a gift and obtains the written approval of the Board. A gift of cash to an institution in the amount of \$10 or less may be made once in each calendar year without the necessity for compliance with this section.
4. Processors and distributors may give samples of dairy products to consumers if the following requirements are observed:

- (a) In the case of fluid milk products, the quantity must be limited to three fluid ounces.
- (b) In the case of frozen desserts, the quantity must be limited to one fluid ounce.
- (c) The retailer on whose premises such sampling activity takes place must have been in operation at that location for at least 60 days prior to the date on which such activity takes place.
- (d) Prior to engaging in sampling activities on the premises of a retailer, the processor or distributor shall notify the Board of the planned sampling activity. If such notification is by mail, it shall be given at least ten days prior to the date of the planned sampling activity; and if such notification is by telephone, it shall be given at least three days prior to such activity.
- (e) Notwithstanding the above provisions, processors may give homogenized milk, low fat milk, skim milk or chocolate milk in half-pint containers or a frozen dessert sample weighing no more than three fluid ounces to persons participating in plant tours, if such products are consumed on the premises where given.
- (f) The giving of such samples by a processor or distributor shall not extend over a period of more than two consecutive days for each retailer and shall not occur more frequently than once per calendar quarter; provided that the giving of such samples during the month of December shall not be considered in determining whether there has been compliance with the provisions of this sub-section limiting frequency of demonstrations to one per calendar quarter.

5. A processor or a distributor may furnish a milk dispenser to a retailer provided the following requirements are observed:

- (a) The processor or distributor must have been engaged in selling dispenser milk to the retailer for at least 60 days prior to the date on which the dispenser is furnished;
- (b) The period during which the dispenser is furnished must not exceed 30 days;
- (c) The processor or distributor must report to the Board within ten days after the date on which the dispenser is furnished to the retailer the make and serial number of the dispenser, the name and address of the retailer and the date on which the dispenser was installed.

D. Investigative Hearings

- 1. Investigative hearings may be held upon the call of the Board. Such hearings may be held in any part of the State.
- 2. Investigative hearings shall be for the purpose of investigating conditions of the dairy industry and compliance by the industry with the Act, distribution stabilization plans and regulations, including monopoly practices, disruptive trade practices, price wars and unfair methods of competition.
- 3. Investigative hearings may be conducted jointly with other interested public agencies.
- 4. The Board may, in its discretion, issue a report upon the conclusion of any such investigative hearing.
- 5. As a result of such investigations, the Board may initiate adjudicatory proceedings against licensees, may refer matters to other public agencies and may take any other appropriate action.
- 6. The Chairman, the Vice-Chairman, a member designated by the Chairman, or a hearing officer designated by the Board, who need not be a member of the Board, shall preside at investigative hearings. All witnesses shall be sworn or shall make affirmation.

- 7. Investigative hearings conducted by the Board shall be open to the public.
- 8. If the Board determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, it shall:
 - (1) Afford such person, upon request, an opportunity to appear as a witness;
 - (2) Receive and dispose of requests from such persons to subpoena additional witnesses; and
 - (3) Afford such person, or his attorney, upon request the opportunity to examine or cross-examine witnesses.
- 9. Witnesses at investigative hearings may be accompanied by their own counsel.
- 10. A copy of this regulation shall be made available to any witness and a copy shall be delivered at the time of making service, to each person upon whom a subpoena is served; in addition thereto each person upon whom a subpoena is served shall be informed in writing that the Board suggests that he consult his attorney, and that his attorney should attend the hearing to advise him.
- 11. It shall not be necessary to publish any advance notice of any investigative hearing and it shall be necessary that subpoenas disclose the general nature of the investigation.
- 12. The Board is the sole judge of the pertinency of testimony and evidence adduced at such hearings.
- 13. At all investigative hearings the testimony shall be recorded stenographically or otherwise. Upon payment of the costs thereof, and when authorized by the Board, a witness may obtain a transcript copy of his testimony given at a public session.
- 14. The attorney for the Board and that of any public agency which may be participating in the investigation shall have the right to be present at all hearings and shall have the right to examine or cross-examine any witness.

15. The Chairman, the Vice Chairman and the Director are each authorized to sign and issue subpoenas with the approval of the Board requiring attendance and giving of testimony by witnesses and the production of books, papers and other documentary evidence. A subpoena may be served by any person authorized by law to serve civil process or by any agent of the Board, and the return made in writing by any such person shall be accepted as proof of service.

VII. Board Action on Contracts and Transactions

A. Approval of Contracts

1. Processors and distributors are prohibited from entering into contracts with wholesale grocers relating to centralized billing, guaranteeing payment of accounts, advertising, and other services to be performed by the wholesale grocery for the processor or distributor unless the the processor or distributor has made written application to the Board for approval of such contract and has obtained the written approval of the Board.
2. Upon receipt of an application for approval of such a contract, the Board may hold a hearing for the purpose of receiving evidence concerning the purpose and effect of the proposed contract. The Board shall approve the proposed contract if it finds that the contract does not violate the Act or any regulation.

B. Transactions Not Subject to Regulation

1. Any retailer who seeks a determination that some or all of his purchases of dairy products are not subject to the wholesale prices prescribed by a distribution stabilization plan shall file a written petition with the Board setting forth all of the pertinent facts and praying for appropriate relief.
2. Upon receipt of such a petition, the Board shall schedule a hearing upon such petition. The hearing shall commence no later than 15 days after the date on which the petition is received by the Board. The Board may serve interrogatories upon the petitioner and the answer to such interrogatories must be mailed to the Director within seven days after the date on which such interrogatories were

mailed by the Board. Within 15 days after date on which the hearing ends, the Board shall make a ruling upon the prayer of the petition.

3. A request for extension of time within which to answer interrogatories shall automatically be approved by the Chairman who shall then reschedule the hearing to commence no later than ten days after receipt of the answers to the interrogatories.

By order of the Board,
Jesse H. Cutrer, Jr.,
Director

RULES

Louisiana Engineers Selection Board

(Editor's Note: The following rules were adopted by the Louisiana Engineers Selection Board, on May 12, 1975, to be effective June 9, 1975.)

Rules of Organization

**Article I
Name**

The name of this Board is the "Louisiana Engineers Selection Board", hereinafter referred to as "Board", and its domicile shall be in Baton Rouge, Louisiana.

**Article II
Authority**

The Louisiana Engineers Selection Board shall be organized in accordance with the provisions of Executive Order No. 76 of Edwin Edwards, Governor of Louisiana, under date of November 15, 1974.

**Article III
Objective**

The objective of this Board is to provide a system for the nonpolitical selection of professional services rendered by the professional engineering firms licensed to practice in the State of Louisiana that is impartial, equitable and in the best public interest of the citizens and taxpayers of Louisiana.

Article IV Members

Section 1. The Board shall be composed of five (5) members, appointed and serving terms in accordance with the provisions of the authority stated in Article II.

Section 2. Any member desiring to resign from the Board shall submit his resignation in writing to the Governor of Louisiana, with a copy addressed to the Chairman of the Board. The effective date of resignation shall be the date of receipt by the Governor's Office.

Section 3. The appointment to fulfill the vacancy, due to resignation or death, or just cause, shall be made in the same manner as the original appointment.

Article V Officers

Section 1. The officers of this Board shall be a Chairman and a Vice Chairman. These officers shall perform the duties prescribed in the "Authority" and by these rules.

Section 2. Nomination and election of the Chairman and the Vice Chairman shall be made at a meeting held on the second Monday in January and July of each year.

Section 3. The Chairman and the Vice Chairman shall be elected to serve for a period of six (6) months or until their successors are elected and their terms of office shall begin at the close of the meeting at which they are elected.

Section 4. No member shall hold more than one office at a time. A member may serve consecutive terms.

Section 5. The duties of the several officers shall be as follows:

Chairman: The Chairman shall:

- a. Be the presiding officer at meetings of the Board.
- b. Have the authority to order a special meeting of the Board.
- c. Be responsible for coordinating the activities of the Board.
- d. Appoint all committees and serve as an ex-officio member thereof (except the nominating committee).
- e. Authenticate by his signature, when necessary, all acts, orders and proceedings of the Board.
- f. Be responsible for implementing all orders and resolutions of the Board.

- g. Have the authority to issue the official notifications of the intent of an agency to contract for professional engineering services.

Vice Chairman: In the event of absence or incapacity of the Chairman, the Vice Chairman shall assume the duties of the Chairman as outlined above. In the absence of the Executive Secretary, the duties of the Executive Secretary shall devolve upon the Vice Chairman.

Article VI Executive Secretary

The office of Executive Secretary shall be furnished to the Board by the Division of Administration of the State of Louisiana, subject to approval of the Board.

Executive Secretary: The Executive Secretary shall:

- a. Be under the general supervision of the Board.
- b. Give notice of all meetings of the Board and its committees.
- c. Attend all meetings of the Board and committees and record all notes and the minutes of all proceedings in a book to be kept for that purpose, and to make the minutes and records available upon request.
- d. Keep on file all committee reports.
- e. Sign all certified copies of acts of the Board and shall attest by his signature any instrument of the Board requiring it.
- f. Receive and conduct the general correspondence of the Board—that is, correspondence which is not a function proper to the officers or to committees.
- g. Maintain and be the custodian of a file of all data submitted by engineering firms selected by the Board to furnish professional engineering services for State projects as provided for in the "Rules of Selection Procedures".
- h. Perform such other duties as may be prescribed by the Board.

Article VII Meetings

Section 1. The regular meeting of the Board shall be held on the second Monday of January, April, July, and October, unless otherwise ordered by the Chairman or the Board, in the State Capitol Building.

Section 2. Special meetings can be called by the Chairman or shall be called upon the written request of two members of the Board. Special meetings may be held at any place provided that the time, the place and the purpose of the meeting shall be stated in the call,