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Executive Orders

EXECUTIVE ORDER MJF 97-20

Bond Allocation—Public Facilities Authority

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

WHEREAS: the Louisiana Public Facilities Authority has requested an allocation from the 1997 Ceiling to be used in connection with providing funds for the purchase of student loans which bear interest rates at approximately 1 percent below the rates established by the United States Department of Education and which (1) are made (a) to residents of the state of Louisiana attending a post-secondary school located within or without the state, or (b) to an out-of-state resident attending a post-secondary school located within the state; (2) are guaranteed; (3) are "eligible student loans" within the meaning of the Higher Education Act of 1965 (hereafter "the Higher Education Act"); and (4) meet certain additional requirements under financing documents (hereafter "the Student Loan Program"). "Eligible student loans" include consolidation loans and other loans which are guaranteed and meet all the requirements of the Higher Education Act and applicable financing documents;

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
\$43,500,000	Louisiana Public Facilities Authority	Student Loan Revenue Bonds

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 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 through the end of 1997, provided that

such bonds are delivered to the initial purchasers thereof on or before July 9, 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 April, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9705#010

EXECUTIVE ORDER MJF 97-21

School Based Health Clinic Task Force

WHEREAS, Executive Order MJF 96-74, signed on December 16, 1996, created and established within the Executive Department, Office of the Governor, the School Based Health Clinic Task Force (hereafter "Task Force") and ordered it to submit two reports to the Governor by specified dates;

WHEREAS, the dates specified for submitting the reports to the Governor were amended by Executive Order 97-13, signed on February 25, 1997; and

WHEREAS, it is once again necessary to change the dates on which the task force shall submit its reports to the governor on the progress and/or fulfillment of its primary and secondary objectives and duties;

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

SECTION 1: Section 4 of Executive Order MJF 96-74 and Section 1 of Executive Order MJF 97-13 are amended to provide as follows:

The task force shall prepare and submit a report to the governor on the progress and/or fulfillment of its primary objectives and duties, no later than June 30, 1997, and on the progress and/or fulfillment of its secondary objectives and duties, no later than August 15, 1997.

SECTION 2: All other Sections and Subsections of Executive Order MJF 96-74 and 97-13 shall remain in full force and effect.

SECTION 3: The provisions of this order are effective upon signature and shall remain in effect until amended,

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 6th day May, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9705#069

Emergency Rules

DECLARATION OF EMERGENCY

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

Equine Infectious Anemia and Livestock
Auction Market (LAC 7:XXI.11765 and 11766)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), R.S. 3:2093, and R.S. 3:2095, the Department of Agriculture and Forestry, Livestock Sanitary Board finds that this emergency rule setting forth the equine infectious anemia eradication program is required so that the eradication program can continue uninterrupted. The board has been advised of allegations that legal defects exist in the present equine infectious anemia eradication program. The board has further been advised that in the event the alleged legal defects are found to exist, the equine infectious anemia eradication program could be interrupted. The resultant interruption in the equine infectious anemia eradication program would cause imminent peril to public health, safety, and welfare of the citizens of this state in the that a major disease eradication program would be compromised. Out of an abundance of caution and in order to insure that the equine infectious anemia eradication program remains in place and uninterrupted pending final adoption of this rule through the normal promulgation process, the board declares an emergency to exist and adopts by emergency process the attached rule setting forth the equine infectious anemia eradication program. The effective date of this emergency rule is June 17, 1997, and it shall be in effect for 120 days or until an appropriate final rule takes effect through the normal adoption and promulgation process, whichever occurs first.

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

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

§11765. Equine Infectious Anemia and Livestock Auction Market

A. Identification. Beginning February 1, 1994, all equine prior to an official test for Equine Infectious Anemia (EIA) shall be individually and permanently identified by one of the following means:

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

B. Equine Required to be Tested

1.a. All equine moving into the state of Louisiana for any purpose other than immediate slaughter, shall be accompanied by a record of a negative official test for EIA, conducted within the past 12 months.

b. The official test shall be conducted by an approved laboratory.

c. The name of the laboratory, the case number, and the date of the official test shall appear on the health certificate, as required in LAC 7:XXI.11761.

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

b. The official test shall be conducted by an approved laboratory and the name of the laboratory, the case number, and the date of the test shall appear on the official record of the test.

3.a. All equine sold or purchased in Louisiana shall have been officially tested negative for EIA within six months of the date of the sale or shall be officially tested negative for EIA at the time of sale or purchase.

b. The official test shall be conducted at an approved laboratory.

c. The official test record shall accompany the horse at the time of the sale or purchase and the name of the laboratory, the case number, and the date of the test shall appear on the official record of the test.

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

b. Exceptions are untested equine arriving at a Louisiana livestock auction market shall have a blood sample drawn for official EIA testing.

i. A fee of no more than \$18 shall be collected from the seller and paid to the testing veterinarian by the auction market.

ii. The buyer of the equine shall be charged a \$5 identification fee which will be collected by the auction market before the equine leaves the auction market. This fee will be forwarded to the Louisiana Department of Agriculture and Forestry.

iii. After the blood sample is obtained and the fee paid, untested horses may move to the purchaser's premises under a quarantine issued by Louisiana Livestock Sanitary board personnel until results of the official tests are received.

iv. The seller of any equine whose gross proceeds from the sale are less than \$50 will not be required to pay the fee for an official EIA test.

v. If no veterinarian is available for official EIA testing of equine at a Louisiana livestock auction market, the testing shall be done by Louisiana Livestock Sanitary Board personnel.

c. Authorized buyers for approved slaughter establishments may request that any equine they have purchased at a Louisiana livestock auction market be restricted to slaughter.

i. After the request, such equine shall be branded with the letter "S" on the left shoulder prior to leaving the auction market and shall be issued a VS Form 1-27 permit.

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

5. All equine domiciled within the state of Louisiana shall be maintained with a negative current official test for Equine Infectious Anemia.

a. A negative current official test is a written result of a test conducted by an approved laboratory where said official test was performed not more than 12 months earlier.

b. An equine is domiciled within the state when the equine has been pastured, stabled, housed, or kept in any fashion in the state more than 30 consecutive days.

c. Written proof of a negative current official test shall be made available in the form of negative results from an approved laboratory upon request by an authorized representative of the Louisiana Livestock Sanitary Board.

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

1.a. With the exception of the equine stabled at a racetrack regulated by the Louisiana State Racing Commission, all equine testing positive to the official test for EIA shall be quarantined to the owners premises and shall be destroyed or sold for immediate slaughter within 20 days of the date of the official test for EIA.

i. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian.

ii. If sold for slaughter, the equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved Louisiana livestock auction market or to an approved slaughter facility.

b. The owner or trainer of all equine stabled at a racetrack regulated by the Louisiana State Racing Commission testing positive to an official EIA test shall be notified immediately by the testing veterinarian, or by racetrack officials, or by Louisiana Livestock Sanitary Board personnel and the equine testing positive shall be removed from the racetrack premises immediately.

c. Exceptions are:

i. Upon request by the owner, any female equine testing positive to the official test for EIA that is at least 270 days pregnant or has a nursing foal no more than 120 days of age at her side may be quarantined to the owner's premises and kept at least 200 yards away from any other equine.

(a). The female equine shall be identified with a "72A" brand at least 3 inches in height on the left shoulder.

(b). The female equine may remain in quarantine until her foal dies or reaches an age of 120 days at which time

the female equine shall be destroyed or sold for immediate slaughter within 20 days.

(i). If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian.

(ii). If sold for slaughter, the female equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved Louisiana livestock auction market or to an approved slaughter facility.

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

ii. Any equine testing positive to the official EIA test prior to the effective date of this regulation may be quarantined to the owner's premises and kept at least 200 yards away from any other equine.

(a). This equine shall be identified with a "72A" brand at least 3 inches in height on the left shoulder.

(b). If the EIA positive equine is sold, it must be sold for slaughter and a VS Form 1-27 permit must be issued by Livestock Sanitary Board personnel to move the EIA positive equine from the owner's premises to slaughter.

(c). If the EIA positive equine is destroyed or dies, verification of said destruction or death by written and signed statement must be furnished to the office of the state veterinarian.

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

2. All equine stabled at a racetrack regulated by the Louisiana State Racing Commission, testing positive to the official EIA test and immediately removed from the racetrack shall be quarantine to the premises to which they are moved and shall be destroyed or sold for immediate slaughter within 20 days of the date of the official test for EIA.

a. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian.

b. If sold for slaughter, the equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved Louisiana livestock auction market or to an approved slaughter facility.

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

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

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

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

4. All equine stabled at a racetrack regulated by the Louisiana State Racing Commission which are stabled in the

same barn or in a directly adjacent barn of an equine which tests positive to the official EIA test shall be quarantined until the positive equine is removed and all other horses in the aforementioned barns are tested negative to the official EIA test.

5.a. Equine which are required to be officially tested for EIA as a result of being quarantined due to the circumstances described in §11765.C.3 and 4 of this Section may be tested by an accredited veterinarian chosen by the owner or by a state employed veterinarian if requested by the owner of the quarantined equine.

b. In the event that the official testing for EIA is done by a state employed veterinarian, the official record (VS Form 10-11) will not be made available to the owner.

6. Equine positive to the official test for EIA:

a. shall be identified with a "72A" brand on the left shoulder at least 3 inches in height, by Louisiana Livestock Sanitary Board personnel;

b. will be retested prior to identification by branding upon request by the owner, by Louisiana Livestock Sanitary Board personnel and the blood sample submitted to the Louisiana Veterinary Medical Diagnostic Laboratory for confirmation.

D. Collection and Submission of Blood Samples

1.a. All blood samples for official EIA testing must be drawn by an accredited veterinarian and submitted to either an approved laboratory or the Louisiana Veterinary Medical Diagnostic Laboratory as provided herein.

b. The seller of any equine which sells at a Louisiana livestock auction market in which the gross proceeds from the sale are less than \$50 may request that the blood sample be drawn by Louisiana Livestock Sanitary Board personnel.

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

b. The VS Form 10-11 shall be considered the official record for all official EIA tests conducted in Louisiana.

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

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

E. Testing of Blood Samples Collected

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

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

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

F. Requirements for a Permit for the Operation of an Equine Quarantine Holding Area

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

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

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

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

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

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

7. All permits must be renewed annually.

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

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

§11766. Equine Infectious Anemia Testing Laboratory

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

B. Conditions for Approving an Equine Infectious Anemia Testing Laboratory

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

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

3. The applicant must agree, in writing, to operate the laboratory in conformity with the requirements of the regulation and Veterinary Service Memorandum 555.8.

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

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

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

7. All Equine Infectious Anemia testing laboratories which have been approved by the United States Department of Agriculture, prior to the adoption of this regulation, shall

be automatically approved at the time this regulation goes into effect.

C. Conditions for Maintaining Equine Infectious Anemia Testing Laboratory Approval

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

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

3. Laboratories must continually meet all the requirements of Veterinary Services Memorandum 555.8.

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

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

6. The state veterinarian shall renew the approval in January of each year, as long as laboratories maintain the standards required by this regulation and Veterinary Services Memorandum 555.8.

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

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

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

Maxwell Lea, Jr.
Executive Secretary

9705#053

DECLARATION OF EMERGENCY

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

**Quarantining, Vaccinating and
Testing of Swine (LAC 7:XXI.11776)**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), R.S. 3:2093, and R.S. 3:2095, the Livestock Sanitary Board finds an emergency situation to exist due to the continued persistent incidence of brucellosis and pseudorabies in the swine population in Louisiana. The board finds that immediate implementation of change in ownership test requirements is necessary for Louisiana to reach a goal of eradication of brucellosis and pseudorabies in swine and to keep pace with the progress of the national eradication programs. The effective date of this emergency rule is May 9, 1997, and it

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

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

§11776. Quarantining, Vaccinating and Testing of Swine for Brucellosis and Pseudorabies

A.1. The state veterinarian, or his representative, shall have the authority to conduct epidemiologic investigations and quarantine of:

a. swine herds in which one or more of the animals are found to be positive to pseudorabies, as determined by the epidemiologist, based on the interpretation of official tests;

b. the herd of origin of swine that have been added to a herd that becomes quarantined because of pseudorabies, if swine have been acquired from said herd of origin within the last 12 months;

c. herds which have received swine from herds found to have pseudorabies;

d. herds of swine including feedlots, within a 1.5 mile radius of the quarantined herd, will be monitored in accordance with the recommendation of the state veterinarian and/or epidemiologist by either a test of all breeding swine or by an official random sample test.

2. A herd plan and epidemiology report must be completed within 30 days from the date an animal that originated from the herd was found to be a reactor at slaughter.

3. A herd test must be completed within 45 days from the date an animal that originated from the herd was found to be a reactor at slaughter.

B. To be eligible for release from quarantine, a swine herd must meet the following requirements:

1.a. All swine positive to an official pseudorabies test must be tagged with an official reactor tag in the left ear and permitted on Form VS 1-27 to recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws within 15 days.

b. All swine, over 6 months of age and a random sampling of any growing/finishing swine which remain in the herd, must be tested negative 30 days or more after removal of reactors.

c. No livestock on the premises shall have shown signs of pseudorabies after removal of reactors.

2. Whole Herd Depopulation

a. All swine on the premises must be tagged with an official reactor tag in the left ear and permitted on a Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws.

b. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant prior to putting swine back on the premises.

C. A herd of swine quarantined because of brucellosis must meet one of the following requirements:

1.a. All swine positive to an official brucellosis test must be tagged with an official reactor tag in the left ear and permitted on Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises by disposal means authorized by applicable state laws within 15 days.

b. All swine over 6 months of age which remain in the herd, must be tested according to an approved herd plan.

c. A herd may be released from quarantine upon completion of three negative Complete Herd Tests (CHT).

i. The first test must be completed at least 30 days after removal of the last reactor.

ii. A second CHT must be conducted 60-90 days following the first CHT.

iii. A third CHT is required 60-90 days following the second CHT.

iv. A fourth CHT is required six months after the third CHT.

2. Whole Herd Depopulation

a. All swine on the premises must be tagged with an official reactor tag in the left ear and permitted on a Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws.

b. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant prior to putting swine back on the premises.

D. All movement from pseudorabies/brucellosis quarantined herds, must be accompanied by a VS Form 1-27, Permit for Movement of Restricted Animals, listing the official, individual identification of each animal to be removed.

1. This form must be delivered to an authorized representative at destination.

2. These permits will be issued by a representative of the Louisiana Livestock Sanitary Board.

E. All exposed swine moving from quarantined premises in interstate or intrastate commerce, must move directly to a recognized slaughter establishment or to an approved swine quarantined feedlot or rendering plant.

F. The use of pseudorabies vaccine is prohibited, except by permission of the state veterinarian.

G.1. All swine, 6 months of age or older, must be tested negative for pseudorabies and brucellosis by an official test within 30 days prior to sale.

2. Swine originating from a brucellosis validated-pseudorabies qualified free herd or from a monitored feeder pig herd are exempt from this testing requirement.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 16:392 (May 1990) amended LR 18:839 (August 1992), LR 20:1258 (November 1994), LR 23:

§11777. Operation of Livestock Auction Markets

All swine which are sold or offered for sale in livestock auction markets must meet the general requirements of

LAC 7:XXI.11709 and the following specific Pseudorabies/Brucellosis requirements:

1. All breeder and feeder swine moving to Louisiana auction markets from farms outside Louisiana, must meet the requirements of LAC 7:XXI.11709; and

2. All swine over 6 months of age, being sold at Louisiana livestock auction markets must be identified by an official swine backtag, placed on the animals's forehead and an official metal eartag.

3.a. The market shall furnish the Livestock Sanitary Board's official representative a copy of each check-in slip, showing the name of the auction market, the date, the name and complete address of each consignor, and the official backtag numbers applied to the consignor's livestock.

b. It shall be a violation of this regulation for anyone to consign livestock to a Louisiana livestock auction market and give a name and address that is not the name and address of the owner consigning the livestock to the auction market.

4.a. All swine 6 months of age or older arriving at a livestock auction market without an official negative test will have a blood sample drawn for testing.

b. Swine originating from a brucellosis validated-pseudorabies qualified free herd or from a monitored feeder pig herd are exempt from this testing requirement.

c. Testing for pseudorabies and brucellosis at livestock auction markets may be suspended by the state veterinarian due to climatic conditions.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:245 (March 1985), amended LR 11:615 (June 1985), LR 16:392 (May 1990), LR 18:839 (August 1992), LR 23:

Maxwell Lea, Jr.
Executive Secretary

9705#052

DECLARATION OF EMERGENCY

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

Sanitary Disposal of Dead Poultry
(LAC 7:XXI.Chapter 117)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), R.S. 3:2093 and R.S. 3:2095, the Department of Agriculture and Forestry, Livestock Sanitary Board finds that this emergency rule, setting forth the regulations governing the sanitary disposal of dead poultry, is necessary for the health and safety of the citizens of Louisiana. The board has discovered that certain Subsections of §11771 of the Livestock Sanitary Board regulations which outline the approved methods for the sanitary disposal of dead poultry were deleted through a

clerical error which occurred during an amendment of that Section in August, 1994. The lack of approved methods of sanitary disposal of dead poultry, and the resultant disposal of dead poultry through unapproved methods would cause imminent peril to public health, safety, and welfare of the citizens of this state in that other, unsanitary, disposal methods may be employed and could result in a health crisis in Louisiana. In order to insure that noted methods of sanitary disposal of dead poultry remains in place and uninterrupted pending final adoption of this rule through the normal promulgation process, the board declares an emergency to exist and adopts by emergency process the following emergency rule. The effective date of this emergency rule is June 17, 1997, and it shall remain in effect for 120 days or until the final rule takes effect through the normal adoption and promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

§11701. Definitions

* * *

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

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 12:289 (May 1986), LR 12:498 (August 1986), LR 14:217 (April 1988), LR 15:811 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 23:

Subchapter D. Poultry

§11771. Sanitary Disposal of Dead Poultry

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

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

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

a. Effective January 1, 1993, no disposal pits will be approved.

b. Disposal pits that are currently in use will be allowed to operate until January 1, 1995.

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

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

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

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

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

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

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

C. In the event of the death of more than 1 percent of broilers or 0.5 percent of pullets or breeders over 4 weeks of age on the same premises within a 24-hour period of time, the death of which is not known to be caused by a contagious or infectious disease, the dead poultry may be disposed of by on-site burial. The state veterinarian's office must be notified immediately by telephone or facsimile in the event of excessive mortality requiring on-site burial.

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

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

Maxwell Lea, Jr.
State Veterinarian

9705#044

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Alternative Livestock—Imported Exotic
Deer and Antelope, Elk, and Farm-Raised
White-Tailed Deer (LAC 7:XXI.11793-11798)

In accordance with the Administrative Procedure Act, specifically R.S. 49:953(B), and R.S. 3:3101, the

commissioner of Agriculture and Forestry finds that this emergency rule regulating the slaughter and sale of imported exotic deer and antelope, elk and farm-raised white-tailed deer for commercial purposes in the state of Louisiana is necessary to prevent imminent peril to the health, safety and welfare of the citizens of Louisiana.

Without regulations in place, diseased or contaminated animals may be brought into the state of Louisiana or slaughtered and sold as food to be consumed by Louisiana citizens. Louisiana is certified by the United States Department of Agriculture (USDA) as a tuberculosis- and brucellosis-free state. The introduction of any imported exotic deer and antelope, elk and farm-raised white-tailed deer infected with either of these diseases will subject Louisiana cattle and other livestock to infection. Any infection of cattle or other livestock will cause the owner of such livestock to lose the commercial value of such animals. In addition, introduction of these diseases into the state will jeopardize Louisiana's certifications from the USDA. The loss of the commercial value of infected livestock, as well as the loss of USDA certification, will cause a substantial adverse economic impact on the agricultural economy of this state.

For these reasons, the commissioner of Agriculture and Forestry has determined that this emergency rule is necessary in order to immediately regulate the raising, slaughtering and sale of imported exotic deer and antelope, elk and farm-raised white-tailed deer for commercial purposes in the state of Louisiana.

This emergency rule becomes effective April 22, 1997. It shall remain in effect 120 days or until the final rule becomes effective, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter K. Alternative Livestock—Imported Exotic Deer and Antelope, Elk, and Farm-Raised White-Tailed Deer

§11793. Scope

A. Statement of Purpose

1. The purpose of these Subchapter K Rules and Regulations is to protect the industry related to wild native and domesticated species against infringement by overpopulation and disease from non-native species of animal.

2. Additionally, these regulations augment and support the legislation authorizing the Louisiana Department of Agriculture and Forestry to administer and enforce the laws dealing with the production, raising, slaughtering, sale, and transfer of certain native and non-native wild species which are farm-raised.

B. Definitions

Alternative Livestock—farm-raised animal species and farm-raised avian species which are normally found in the wild in substantial populations.

Commerce/Commercial—the buying, selling, trading, or transferring ownership of a commodity from one person to another.

Elk—any animals of the species and genus *Cervus canadensis*.

Farm-Raised—any animal and avian species including but not limited to imported exotic deer and antelope, elk, and white-tailed deer which is bred, born, raised, and/or kept within a closed circumscribed fenced premise for the purpose of buying, selling, or trading in commerce. This definition does not include animal and avian species which are part of a zoo, game park or wildlife exhibit where the purpose of the same is the exhibition of animals.

Identify/Identification—the implantation of an electronic transponder, also known as a microchip, which has a unique alpha-numeric code which can be detected and displayed by an appropriate scanner, into the subcutaneous tissue at the base of the left ear of any imported exotic deer or antelope, elk, or farm-raised white-tailed deer.

Imported Exotic Deer and Antelope—any animal of the family *Cervidae*, including but not limited to red deer, seika deer and fallow deer, which are not indigenous to North America.

Livestock—cattle, sheep, swine, goats, horses, mules, burros, asses and alternative livestock of all ages including but not limited to ratites and *Cervidae* when maintained under farm-raised circumstances.

Quarantine—the secure and physical isolation of an animal or animals in a specified confined area to prevent the spread of a contagious disease.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§11794. Obligations of the Owner

A. Any person who operates a farm for the purpose of raising, slaughtering, selling, and/or trading of imported exotic deer and antelope, elk, or farm-raised white-tailed deer for commercial purposes shall obtain a license from the Louisiana Department of Agriculture and Forestry before engaging in such activity.

B. A person may apply for a license to operate a farm for the purpose of raising, slaughtering selling and/or trading of imported exotic deer, antelope, elk, or white-tailed deer for commercial purposes if said person is the owner of at least one pregnant female or one male and one female of the same species.

C. Each applicant for a license to operate a farm shall:

1. submit a written application. The written application shall contain the following:

- a. name of the applicant;
- b. mailing address of the applicant;
- c. telephone number of the applicant;
- d. physical location of the premise;
- e. the size of the premise;
- f. the specie(s) of animals to be kept on the premise
- g. the approximate number of animals to be kept on

the premise; and

h. a plan for recapture of any animals that escapes;

2. submit to an inspection of the premises by Louisiana Department of Agriculture and Forestry personnel to verify the following requirements:

- a. the premise is located in a rural area;
- b. adequate shelter and water is available for the number of animals to be located there;
- c. the area of the premise for elk and white-tailed deer is at least 5000 square feet for the first animal and 2500 square feet for each subsequent animal if the total area of the premise is less than five acres;
- d. the fences meet the following specifications:
 - i. minimum height of 7 feet;
 - ii. minimum gauge wire is 12½;
 - iii. the fencing material is chain link, woven wire, solid panel, or welded panel:
 - (a). welded wire fences are not acceptable unless approved by the Louisiana Department of Wildlife and Fisheries prior to the effective date of these regulations;
 - (b). any previously approved welded wire fences that are replaced must be replaced with a type listed in Paragraph 2.d.i - iii;

- e. premises have sufficient drainage to prevent extended periods of standing water;
- 3. pay a license fee of \$50.

D. License

- 1. A license shall be valid for one calendar year, from January 1 through December 31.
- 2. A license can be renewed each year upon written request for renewal and submission of a renewal fee of \$50 to the Louisiana Department of Agriculture and Forestry.
- 3. Written requests for renewal and renewal fees received after January 31 will be rejected and the license deemed expired as of December 31.

E. Records

- 1. Each licensee shall maintain records of all sales, trades, purchases, or transfers of any type for at least 24 months.
- 2. These records shall include:
 - a. the total number of animals, or the parts thereof, killed, sold, or transported;
 - b. the complete name and address of the person to whom the animals were sold or transported;
 - c. the permanent identification number of the animal; and
 - d. copies of any health certificates issued.
- 3. These records shall be made available to representatives of the Louisiana Department of Agriculture and Forestry upon request.

F. Sellers or transferors of alternative livestock shall furnish the purchaser or transferee with a bill of sale or letter of transfer as verification of farm-raised status.

G. All imported exotic deer and antelope, elk and farm-raised white-tailed deer in Louisiana shall be identified by means of an implanted electronic device (microchip). The microchip shall be implanted under the skin at the base of the left ear.

H. All imported exotic deer and antelope, elk, and farm-raised white-tailed deer, prior to entering Louisiana, shall be permanently and individually identified by means of an implanted electronic device (microchip) which shall be:

- 1. listed on the Certificate of Veterinary Inspection; and
- 2. implanted under the skin at the base of the left ear.

I. Hunting

1. Any person who owns or leases a premise on which imported exotic deer and antelope, elk, and/or farm-raised white-tailed deer are located or any person who engages in business with said person where said animals are bought, sold, or traded in commerce by means of hunting shall abide by all laws, rules, and regulations of the Louisiana Department of Wildlife and Fisheries that pertain to hunting.

2. In the event that there are *Cervidae* species for which species the Louisiana Department of Wildlife and Fisheries has no applicable laws, rules or regulations pertaining to hunting then, in the event, the Louisiana Department of Agriculture and Forestry may establish rules for the hunting of those species.

J. Hunting Fee

1. Any person who owns or leases a premise on which imported exotic deer and antelope, elk, and/or farm-raised white-tailed deer are located or are to be located where said animals are or are to be bought, sold, or traded in commerce by means of hunting shall pay a fee of \$500 per white-tailed deer contained on said premise before any imported exotic deer and antelope, elk, or farm-raised white-tailed deer are introduced onto the premise.

2. The fee shall be paid to the Louisiana Department of Agriculture and Forestry and be forwarded to the Louisiana Department of Wildlife and Fisheries within 30 days of receipt.

3. The number of white-tailed deer for which compensation is due shall be determined by the population of white-tailed deer per acre as estimated by the Louisiana Department of Wildlife and Fisheries for the parish in which the premise is located.

K. All imported exotic deer and antelope, elk, and farm-raised white-tailed deer entering Louisiana must meet the general requirements of LAC 7:XXI.11705.

L. Import Requirements

1. All imported exotic deer and antelope, elk, and farm-raised white-tailed deer entering Louisiana shall be accompanied by a Certificate of Veterinary Inspection (health certificate) including an entry permit number which:

- a. is issued by the state veterinarian's office no more than 15 days before entry into Louisiana; and
- b. shall be included on the Certificate of Veterinary Inspection.

2. Imported exotic deer and antelope consigned directly to an approved slaughter establishment are exempt from §11794.L.

M. Brucellosis Testing

1. Prior to entering Louisiana all imported exotic deer and antelope, elk, and farm-raised white-tailed deer moving into Louisiana shall be tested for brucellosis in accordance with the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* when published by USDA, APHIS.

2. Until such time as the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* is published, all imported exotic deer and antelope, elk, and farm-raised white-tailed deer 6 months of age and older shall be tested negative for brucellosis within 30 days of entry into Louisiana unless they originate from a herd which has been officially declared as a certified brucellosis free herd by the state of origin.

N. Tuberculosis Testing. Prior to entering Louisiana all imported exotic deer and antelope, elk, and farm-raised white-tailed deer moving into Louisiana shall be tested for tuberculosis in accordance with the *Tuberculosis Eradication in Cervidae Uniform Methods and Rules* as published by USDA, APHIS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§11795. Prohibitions

A. No imported exotic deer or antelope, elk, or farm-raised white-tailed deer shall be released into the wild without written permission from both the Louisiana Department of Agriculture and Forestry and the Louisiana Department of Wildlife and Fisheries.

B. Alternative Livestock Meat

1. White-tailed deer meat shall not be bought, sold, traded, or moved in commerce in any way.

2. Elk meat shall not be bought, sold, traded, or moved in commerce without written approval from the Louisiana Department of Agriculture and Forestry.

3. Imported exotic deer and antelope meat shall be subject to and handled in accordance with state and federal meat inspection laws and regulations.

C. It is a violation of this regulation to sell, purchase or otherwise transfer any imported exotic deer and antelope, elk, or farm-raised white-tailed deer for any purpose other than immediate slaughter, unless said animal(s) originates from a herd which is not under quarantine for brucellosis and/or tuberculosis.

D. Failure to comply with any mandatory provisions of these Subchapter K Regulations or an order of quarantine is prohibited and each such act or omission shall constitute a violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§11796. Exceptions

A. Licensed Game Breeder

1. Any person holding a valid game breeders license issued by the Louisiana Department of Wildlife and Fisheries for the possession of imported exotic deer and antelope, elk, and/or farm-raised white-tailed deer at the time these Subchapter K Regulations become effective who makes written application for a license from the Louisiana Department of Agriculture and Forestry, as stated in §11794.C will have the initial license fee of \$50 waived if the application is made within the same calendar year as these regulations become effective.

2. This license shall be valid until the end of the calendar year in which it is issued at which time normal renewal procedures and fees will be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§11797. Other

A. The owner or leasee of any premise from which imported exotic deer or antelope, elk, or farm-raised white-tailed deer are bought, sold, or traded in commerce by means of hunting may apply to the Louisiana Department of Agriculture and Forestry for removal, by hunting, of additional white-tailed deer over and above the number allowed by hunting regulations if:

1. said owner or leasee participates in the Louisiana Department of Wildlife and Fisheries Deer Management Assistance Program; and

2. such application is accompanied by a favorable recommendation from a Louisiana Department of Wildlife and Fisheries biologist.

B. The additional removal of white-tailed deer shall be done during the regular hunting season established by Louisiana Department of Wildlife and Fisheries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§11798. Enforcement and Penalties

A. Enforcement

1. Any imported exotic deer or antelope, elk or farm-raised white-tailed deer which has been exposed to brucellosis and/or tuberculosis shall be quarantined and tested for the diseases to which it has been exposed within 60 days of the date of the quarantine.

2. Authorized representatives of the Louisiana Department of Agriculture and Forestry may inspect all premises on which imported exotic deer and antelope, elk and farm-raised white-tailed deer are located for the purposes of issuing and/or reviewing licenses and to insure that fencing, space, and other premise conditions meet regulation standards.

3. Authorized representatives of the Louisiana Department of Agriculture and Forestry may inspect any records dealing with purchases sales or any transfer of ownership of imported exotic deer and antelope elk and farm-raised white-tailed deer. These records may be inspected during any reasonable hours.

4. Any exotic deer or antelope, elk or farm-raised white-tailed deer which escapes the premise on which it is located and is not captured within 96 hours of the escape may be captured by authorized representatives of the Louisiana Department of Agriculture and Forestry by whatever means deemed necessary by that agency.

B. Penalties

1. The penalty for a violation of Subchapter K, Alternative Livestock Rules and Regulations, shall be a fine of up to \$100 for each violation.

2. With regard to continuing violations, whether acts or omissions, each day a violation occurs or continues shall be a separate violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

Bob Odom
Commissioner

9705#005

DECLARATION OF EMERGENCY

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

Mentally Retarded/Developmentally Disabled Waiver

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted 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 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing administers four Home and Community Based Services Waiver Programs. Participation in each home and community based services waiver is limited to a specific number of participants based on the approval of the waiver application by the Health Care Financing Administration. The bureau adopted an emergency rule, effective July 13, 1995, not to fill vacated slots in the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver Program except in certain specified circumstances (*Louisiana Register*, Volume 21, Number 7). Another emergency rule was adopted, effective October 10, 1995, that allowed vacated slots in the MR/DD waiver to be filled in accordance with the methodology utilized prior to July 13, 1995 except that the number of slots to be filled could not exceed the total number of filled slots as of September 1, 1995 (*Louisiana Register*, Volume 21, Number 10). The bureau has now determined that it is necessary to adopt 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 shall begin.

The eligibility criteria for the MR/DD Waiver Program shall remain unchanged. The total number of slots assigned shall not exceed the maximum number of slots approved by the Health Care Financing Administration. A previous emergency rule was published in the *Louisiana Register*, (Volume 22, Number 10) which continued the above provisions in force.

The following emergency rule is necessary to preserve the health and welfare of individuals on the MR/DD waiver waiting list by assuring them an opportunity to make application for Medicaid eligibility and waiver services.

Emergency Rule

Effective May 31, 1997, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following 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;
3. clarify admission and discharge criteria, mandatory reporting requirements and the effective date that Medicaid reimbursement for waiver services shall begin.

The total number of slots assigned shall not exceed the maximum number of slots approved by the Health Care Financing Administration. The assignment of vacated and previously unoccupied waiver slots; admission and discharge criteria; mandatory reporting requirements and the effective date for Medicaid reimbursement for waiver services to begin shall be determined in accordance with the following guidelines.

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. When a currently certified participant is discharged from the waiver, the vacated slot shall be available for allocation to the next person on the MR/DD Waiver waiting list who successfully completes the financial and medical certification eligibility process and is certified for the waiver.
2. A minimum of 40 slots shall continue to be available for allocation to foster children in the custody of the Office of

Community Services (OCS) who successfully complete the financial and medical certification eligibility process and are certified for the waiver. OCS is the parent for those children who have been placed in their custody by court order. OCS shall be responsible for assisting the individual to gather the documents needed in the eligibility determination process; preparing the comprehensive plan of care; and submitting the plan of care document to the Health Standards Section.

3. A maximum of 80 slots shall be available for allocation to the next 80 persons on the MR/DD Waiver waiting list who successfully complete the financial and medical certification eligibility process and are certified for the waiver.

4. A maximum of 160 slots shall be available for allocation to current residents of the Pinecrest Development Center who successfully complete the financial and medical certification eligibility process and are certified for the waiver.

5. A maximum of 78 slots shall be available for allocation to current residents of public community homes who successfully complete the financial and medical certification eligibility process and are certified for the waiver.

6. Waiver slots shall no longer be reserved for use as emergency slots nor shall emergency slots be assigned.

Waiver Admission Criteria

Admission to the MR/DD Waiver Program shall be determined in accordance with the following criteria:

1. initial and continued Medicaid eligibility as determined by the parish BHSF Office;
2. initial and continued eligibility for an ICF-MR level of care as determined by the BHSF Health Standards Office in consultation with the OCDD Office;
3. the plan of care must provide justification that the waiver services are appropriate, cost effective in the aggregate and represent the least restrictive treatment alternative for the individual; and
4. assurance that the health and safety of the individual can be maintained in the community with the provision of reasonable amounts of waiver services as determined by the BHSF Health Standards Office.

Waiver Discharge Criteria

Participants shall be discharged from the MR/DD Waiver Program if one of the following criteria is met:

1. loss of Medicaid eligibility as determined by the parish BHSF Office;
2. loss of eligibility for an ICF-MR level of care as determined by the BHSF Health Standards Office in consultation with the OCDD Office;
3. incarceration or placement under the jurisdiction of penal authorities, courts or state juvenile authorities;
4. change of residence to another state with the intent to become a resident of that state;
5. admission to an ICF-MR facility or nursing facility;
6. the health and welfare of the waiver participant cannot be assured in the community through the provision of reasonable amounts of waiver services as determined by the

BHSF Health Standards Office, i.e., the waiver participant presents a danger to himself or others;

7. failure to cooperate in either the eligibility determination process or the performance of the care plan; or

8. continuity of services is interrupted as a result of the participant not receiving waiver services during a period of 14 or more consecutive days. This does not include interruptions in services because of hospitalization.

Mandatory Reporting Requirements

Case managers and waiver service providers are obligated to report changes that could affect the waiver participant's eligibility, including but not limited to those changes cited in the discharge criteria, to either the parish BHSF Office or the BHSF Health Standards Office within five working days. In addition, case managers and waiver service providers are responsible for documenting the occurrence of incidents or accidents that affect the health, safety and/or well-being of the waiver participant and completing an incident report. The incident report shall be submitted to the BHSF Health Standards Office within five working days of the incident.

Reimbursement of Waiver Services

Medicaid reimbursement for the provision of waiver services shall become effective on the date that the plan of care is approved by BHSF Health Standards.

Bobby P. Jindal
Secretary

9705#051

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Liquefied Petroleum Gas as a
Refrigerant (LAC 55:IX.183)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt an emergency rule, effective April 24, 1997, for 120 days or until a final rule takes effect through the normal promulgation process, whichever occurs first.

Emergency rule action is necessary to avoid an imminent peril to the public health, safety or welfare by using, selling or distributing a refrigerant containing liquefied petroleum gas for use in mobile air conditioning systems. Failure to adopt the rule on an emergency basis can result in greater exposure to the public health, safety or welfare should a leak develop in a mobile air conditioning system, in which liquefied petroleum gas has been used as a refrigerant.

**Title 55
PUBLIC SAFETY**

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

**Subchapter J. Use of Liquefied Petroleum Gas
Limited**

**§183. Use of Liquefied Petroleum Gas as a Refrigerant
Prohibited**

No person, firm, or corporation shall use, sell, or distribute a refrigerant containing liquefied petroleum gas for use in mobile air conditioning systems. Mobile air conditioning system means mechanical vapor compression equipment which is used to cool the driver's or passengers' compartment of any motor vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 23:

Charles M. Fuller
Director

9705#011

DECLARATION OF EMERGENCY

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

**Food Stamps—Disqualification of Certain
Recipients/Applicants (LAC 67:III.1988)**

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 the Food Stamp Program, effective May 1, 1997. It is necessary to extend emergency rulemaking since the declaration of emergency of January 1, 1997 was effective for a maximum of 120 days, and will expire before the final rule takes effect.

Pursuant to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, a change in Food Stamp policy will permanently disqualify an individual convicted of a felony involving the use of a controlled substance. This emergency rule is necessary to effect this mandated regulation and to avoid sanctions or penalties which could be imposed by delaying implementation.

**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

B. Effective January 1, 1997, 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 permanently disqualified from receiving food stamps. This shall not apply to convictions occurring on or before August 22, 1996.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), LR 23:

Madlyn Bagneris
Secretary

9705#013

DECLARATION OF EMERGENCY

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

Plan Document—Infertility Exclusion

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 shall become effective May 1, 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 the Plan Document to clarify provisions related to the exclusion of benefits for treatment of infertility. 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 Subsection S of Article 3, Section VIII, of the Plan Document to read as follows:

VIII. Exceptions and Exclusions for All Medical Benefits
No benefits are provided under this contract for:

S. Artificial organ implants, penile implants, transplantation of other than Homo sapiens (human) organs, and any expense for treatment, subsequent to initial diagnosis, of infertility and complications thereof, including, but not limited to, services, drugs, and procedures or devices to achieve fertility; in-vitro fertilization, low tubal transfer,

artificial insemination, intracytoplasmic sperm injection, embryo transfer, gamete transfer, zygote transfer, surrogate parenting, donor semen, donor eggs, and reversal of sterilization procedures;

James R. Plaisance
Executive Director

9705#012

7. nutritional or parenteral therapy;
8. vitamins and minerals; and
9. drugs available over the counter.

* * *

James R. Plaisance
Executive Director

9705#033

DECLARATION OF EMERGENCY

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

**Plan Document—Prescription
Drug Exclusions and Limitations**

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 shall become effective on May 1, 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 the Plan Document to restrict benefits for amphetamines to diagnoses of Attention Deficit Disorder or Narcolepsy, and to exclude benefits for smoking deterrents. 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 W to read as follows:

VIII. Exceptions and Exclusions for All Medical Benefits
No benefits are provided under this contract for:

* * *

- W. The following drugs, medicines, and related services:
1. appetite suppressant drugs;
 2. dietary supplements;
 3. topical forms of Minoxidil;
 4. Retin-A dispensed for covered persons over age 26;
 5. amphetamines dispensed for diagnoses other than Attention Deficit Disorder or Narcolepsy;
 6. nicotine, gum, patches, or other products, services, or programs intended to assist an individual to reduce or cease smoking or other use of tobacco products;

DECLARATION OF EMERGENCY

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

**Plan Document—Prescription
Drug Exclusions and Limitations (Serostim)**

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 amend the Plan Document of Benefits.

This emergency rule is effective on May 17, 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 the Plan Document to restrict benefits for Serostim, a new recombinant human growth hormone, to treatment of AIDS wasting. Failure to amend these rules 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 W to read as follows:

VIII. Exceptions and Exclusions For All Medical Benefits
No benefits are provided under this contract for:

* * *

- W. The following drugs, medicines, and related services:
1. appetite suppressant drugs;
 2. dietary supplements;
 3. topical forms of Minoxidil;
 4. Retin-A dispensed for covered persons over age 26;
 5. amphetamines dispensed for diagnoses other than Attention Deficit Disorder or Narcolepsy;
 6. nicotine, gum, patches, or other products, services, or programs intended to assist an individual to reduce or cease smoking or other use of tobacco products;
 7. nutritional or parenteral therapy;
 8. vitamins and minerals;
 9. drugs available over the counter; and

10. Serostim dispensed for any diagnoses or therapeutic purposes other than AIDS wasting;

James R. Plaisance
Executive Director

9705#032

DECLARATION OF EMERGENCY

**Department of Treasury
Board of Trustees of the State
Employees' Retirement System**

Election of Trustees (LAC 58:I.Chapters 3 and 5)

Pursuant to the authority granted by R.S. 11:515 vesting the Board of Trustees with the responsibility for administration of the Louisiana State Employees' Retirement System (LASERS) and granting the power to adopt and promulgate rules with respect thereto, the board of trustees and the executive director hereby invoke the emergency rule provisions of R.S. 49:953(B), amending the rules regarding the election of trustees.

The board finds it necessary to amend these rules to effect an orderly transition to new election procedures. Failure to adopt these emergency rules could impair the ability to elect representatives of employees and retirees of this state to the board of trustees. The rule becomes effective on May 8, 1997 and shall remain in effect 120 days or until adopted through the normal promulgation process, whichever comes first.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement System (LASERS)

Chapter 3. Election of Active Member Trustees

§301. General Schedule of Elections

A. Elections for active member trustees shall be held in years ending with an odd number. Three active member trustees shall be chosen in each election and shall serve a four-year term.

B. The schedule for elections shall be as follows.

1. second Tuesday in June: nominations shall be opened.

2. second Tuesday in July: nominations shall be closed. All nominating petitions must be received by the close of business (4:30 p.m. Central Daylight Savings Time).

3. Friday following second Tuesday in July: a drawing to determine candidate positions on a ballot shall be held.

4. second Friday in September: the final day that information on candidates and ballots may be mailed.

5. fourth Friday in October: all ballots or electronic votes must be received by the close of business (4:30 p.m. Central Standard Time).

6. Wednesday following fourth Friday in October: all ballots and electronic votes shall be tallied and verified.

7. regular November meeting: the board shall be presented with the certified ballot count, and if it is accepted, shall authorize publication of results.

8. regular December meeting: newly elected members receive orientation; oaths shall be taken prior to the following January meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

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:

§ 303. Election Rules

A. An active member candidate for a position on the board of trustees must be an active member of the system with at least 10 years of credited service (excluding any military service credit) as of the second Tuesday in July, the date on which nominations close. The board of trustees shall accept the name and Social Security number of every candidate nominated by petition of 25 or more active members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning members' signatures must be accompanied by their Social Security numbers. The petition should contain all of the information which the candidate wishes to be included in the election brochure.

B. The three candidates who receive the most votes shall be declared successful candidates and presented to the board.

C. There shall be a drawing at 11 a.m. on the Friday following the second Tuesday in July, in the Retirement Systems Building, 8401 United Plaza Boulevard, Baton Rouge, LA, to determine the position each candidate shall have on the ballot or election brochure. All candidates may attend or send a representative to the drawing.

D. Ballots or election brochures shall be distributed or mailed by the second Friday in September. Every active contributing member appearing on the June monthly retirement reports shall receive a ballot or election brochure for voting. Participants in the DROP program shall vote in the active member's election and shall have ballots or election brochures mailed to their homes.

E. If electronic voting methods are utilized, members shall follow the instructions on the election brochure for registering their votes. Votes shall be confidential. Ballots or electronic votes received after the close of business on the fourth Friday in October (4:30 p.m. Central Standard Time) or postmarked after that date shall be rejected. Ballots must be returned to the address set forth in the instructions on the election brochure.

F. All valid ballots shall be tallied on Wednesday following the fourth Friday in October. Envelopes, valid ballots and electronic information displaying individual votes shall be destroyed after the results of the election have been promulgated by the board of trustees.

G. Ties affecting elected positions shall be decided by a coin toss held by the executive director in the presence of the candidates affected or the representative they designate.

H. The executive director shall submit a written report of the election results to the board of trustees no later than the regular November meeting of the board of trustees.

I. Upon receipt of the results of the election, the board of trustees shall promulgate the election and notify the successful candidates of their election and the secretary of state timely, so as to allow the candidates sufficient time to take and file the oath of office with the secretary of state within the time specified by law.

J. Active members cannot solicit employees of LASERS to participate in their campaigns, and LASERS' employees cannot participate, or give assistance to any member who is running for election or reelection to the board. Active member candidates shall not solicit or have contact with any vendor or employee of a vendor who is providing LASERS with products or services related to elections of the LASERS Board of Trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

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:

§ 305. Vacancies; Special Elections

A. The board shall appoint a member to fill any active member vacancy created on the board. The appointee shall possess the necessary qualifications under R.S. 11:511 for the active member position, and shall be the member who garnered the next-highest vote in the previous election, if that member is willing to serve and the appointment does not violate law or these regulations.

B. The appointment shall be valid only until January 1 of the year following the next election.

C. When the unexpired term for the vacancy is greater than two years, a special election shall be held to fill the vacancy simultaneous with the election ordinarily held in odd number years. The ballot for the special election may be the same as that used in the regular election. Candidates for four-year terms may not also be candidates to complete unexpired terms.

D. The deadlines and procedures for special elections shall be identical to those for elections normally held in years ending with odd numbers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511, R.S. 11:512 and R.S. 11:515.

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:

Chapter 5. Election of Retired Member Trustees

§ 501. General Schedule of Elections

A. Beginning in 1995 and continuing thereafter every four years, two retired member trustees shall be chosen in an election and shall serve a four-year term. Beginning in 1997 and continuing thereafter every four years, a single retired trustee shall be chosen in an election and shall serve a four-year term.

B. The schedule for elections shall be as follows:

1. second Tuesday in June: nominations shall be opened.

2. second Tuesday in July: nominations shall be closed. All nominating petitions must be received by the close of business (4:30 p.m.).

3. Friday following second Tuesday in July: a drawing to determine candidate positions on a ballot shall be held.

4. second Friday in September: the final day that information on candidates and ballots may be mailed.

5. fourth Friday in October: all ballots or electronic votes must be received by the close of business (4:30 p.m. Central Standard Time).

6. Wednesday following fourth Friday in October: all ballots and electronic votes shall be tallied and verified.

7. regular November meeting: the board shall accept the certified ballot count and shall authorize publication of results.

8. regular December meeting: newly elected members receive orientation; oaths shall be taken prior to the following January meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

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:

§ 503. Election Rules

A. A candidate for a position of retired member trustee on the board of trustees must be a retired member of the system who has been on retired status (not including retired status under the Deferred Retirement Option Plan) for at least two years by the date on which nominations close. The board of trustees shall accept the name and Social Security number of every candidate nominated by petition of 25 or more retired members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning retired members' signatures must be accompanied by their Social Security numbers. All nominations for the board of trustees election must be in the office of the retirement system no later than the second Tuesday in July, close of business (4:30 p.m. Central Daylight Savings Time).

B. For purposes of this Chapter, the term "retired member" shall not include any person still employed by the state but treated as retired under the Deferred Retirement Option Plan.

C. There shall be a drawing on the Friday following the second Tuesday in July at 11 a.m. Central Daylight Savings Time in the Retirement Systems Building, 8401 United Plaza Boulevard, Baton Rouge, LA to determine the position each candidate shall have on the ballot or election brochure. All candidates may attend or send a representative to the drawing.

D. Ballots or election brochures shall be distributed to each retired member by the second Friday in September. Every retiree member appearing on the June retiree master list shall receive a ballot or election brochure for voting.

E. Each retiree may vote for two candidates during the election when two retiree members are up for election, but may only vote for one candidate during the election where only one retiree member is up for election. Those envelopes received as postmarked or date-stamped shall be placed in a ballot file for counting. If electronic voting methods are utilized, members shall follow the instructions on the election brochure for registering their votes.

F. Ballots or electronic votes received after the close of business on the fourth Friday in October (4:30 p.m. Central Standard Time) or postmarked after that date shall be rejected.

Ballots must be returned to the address set forth in the instructions on the election brochure.

G. All valid ballots or electronic votes shall be tallied on the Wednesday following the fourth Friday in October. Envelopes and valid ballots shall be destroyed after the results of the election have been promulgated by the board of trustees.

H. Tie votes shall be decided by a coin toss held by the executive director in the presence of the candidates affected or the representative they designate.

I. The executive director shall submit a written report of the election results to the board of trustees no later than the regular November meeting of the board of trustees.

J. Upon receipt of the results of the election, the board of trustees shall promulgate the election and notify the successful candidates of their election and also notify the secretary of state in order that the candidates may take their oath of office and file it with the secretary of state within the time specified by law.

K. Retiree candidates cannot solicit employees of LASERS to participate in their campaigns, and LASERS' employees cannot participate, or give assistance to any retiree candidate who is running for election or reelection to the board. Retiree candidates shall not solicit or have contact with any vendor or employee of a vendor who is providing LASERS with products or services related to elections of the LASERS Board of Trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

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:

§ 507. Vacancies; Special Elections

A. The executive board of the retired state employees association shall appoint a member to fill any retired member vacancy created on the board. The appointee shall possess the necessary qualifications under R.S. 11:511 for the retired member position.

B. The appointment shall be valid only until January 1 of the year following the next election.

C. When the unexpired term for the vacancy is greater than two years, a special election shall be held to fill the vacancy simultaneous with the election ordinarily held in odd number years. The ballot for the special election may be the same as that used in the regular election.

D. The deadlines and procedures for special elections shall be identical to those for elections normally held in years ending with odd numbers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511, R.S. 11:512 and R.S. 11:515.

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:

James O. Wood
Executive Director

9705#042

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Office of Fisheries**

Freshwater Mussel Harvest (LAC 76:VII.161)

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 56:450, which allows the secretary to promulgate rules and regulations for the harvest of freshwater mussels, the secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule. This emergency rule shall be effective 12:01 a.m., May 20, 1997, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

The secretary promulgates the emergency rule to allow resident buyers to import mussel shells of species and sizes legal in Louisiana, in order to compete with the national shell industry. The emergency rule will help alleviate financial hardships of mussel harvesters who must currently harvest and sell freshwater mussels on the same day. The provisions of the emergency rule will allow harvesters to store sacked and tagged mussels in a cold storage facility for up to a five-day period prior to sale. The emergency rule also reduces daily notification requirements if the harvester remains in one location on a weekly basis.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§161. Freshwater Mussel Harvest

*** * ***

D. Species for Harvest

1. Only the following taxa may be legally harvested:

washboard	<i>Magaloniaias nervosa</i>
pimpleback	<i>Quadrula spp.</i>
three ridge	<i>Amblema plicata</i>
bleufer	<i>Potamilus (Proptera) purpuratus</i>
Asian clam	<i>Corbicula fluminea</i>

2. Only specimens equal to or larger than the following minimum sizes shall be harvested:

washboard	4 inches
three ridge and bleufer	3 inches
pimpleback	2 3/4 inches
Asian clam	no size limit

3. Minimum size will be measured by passing the specimen through a ring or appropriate circular measuring device so designed as to allow undersized mussels to pass through the opening. There is no allowance for undersized shell. All mussels must be sized (graded) immediately after each dive and undersized shell returned to the mussel bed before the harvester moves his boat or begins another dive. All mussels harvested shall be removed from the water daily during daylight hours only. All mussels harvested must be sold on a daily basis unless stored and tagged as required herein. Mussels may not be stored in the water after sunset. All mussels not sold at the end of each day shall be sacked and tagged before official sunset. The tag shall contain the following information:

- a. name;
- b. harvester permit number;
- c. date harvested;
- d. harvest location;
- e. confirmation number.

4. The mussel harvester may store mussels harvested at the end of each day in a cold storage facility prior to selling, provided the sacked mussels are properly tagged. Mussels shall not be stored longer than five days or after official sunset on Friday of each week.

5. The zebra mussel (*Dreissena polymorpha*), an introduced nuisance aquatic species, has the potential to severely clog industrial and public water intakes, deplete nutrients and consume huge amounts of dissolved oxygen in state water bodies, and potentially decimate endemic freshwater mussel populations. Therefore, the Department of Wildlife and Fisheries strongly encourages actions to prevent the spread of zebra mussels.

G. Reporting

5. Each permittee harvesting mussels for sale is responsible for department notification. The permittee shall notify the department at a designated phone number (1-800-442-2511) at least four hours prior to harvesting any mussels. The permittee shall provide, at the time of notification, the parish and area to be fished. Such notification will be on a daily basis, unless the harvester fishes in the same area during a Monday through Friday period. However, even if harvesting in the same location for an extended period, weekly notification will be required. The permittee will be given a confirmation number at the time of notification.

H. Special Restrictions

5. Mussel shells (opened without meat) may be imported into Louisiana by properly licensed and permitted mussel buyers when accompanied by the appropriate licenses or permits, bills of lading, and proof of legality in the state of origin. The bill of lading shall include species of mussels contained in the shipment, pounds of mussels by species, the origin of the shipment, the destination of the shipment and the consignee and consignor. The buyer importing mussel shells into Louisiana must notify the Enforcement Division (toll-free 1-800-442-2511) within 24 hours prior to shipment with bill

of lading information, date and time of shipment, and route to be taken to the point of destination.

6. All mussels possessed under provisions of Subsection H.5 of this Section must be of legal size and species open to harvest in Louisiana.

7. Except under the provisions of Subsection H.5 and 6 of this Section, no mussels harvested from waters outside of Louisiana may be sold in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:450.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 19:510 (April 1993), amended LR 21:193 (February 1995), LR 22:374 (May 1996), LR 23:

James H. Jenkins, Jr.
Secretary

9705#020

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Black Bass—John K. Kelly-Grand
Bayou Reservoir (LAC 76:VII.149)

The Wildlife and Fisheries Commission does hereby exercise emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 49:967(D), and pursuant to its authority under R.S. 56:6(25)(a), 325(C), and 326.3, adopts an emergency rule as set forth below. This emergency rule is necessary because the current black bass regulations on John K. Kelly-Grand Bayou Reservoir will expire on May 31, 1997. Department biologists needed to collect Spring 1997 fisheries data before submitting a management proposal to the commission.

This declaration of emergency shall become effective June 1, 1997 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing §149. Black Bass Regulations-Daily Take and Size Limits

B. In addition, the commission establishes special size and daily take regulations for black bass on the following water bodies:

2. Lake Bartholomew (Morehouse and Ouachita Parishes), Black Bayou Lake (Bossier Parish), Chicot Lake (Evangeline Parish), Cross Lake (Caddo Parish), John K. Kelly-Grand Bayou Reservoir (Red River Parish), Lake Rodemacher (Rapides Parish) and Vernon Lake (Vernon Parish):

- a. Size Limit: 14 inch - 17 inch slot. A 14 - 17 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive;
- b. Daily Take: eight fish of which no more than four fish may exceed 17 inches maximum total length*;
- c. Possession limit:
 - i. On water—same as daily take;
 - ii. Off water—twice the daily take.

*Maximum total length—the distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325 (C), 326.3

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), amended LR 17:278 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:

Daniel J. Babin
Chairman

9705#015

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Nonresident Duck Stamp Fee Increase (LAC 76:V.317)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of R.S. 56:6(28), the Wildlife and Fisheries Commission hereby increases the fee for the nonresident duck stamp. This increase will be effective for nonresident duck stamps sold beginning with the 1997-98 license year. This action is being taken to allow the department to order stamps for the 1997-98 license year with these fees duly noted and available by July 1, 1997.

This declaration of emergency shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

§317. Nonresident Duck Stamp Fee Increase

Beginning in the 1997-98 license year, the fee for purchasing a nonresident duck stamp will be increased from

\$7.50 to \$13.50. This change will remain in effect until additional changes are warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(28).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 23:

Daniel J. Babin
Chairman

9705#016

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spring Inshore Shrimp Season—1997

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497, which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and shall have the authority to open or close outside waters, the Wildlife and Fisheries Commission does hereby set the 1997 Spring Inshore Shrimp Season to open as follows:

Zone 1, that portion of Louisiana's inshore waters from the Mississippi State Line to the eastern shore of South Pass of the Mississippi River, to open at 6 a.m., May 19, 1997; and

Zone 2, that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, to open at 6 a.m., May 19, 1997; and

Zone 3, that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island westward to the Texas State Line, to open at 6 a.m., May 26, 1997.

The commission also hereby grants to the secretary of the Department of Wildlife and Fisheries the authority to close any zone or portion of the state's waters to protect small white shrimp if biological and technical data indicates the need to do so, or enforcement problems develop.

Daniel J. Babin
Chairman

9705#014

Rules

RULE

Department of Agriculture and Forestry Office of Forestry

Forest Management Fees (LAC 7:XXXIX.20701)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Agriculture and Forestry, Office of Forestry hereby amends LAC 7:XXXIX.20701, Forest Management Fees. The department published a notice of intent to amend these rules in the December 20, 1996 *Louisiana Register* (Volume 22, Page 1245). The amended rules hereby have an effective date of May 20, 1997.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 207. Forest Landowner Assistance

§20701. Management Service Fees

The Department of Agriculture and Forestry, Office of Forestry, shall, under the direction of the state forester, provide private landowners with assistance in the management of their forestlands.

A. Basic Services. Performed on an as-requested basis in all Office of Forestry Districts.

1. Prescribed Burning Services

- | | |
|--|---|
| a. Reforestation (cutover areas) | \$10/acre plus \$60/hour for fireline establishment.
Minimum \$100 |
| b. Afforestation (pasture, etc.) | \$7/acre. Minimum \$100 |
| c. Helicopter Assisted Burns | \$5/acre plus \$60/hour for fireline establishment.
Minimum \$100 |
| d. Other Prescribed Burns (fuel reduction, hardwood control, wildlife habitat, etc.) | \$7/acre. Minimum 100 |
| e. Fireline Plowing Only | \$60/hour. Minimum \$100 |

2. Timber Marking

\$15/acre

B. Special Services. Performed when approved on a case-by-case basis.

- | | |
|--------------------|-----------|
| 1. Tree Planting* | \$42/acre |
| 2. Direct Seeding* | \$ 5/acre |
| 3. Tractor Work | \$60/hour |

*Seedlings or seed not included.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, LR 8:419 (August 1982), amended by the Department of Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 11:1178 (December 1985), LR 19:1414 (November 1993), LR 23:553 (May 1997).

Bob Odom
Commissioner

9705#045

RULE

Department of Agriculture and Forestry Office of Forestry

Indian Creek Recreation Area User Fees (LAC 7:XXXIX.20501)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Agriculture and Forestry, Office of Forestry hereby amends LAC 7:XXXIX.20501, Indian Creek Recreation Area, Usage Fees. The department published a notice of intent to amend these rules in the December 20, 1996 *Louisiana Register* (Volume 22, Page 1246). The amended rules have an effective date of May 20, 1997.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 205. Indian Creek Recreation Area

§20501. Usage Fees

The Department of Agriculture and Forestry, Office of Forestry, hereby announces the following usage fee revisions:

- | | |
|--|---|
| A. Entrance Fees (Day Use) | \$3/per vehicle with up to six occupants. Additional \$.50 per person for additional occupants. |
| B. Regular Campsite | \$12/day |
| C. Pull-through Campsite | \$16/day |
| D. Primitive Campsite | \$7/day |
| E. Pavilion Rental | \$35/day |
| F. Boat Launch | \$3/per boat |
| G. 30-day Off-season Rate for Regular Campsite (Oct. - Feb. only) | \$180/month |
| H. 30-day Off-season Rate for Pull-through Campsite (Oct. - Feb. only) | \$240/month |

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1476 [renumbered R.S. 3:4276] and R.S. 3:4274.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 6:734 (December 1980), amended LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 17:476 (May 1991), LR 23:553 (May 1997).

Bob Odom
Commissioner

9705#046

RULE

Department of Economic Development Economic Development Corporation

BIDCO Investment and Co-Investment Program (LAC 19:X.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Economic Development Corporation Act, R.S. 51:2312(C), the Department of Economic Development amends the following rules and regulations for the BIDCO Investment and Co-Investment Program.

Title 19

CORPORATIONS AND BUSINESS

Part X. Economic Development Corporation

Subpart 1. BIDCO Investment Program

Chapter 1. BIDCO Investment and Co-Investment Program

§103. Definitions

A. - D. ...

E. A *Specialty BIDCO* shall be defined in accordance with the Office of Financial Institution's BIDCO policy.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:554 (May 1997).

§105. LEDC Application Process

A. - B. ...

1. Applications will be processed in the order in which they are received.

2. - 5. ...

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:554 (May 1997).

§109. Amount of Investment

A. Co-Investment

1. If a nonspecialty BIDCO can show private cash capital contributions or commitments, as defined in §103, of at least \$1,000,000, LEDC may co-invest \$1 for each \$2 for each LEDC approved project submitted to it by the BIDCO. The LEDC investment will participate pro-rata with the BIDCO share of the investment. The LEDC investment will not exceed 33 percent of any project nor will LEDC funding

exceed \$1 for each \$2 of other BIDCO capital committed. On each project submitted for review, an application fee of \$250 is required.

2. If a specialty BIDCO can show private cash capital contributions or commitments, as defined in §103, of at least \$250,000, LEDC may co-invest \$1 for each \$1 for each LEDC approved project submitted to it by the BIDCO. The LEDC investment will participate pro-rata with the BIDCO share of the investment. The LEDC investment will not exceed 50 percent of any project nor will LEDC funding exceed \$1 for each \$1 of other BIDCO capital committed. On each project submitted for review, an application fee of \$250 is required.

B. Match Investment

1. If a nonspecialty BIDCO can show private cash capital contributions or commitments, as defined in §103, of \$2,000,000, exclusive of any previous investments by LEDC, the BIDCO may request a matching equity capital contribution from LEDC. Each request should be accompanied by a \$500 application fee. If the BIDCO is considered an acceptable risk, based upon LEDC review of its credentials, performance, and business plan, or some combination thereof, LEDC may make a matching cash contribution on the basis of \$1 for each \$2 of the BIDCO capital not to exceed \$2,500,000, reduced for any previous LEDC capital contributions. LEDC will base its matching equity capital contribution on the amount of non-LEDC capital as calculated in accordance with §103(D). Thereafter it will participate in all future BIDCO investments on a pro-rata basis with all other BIDCO funds. Any BIDCO which has received a LEDC match investment is ineligible to present portfolio projects to LEDC for assistance through any of LEDC's other programs.

2. If a specialty BIDCO can show private cash capital contributions or commitments, as defined in §103, of \$250,000, exclusive of any previous investments by LEDC, the BIDCO may request a matching equity capital contribution from LEDC. Each request should be accompanied by a \$500 application fee. If the BIDCO is considered an acceptable risk, based upon LEDC review of its credentials, performance, and business plan, or some combination thereof, LEDC may make a matching cash contribution on the basis of \$1 for each \$1 of the BIDCO capital not to exceed \$2,500,000, reduced for any previous LEDC capital contributions. LEDC will base its matching equity capital contribution on the amount of non-LEDC capital as calculated in accordance with §103(D). Thereafter it will participate in all future BIDCO investments on a pro-rata basis with all other BIDCO funds. Any BIDCO which has received a LEDC match investment is ineligible to present portfolio projects to LEDC for assistance through any of LEDC's other programs.

(Editor's Note: Existing Subsections E. and F. are renumbered 3. and 4., respectively.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:554 (May 1997).

§111. Terms of Investments

A. ...

B. LEDC will have the right to appropriate representation on and control of the BIDCO's management and governance as negotiated with the BIDCO. This may include, but not be limited to, board seat(s); veto authority or supermajority requirements for key management and financial decisions; board visitation rights.

C.1. LEDC's stock may be repurchased by the BIDCO or, secondarily, by its private-capital stockholders at the end of the fifth year or each subsequent annual operating period for a discounted amount of LEDC's then-current book value or market value, whichever is higher, subject to LEDC's concurrence on the valuation methodology and the achievement of BIDCO performance objectives specified at the time of LEDC's investment. The BIDCO or its private-capital investors can experience an appreciation in their investment commensurate with the amount of discount granted by LEDC in the sale of its stock back to the BIDCO or its shareholders. The discount at the end of the five years or annually thereafter, is:

	DISCOUNT	LEDC RECEIVES
End of 5 Years	25%	75%
6th Year	20%	80%
7th Year	15%	85%
8th Year	10%	90%
9th Year and Beyond	5%	95%

2. This scenario provides greater incentives for the BIDCO/shareholders to repurchase LEDC's interest earlier than later, but retains incentive for the buy-out beyond the ninth year. See Exhibit 1 for an example of the buy-out scenarios. This provision is not applicable to nonprofit BIDCO's.

D. LEDC may negotiate additional operating requirements with individual applicant BIDCO's on a case-by-case basis, as needed to safeguard the quality of LEDC's investment or to promote achievement of the objectives of the program or LEDC. Such requirements may include, but not be limited to, a put (sell) option to liquidate LEDC's investment in the BIDCO.

E. All agreements will be executed by duly authorized persons outlining the details of the transaction.

F. LEDC's funding under its commitment will be made on a quarterly basis subject to verification of non-LEDC funds received by the BIDCO.

G. Capital match investments in a nonprofit BIDCO will be in the form of a debenture with terms and rates to be negotiated consistent with the BIDCO's business plan and LEDC's investment objectives and polices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:555 (May 1997).

§113. Application Requirements

To apply for LEDC financing, A BIDCO shall submit to LEDC evidence of its OFI approval or preliminary approval. The applicant must desirably submit to LEDC information in the sequence outlined below. The Applicant may provide other information which it believes relevant. LEDC may request further information beyond what is specified below.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:555 (May 1997).

Brett Crawford
Executive Director

9705#073

RULE

**Department of Economic Development
Economic Development Corporation**

Micro Loan Program (LAC 19:VII.Chapter 75)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Economic Development Corporation Act, R.S. 51:2312(C), the Department of Economic Development, Economic Development Corporation adopts the following rules and regulations for the Micro Loan Program.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 9. Micro Loan Program

Chapter 75. Loan Policies

§7501. Purpose

A. The Louisiana Economic Development Corporation (LEDC) wishes to stimulate the flow of private capital, long-term loans, and other financial assistance for the sound financing of the development, expansion, and retention of small business concerns in Louisiana as a means of providing high levels of employment, income growth, and expanded economic opportunities, especially to disadvantaged persons and within distressed and rural areas.

B. The corporation will consider sound loans so long as resources permit. The board of the corporation recognizes that guaranteeing, participating, or lending money carries certain risks and is willing to undertake reasonable exposure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:555 (May 1997).

§7503. Definitions

Disabled Person's Business Enterprise—a small business concern which is at least 51 percent owned and controlled by a disabled person as defined by the federal Americans With Disabilities Act of 1990.

Economically Disadvantaged Business—a Louisiana business certified as economically disadvantaged by the Department of Economic Development's Division of Economically Disadvantaged Business Development.

Micro Loans—those loans ranging in size from \$5,000 to \$50,000.

Small Business Concerns—as defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:555 (May 1997).

§7505. Application Process

A. Applicant is required to first contact a financial lending institution that is willing to entertain such a loan with the prospect of additional credit support provided by a LEDC guarantee or a participation and complete the application process. An applicant may also apply to LEDC directly for loan consideration, provided it is based upon documented eligibility as established as follows. Only after rejection by at least two lending institutions for participation on the basis of either a loan participation or a loan guarantee shall an applicant be eligible to be considered for a direct loan by LEDC. Such applications may be forwarded directly to LEDC.

B. Information submitted to LEDC with the application representing the applicant's business plan, financial position, financial projections, personal financial statements and background checks will be kept confidential to the extent allowed under the Public Records Law, R.S. 44:1 et seq. Confidential information in the files of LEDC and its accounts acquired in the course of duty will be used solely by and for LEDC.

C. Submission and Review Policy

1. A completed Louisiana Economic Development Corporation application form along with information identified by LEDC as appropriate must be submitted to LEDC. Applications will be processed, with decisions confirmed promptly.

2. Economically disadvantaged businesses applying for assistance under that provision will have to submit certification from the Division of Economically Disadvantaged Business Development Office of the Department of Economic Development along with the request for financial assistance.

3. Businesses applying for consideration under the Disabled Persons provision shall submit adequate information to support the disabled status.

4. LEDC staff will review the applications for completeness and submit only complete packages for analysis. Any applications not receiving approval in the initial analysis process shall be individually reviewed and exceptions to underwriting criteria noted. The LEDC staff will report to the screening committee monthly those applications approved, and those not recommended for approval with reasons.

5. Loans guaranteed or participated in by LEDC must qualify under LEDC pre-approved underwriting criteria using standardized LEDC documentation. The originating bank is responsible for all loan closing documentation. Closing will

occur only after a site visit by an LEDC staff member or designated representative.

6. Direct loans by LEDC must qualify under LEDC pre-approved underwriting criteria, or be approved by the board of directors as an exception to such criteria. Such loans will be closed by LEDC or its designated agents using standardized LEDC documentation.

7. Only those applicants and/or their designated representatives asked to be present by the LEDC staff need to be present for the screening committee.

8. The board of directors will review the results of all applications processed and screened. Loans recommended for approval by the LEDC staff as exceptions to standard underwriting criteria will be presented to the screening committee of the board for approval. Loans approved under standard underwriting procedures requiring direct LEDC funding, LEDC guarantees or participation shall be approved by LEDC in accordance with established policies and procedures.

9. The applicant will be notified promptly from date accepted for processing by mail of the outcome of the application.

10. A LEDC commitment letter, standard guaranty or participation agreement will be mailed to the bank promptly after approval by the LEDC staff applying standardized evaluation processes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:556 (May 1997).

§7507. Eligibility

A. Small business concerns as defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

B. Small businesses whose owner(s) or principal stockholder(s) shall be a resident of Louisiana and the business is domiciled in Louisiana with preference given to certified economically disadvantaged businesses or businesses owned by disabled persons.

C. Funding request for all but the following may be considered:

1. restaurants, except for regional or national franchises;

2. bars;

3. any project established for the principal purpose of dispensing alcoholic beverages;

4. any establishment which has gaming or gambling as its principal business;

5. any establishment which has consumer or commercial financing as its business;

6. funding for the acquisition, renovation, or alteration of a building or property for the principal purpose of real estate speculation;

7. funding for the principal purpose of refinancing existing debt in excess of 10 percent of the total requested loan amount;

8. funding for the purpose of buying out any stockholder or equity holder by another stockholder or equity holder in a business;

9. funding for the purpose of establishing a park, theme park, amusement park, or camping facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:556 (May 1997).

§7509. General Loan Provisions

A. The Louisiana Economic Development Corporation will be guided by the following general principles in making loans:

1. The corporation shall not knowingly approve any loan guarantee, loan participation or loan if the applicant has presently pending or outstanding any claim or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness including state or federal taxes, or bankruptcy proceeding; nor shall the corporation approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

2. The terms or conditions imposed and made part of any loan or loan guarantee authorized by vote of the corporation board shall not be amended or altered by any member of the board or employee of the Department of Economic Development except by subsequent vote of approval by the board at the next meeting of the board in open session with full explanation for such action.

3. The corporation shall not subordinate its position.

B. Interest Rates

1. On all loan guarantees the interest rate is to be negotiated between the borrower and the bank but may not exceed four percentage points above New York prime as published in the Wall Street Journal at either a fixed or variable rate.

2. On all participation loans the interest rate to LEDC shall be determined by utilizing the rate for a U.S. Government Treasury Security for the time period that coincides with the term of the participation and adding 1 percent.

3. On all direct loans by LEDC the interest rate to LEDC shall be negotiated at a rate commensurate with the loan risk for either variable or fixed rate loans.

C. Collateral

1. Collateral to loan ratio will be no less than 1:1, except for direct loans where the ratio will be 1.2:1.

2. Collateral position shall be negotiated but will be no less than a sole second position.

3. Collateral Value Determination

a. The appraiser must be certified by recognized organization in area of collateral.

b. The appraisal cannot be over 90 days old.

c. The percentage of value considered shall be consistent with the underwriting criteria established by the LEDC Board from time to time.

4. Acceptable collateral may include, but not be limited to, the following:

a. fixed assets—real estate, buildings, fixtures;

b. equipment, machinery, inventory;

c. personal guaranties are open for negotiation, if used, there must be signed and dated personal financial statements;

d. accounts receivable with supporting aging

schedule, except for direct loans where accounts receivable are ineligible;

5. unacceptable collateral may include but not be limited to the following:

a. stock in applicant company and/or related companies;

b. personal items.

D. Equity

1. Will be no less than 10 percent of the loan amount for a start-up operation, acquisition, or expansion.

2. Equity is defined to be:

a. cash;

b. paid in capital;

c. paid in surplus and retained earnings;

d. partnership capital and retained earnings.

3. No research, development expense or intangibles will be considered equity.

E. Amount

1. For small businesses the corporation's guarantee shall be no greater than 80 percent of a loan.

2. For certified economically disadvantaged businesses or businesses owned by disabled persons, the guarantee shall be no greater than 90 percent of a loan.

3. The corporation's participation in loans shall be no greater than 50 percent, but in no case shall it exceed \$25,000.

F. Terms. Terms may be negotiated with the bank but in no case shall the terms exceed five years.

G. Fees. LEDC will charge a minimum guarantee fee of 1 percent of the guarantee amount.

H. Use of Funds

1. Purchase of fixed assets, including buildings that will be occupied by the applicant to the extent of at least 51 percent.

2. Purchase of equipment, machinery, or inventory.

3. Line of credit for accounts receivable or inventory.

4. Debt restructure may be considered by LEDC but will not be considered when the debt:

a. exceeds 10 percent of total loan; and/or

b. pays off a creditor or creditors who are inadequately secured; and/or

c. provides funds to pay off debt to principals of the business; and/or

d. provides funds to pay off family members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:557 (May 1997).

§7511. General Agreement Provisions

A. Guaranty Agreement

1. Originating bank or LEDC agent responsible for proper administration and monitoring of loan and proper liquidation of collateral in case of default.

2. The loan shall not be sold, assigned, participated out, or otherwise transferred without prior written consent of the LEDC Board.

3. If liquidation through foreclosure occurs, the bank sells collateral and handles legal proceedings.

4. There will be a reduction of the guarantee:

a. in proportion to the principal reduction of the

amortized portion of the loan;

b. if no principal reduction has occurred in any annual period of the loan, a reduction in the guarantee amount will be made proportional to the remaining guarantee life.

5. The guarantee will cover the unpaid principal amount owed only.

6. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined in the guaranty agreement. Notification of delinquency will be made to the corporation, in writing and verbally, in a time satisfactory to the bank and the corporation as stated in the guaranty agreement.

B. Participation Agreement

1. The bank is responsible for administration and monitoring of the loan.

2. The lead bank will hold no less participation in the loan than that equal to LEDC's but not to exceed its legal lending limit.

3. The lead bank may sell other participation with LEDC's consent.

4. Should liquidation through foreclosure occur, the bank will sell the collateral and handle the legal proceedings.

5. The bank is able to set its rate according to risk. A blend with the LEDC rate to yield a lower overall rate to project.

6. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation.

C. Borrower Agreement. At the discretion of LEDC the borrower will agree to strengthen management skills by participation in a form of continuing education acceptable to LEDC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:557 (May 1997).

§7513. Confidentiality

Confidential information in the files of the corporation and its accounts acquired in the course of duty is to be used solely for the corporation. The corporation is not obliged to give credit rating or confidential information regarding applicant. Also see Attorney General Opinion Number 82-860.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:558 (May 1997).

§7515. Conflict of Interest

No member of the corporation, employee thereof, or employee of the Department of Economic Development, members of their immediate families shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the corporation for any matter, cause, or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such corporation. If any contract or agreement shall be made in violation of the provisions of this Section the same shall be

null and void and no action shall be maintained thereon against the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:558 (May 1997).

Brett Crawford
Executive Director

9705#075

RULE

Department of Economic Development Economic Development Corporation

Venture Capital Match Program (LAC 19:VII.2301-2313)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Economic Development Corporation Act, R.S. 51:2312(C), the Department of Economic Development, Board of the Louisiana Economic Development Corporation, amends the following rules and regulations for the Venture Capital Match Program.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 2. Venture Capital Program

Chapter 23. Venture Capital Match Program

§2301. Eligibility

Eligible applicants are:

1. Venture Capital Funds with a minimum of \$5,000,000 of privately raised capital for risk investment under management with:

a. proven, experienced management recognized in the venture capital community. The management should have significant management experience in risk investments of the types and volumes contemplated by the applicant venture capital funds;

b. a Louisiana-based production office. The production office shall have permanent employees employed by the fund capable of evaluating potential investment opportunities;

c. funds without headquarters located in Louisiana must have a minimum of one-year operating history.

2. For the purposes of this Chapter, *Risk Investment* means an investment which may provide equity through the purchase of common stock, preferred stock, partnership rights or any other equity instrument. Additionally it may mean debt positions which may act as equity or have equity features such as subordinated debt, debentures or other such instruments used in conjunction with features intended to yield significant capital appreciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:463 (June 1989), amended LR 23:558 (May 1997).

§2303. Valuation of Investment Fund

The amount of privately raised funds under management shall mean the value of any monies invested or otherwise used as risk capital in businesses plus the unexpended monies available for investment or used as risk capital. The value of an equity investment and/or risk capital investment shall be the amount of dollars actually invested. For the purpose of calculating private capital, only cash and commitments which are available for risk investments at the time of LEDC's match, may be counted in the match amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:463 (June 1989), amended LR 23:559 (May 1997).

§2305. Application Procedure

The application shall contain, but not be limited to, an offering memorandum which includes, but is not limited to, the following:

1. name of fund, address (mailing and physical);
2. specify the amount of LEDC investment/commitment requested;
3. specify the minimum and maximum amounts of non-LEDC capital to be raised if LEDC makes the requested investment/commitment;
4. specify applicant's projected timetable, with milestones for completion of the fund raising;
5. specify whether applicant anticipates taking in all of the committed capital investment at closing, or whether applicant plans a phase in. If a phase-in is planned, specify the proposed schedule. It is permissible to have different scenarios based on the actual amount of capital raised;
6. market—identify the proposed market of the applicant:
 - a. describe and discuss the types of businesses that the fund will finance. Discuss the extent to which the fund intends to specialize in certain industries, or if special circumstances will be addressed;
 - b. describe the size range of businesses that it is contemplated the fund will finance, with a general indication of where most of the focus is expected;
 - c. discuss the life cycle stage or stages of the companies which the fund will likely finance, with an indication of where most of the focus is contemplated, e.g., start-up, expansion;
 - d. discuss the geographic area in which the fund plans to focus. Specify the city or parish in which the fund's principal office will be located, and discuss intentions, if any, to establish any additional offices;
 - e. describe the types of financing instruments that are intended to be utilized for investments, e.g., debentures, notes, preferred stock, royalties, etc.;
7. management assistance—discuss the plans of the fund to provide management and/or technical assistance to companies for which the fund provides financing. Discuss the fund's plans for monitoring its financing, and enforcing provisions of loan or investment agreements. Discuss how the

fund plans to handle problem loans and investments;

8. idle funds—describe plans for the management of the idle funds of the fund;

9. realization of returns by investors—discuss long-term plans and strategies for providing a tangible return to the investors in the fund ;

10. tax and accounting issues—discuss relevant tax and accounting issues for the fund;

11. management structure—describe the proposed management structure for the Fund;

12. describe the proposed responsibilities of each of the members of the management team. If any of these people will not be full time, describe their other activities;

13. describe the responsibilities of any management position for which a person has not been identified;

14. specify any other key people including any advisors, consultants, attorneys and accountants, and submit resumes and/or descriptions of firms. LEDC reserves the right to perform general and criminal background checks on these key people.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:463 (June 1989), amended LR 23:559 (May 1997).

§2307. Amount of Investment

The corporation may invest up to \$5,000,000. The corporation may use its discretion to set the ratio of corporation investment to private investment. However, the ratio shall not exceed \$1 of corporation monies to \$2 of privately raised dollars.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:463 (June 1989), amended LR 23:559 (May 1997).

§2309. Investment Criteria

The criteria for investment may include but not be limited to the following:

1. The applicant will be required to make investments that will at least create jobs in, create wealth in, and shall have a substantial economic impact to the economy of Louisiana.

2. The investment made by LEDC shall be made on no less than the same terms and conditions, and with the same expected return on investment, as other private investors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:463 (June 1989), amended LR 23:559 (May 1997).

§2311. Reporting Requirements

Funds receiving investments under this program shall submit quarterly and annual financial and narrative reports on the use of monies and all investments made by the fund during the reporting period. The narrative report shall include the number of applications received in addition to other activities. The narrative report shall include a listing of all investors in each business and all subsequent financings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:463 (June 1989), amended LR 23:559 (May 1997).

§2313. Inactivity

If no activity has occurred in the fund for a period of one year or reporting requirements are not met, the Venture Fund shall be reviewed by the board of the corporation. After review the board may choose to revoke its investment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:463 (June 1989), amended LR 23:560 (May 1997).

Brett Crawford
Executive Director

9705#074

RULE

Board of Elementary and Secondary Education

Bulletin 741—Adding Elective Courses

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 741, Louisiana Handbook for School Administrators, Standards 1.090.11, and 1.105.37 as stated below.

Adding Electives/Exploratories to the Program of Studies

1.090.11 A school system choosing to add an elective/exploratory course to its program of studies shall apply to the director of the Bureau of Elementary Education, State Department of Education (SDE), at least 60 days prior to the anticipated date of implementation. The State Department of Education shall follow the guidelines for elective approval as submitted to the SBESE.

The application for an elective/exploratory course shall be submitted by the superintendent and shall contain the following information:

1. detailed outline of course content;
2. time requirements (minutes per day; days per year or semester);
3. detailed course objectives and methods by which they shall be measured;
4. qualifications of the instructor;
5. date the course is to begin;
6. approximate number of students; and
7. criteria for enrollment.

If the course is to be offered for the succeeding school year, an end-of-year evaluation shall be sent on provided forms to the Bureau of Elementary Education for determining its continuation.

After an elective/exploratory course has been in effect for three successive school years and if the system wants the course to be a permanent part of its curriculum, the school superintendent shall apply by letter to the director of the Bureau of Elementary Education for permission to include it. The State Department of Education shall review the request along with course evaluations and notify the applicant

whether or not the course is approved.

The State Department of Education will provide the SBESE with a listing of any new elective courses or permanently approved courses every two months.

Adding Elective Courses to the Program of Studies

1.105.37 A school system choosing to add an elective course to its program of studies shall apply to the director of the Bureau of Secondary Education, SDE, at least 60 days prior to the anticipated date of implementation. The State Department of Education shall follow the guidelines for elective approval as submitted to the SBESE.

The director of the Bureau of Secondary Education shall determine, from the information submitted, whether or not the course is approved and so notify the applicant.

The application for an elective course shall be signed by the superintendent and shall contain the following information:

1. detailed outline of course content;
2. units of credit to be granted;
3. detailed course objectives and the methods by which they shall be measured;
4. qualifications of the instructor;
5. date the course is to begin;
6. approximate number of students; and
7. criteria for enrollment.

Elective courses designed specifically for special education students shall also be approved by the Office of Special Education Services.

If the course is to be offered for the succeeding school year, an end-of-the-year evaluation shall be sent, on forms provided, to the Bureau of Secondary Education for determining its continuation.

After an elective course has been in effect for three successive school years and if the system wants the course to be a permanent part of its curriculum, the school superintendent shall apply by letter to the director of the Bureau of Secondary Education for permission to include it. The State Department of Education shall review the request along with course evaluations and notify the applicant whether or not the course is approved.

The State Department of Education will provide the SBESE with a listing of any new elective courses or permanently approved courses every two months.

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:560 (May 1997).

Weegie Peabody
Executive Director

9705#029

RULE

Board of Elementary and Secondary Education

Bulletin 741—Alternative Schools/Programs

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education hereby amends *Bulletin 741, Louisiana Handbook*

for *School Administrators*, Standards 1.151.01 and 2.151.01 as stated below:

1.151.01 Approval shall be obtained from the State Department of Education prior to the establishment of the alternative school/program.

A narrative proposal describing the alternative school/program shall be submitted and shall include the following information:

1. purpose;
2. needs assessment;
3. type (alternative within regular education or alternative to regular education placement);
4. list of the *Louisiana Handbook for School Administrators, Bulletin 741* policy and standard deviations;
5. anticipated date of implementation;
6. student eligibility;
7. entrance and exit criteria;
8. total number of students;
9. individual class sizes;
10. detailed outline of curriculum;
11. methods of instruction to meet individual student needs;
12. type and number of staff including qualifications/certification;
13. plan for awarding Carnegie units, when applicable;
14. grading and reporting procedures;
15. plan for parental and community involvement;
16. educational support services;
17. in-service;
18. type and location of physical facility;
19. procedure for program evaluation.

A school system choosing to implement an alternative school/program shall submit the above proposal to the director of the appropriate bureau, (elementary education or secondary education) at least 60 days prior to the anticipated date of implementation.

Refer to guidelines for alternative schools.

The State Department of Education will provide the SBESE with a listing of approved alternative schools/programs every two months.

2.151.01 Approval shall be obtained from the State Department of Education prior to the establishment of the alternative school/program.

A narrative proposal describing the alternative school/program shall be submitted and shall include the following information:

1. purpose;
2. needs assessment;
3. type (alternative within regular education or alternative to regular education placement);
4. list of the *Louisiana Handbook for School Administrators, Bulletin 741* policy and standard deviations;
5. anticipated date of implementation;
6. student eligibility;
7. entrance and exit criteria;
8. total number of students;
9. individual class sizes;
10. detailed outline of curriculum;
11. methods of instruction to meet individual student

needs;

12. type and number of staff including qualifications/certification;
13. plan for awarding Carnegie units, when applicable;
14. grading and reporting procedures;
15. plan for parental and community involvement;
16. educational support services;
17. in-service;
18. type and location of physical facility;
19. procedure for program evaluation.

A school system choosing to implement an alternative school/program shall submit the above proposal to the director of the appropriate bureau, (elementary education or secondary education) at least 60 days prior to the anticipated date of implementation.

Refer to guidelines for alternative schools.

The State Department of Education will provide the SBESE with a listing of approved alternative schools/programs every two months.

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:560 (May 1997).

Weegie Peabody
Executive Director

9705#028

RULE

Board of Elementary and Secondary Education

Bulletin 746—Ancillary Secondary and Elementary School Principals

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved an addition to Bulletin 746, Louisiana Standards for State Certification of School Personnel as follows:

Ancillary Secondary School Principal

Secondary school principals shall either hold a Louisiana teaching certificate which authorizes service as a secondary school principal or meet the following requirements:

- A. have an earned master's degree from a regionally accredited institution of higher education;
- B. have completed five or more years of professional school experience at the secondary level;
- C. a score of 620 on the Educational Administration and Supervision Area Exam of the National Teacher Examinations is required;
- D. have completed a minimum of 30 semester hours of graduate credit as follows:

1. nine semester hours of educational administration and instructional supervision to include the following:
 - a. foundations of (introductory) educational administration or theory of educational administration;
 - b. secondary school principal;
 - c. principles of instructional supervision in the secondary school;

2. twenty-one semester hours of professional education as follows:

a. eighteen semester hours in professional education to include the following:

- i. educational research;
- ii. history or philosophy of education;
- iii. secondary school curriculum;
- iv. school law;
- v. school finance;
- vi. school personnel administration;

b. three semester hours of electives in education administration from:

- i. school-community relations;
- ii. school facilities;
- iii. program development and evaluation (in professional education or area(s) outside of professional education);

E. a provisional secondary school principal ancillary certificate may be issued to an applicant who has met the requirements of Paragraphs A through D.2 above and who is employed as a secondary school principal in a Louisiana school system. The certificate may be issued at the request of the Louisiana employing superintendent and is valid only for the period and place of employment. Upon employment as a principal, an individual with provisional certification must enroll in the two-year Principal Internship Program under the auspices of the Administrative Leadership Academy. A secondary school principal ancillary certificate will be issued upon satisfactory completion of the two-year Principal Internship Program;

F. persons holding an ancillary principal certificate at either the elementary or secondary school level may serve as a principal of a combination elementary-secondary school.

Ancillary Elementary School Principal

Elementary school principals shall either hold a Louisiana teaching certificate which authorizes service as an elementary school principal or meet the following requirements:

A. have an earned master's degree from a regionally accredited institution of higher education;

B. have completed five or more years of professional school experience at the elementary level;

C. a score of 620 on the Educational Administration and Supervision Area Exam of the National Teacher Examinations is required;

D. have completed a minimum of 30 semester hours of graduate credit as follows:

1. nine semester hours of educational administration and instructional supervision to include the following:

- a. foundations of (introductory) educational administration or theory of educational administration;
- b. elementary school principal;
- c. principles of instructional supervision in the elementary school;

2. twenty-one semester hours of professional education as follows:

a. eighteen semester hours in professional education to include the following:

- i. educational research;
- ii. history or philosophy of education;

iii. elementary school curriculum;

iv. school law;

v. school finance;

vi. school personnel administration;

b. three semester hours of electives in education administration from:

i. school-community relations;

ii. school facilities;

iii. program development and evaluation (in professional education or area(s) outside of professional education);

E. a provisional elementary school principal ancillary certificate may be issued to an applicant who has met the requirements of Paragraphs A through D.2 above and who is employed as an elementary school principal in a Louisiana school system. The certificate may be issued at the request of the Louisiana employing superintendent and is valid only for the period and place of employment. Upon employment as a principal, an individual with provisional certification must enroll in the two-year Principal Internship Program under the auspices of the Administrative Leadership Academy. An elementary school principal ancillary certificate will be issued upon satisfactory completion of the two-year Principal Internship Program;

F. persons holding an ancillary principal certificate at either the elementary or secondary school level may serve as a principal of a combination elementary-secondary school.

AUTHORITY NOTE: Promulgated in accordance with 17:6.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:560 (May 1997).

Weegie Peabody
Executive Director

9705#027

RULE

Board of Elementary and Secondary Education

Bulletin 746—Health and Physical Education Certification

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended the certification requirements for health education, physical education, and combined health and physical education. This proposed change in certification requirements stated below is an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel. These revisions are mandatory September 1, 2001.

Health and Physical Education

Health Education

The minimal requirements for certification in health education are a total of 22 semester hours.

1. First Aid and Cardiopulmonary Resuscitation—1 semester hour.
2. Comprehensive School Health Program—3 semester hours.
3. Personal and Community Health—3 semester hours.

4. Methods and Materials in Health Education—3 semester hours.

5. Health Education Process—3 semester hours.

6. Health Content Areas**—9 semester hours.

Physical Education

The minimal requirements for certification in physical education are a total of 24 semester hours.

1. Principles of Health and Physical Education—3 semester hours.

2. Physical Education Methods/Strategies—3 semester hours.

3. Exercise Physiology—3 semester hours.

4. Kinesiology or Biomechanics—3 semester hours.

5. Motor Learning or Motor Development or Adapted Physical Education—3 semester hours.

6. Physical Education Skills/Techniques—5 semester hours.

7. Measurement and Evaluation in Physical Education—3 semester hours.

8. First Aid and Cardiopulmonary Resuscitation—1 semester hour.

Health and Physical Education

The minimal requirements for certification in health and physical education are a total of 37 semester hours.

1. First Aid and Cardiopulmonary Resuscitation—1 semester hour.

2. Personal and Community Health—3 semester hours.

3. Principles of Health and Physical Education or Comprehensive School Health Program—3 semester hours.

4. Methods and Materials in Health Education—3 semester hours.

5. Physical Education Methods/Strategies—3 semester hours.

6. Physical Education Skills/Techniques*—6 semester hours.

7. Exercise Physiology—3 semester hours.

8. Kinesiology or Biomechanics—3 semester hours.

9. Measurement and Evaluation in Health/Physical Education—3 semester hours.

10. Motor Development or Motor Learning or Adapted Physical Education—3 semester hours.

11. Health Content Areas**—6 semester hours.

*(Physical Education skills/techniques-selected from aquatics, dance, fitness and conditioning, gymnastics, individual activities, recreational activities, team sports. Coaching courses are excluded.)

** (Health-problem-specific content areas including planning and evaluation of health education programs, aging, consumer health, death and dying, environmental health, family life, human sexuality, mental or emotional health, injury prevention and safety, nutrition, prevention and control of disease, substance abuse, stress management, spiritual health, or other current health problems or issues. Courses not acceptable include: exercise physiology, biology courses, kinesiology, coaching courses, physical education skill instruction, anatomy, physiology, athletic training.)

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:562 (May 1997).

Weegie Peabody
Executive Director

9705#026

RULE

Board of Elementary and Secondary Education

Bulletin 1134—Standards for Library Media Programs (LAC 28:I.911)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education revised Chapter IV, Bulletin 1134, Standards and Guidelines for Library Media Programs. Bulletin 1134 is referenced in the *Louisiana Administrative Code*, LAC 28:I.911.A.

The current language describes the number of encyclopedias, magazines, and newspapers needed in the school library to fulfill the basic needs of the students. The current language deals with print versions only. The revisions incorporate electronic versions of these materials and provide school libraries options in mixing the print and electronic versions of the materials to comply with the standards of Bulletin 1134. Other changes replace the word "print" with the word "materials."

A complete text of revisions to Chapter IV of Bulletin 1134 may be viewed in the Department of Education, Bureau of Special Projects, in the Office of the State Board of Elementary and Secondary Education, both located in the Education Building, or at the Office of the State Register, Capitol Annex, Fifth Floor, Baton Rouge, LA 70802.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans §911. School Library Standards

Bulletin 1134

1. Bulletin 1134, Standards and Guidelines for Library Media Programs in Louisiana Schools, is adopted, as revised.

2. This bulletin contains regulations and guidelines to be used by library media centers in public and nonpublic schools to assure standard library services to students. These apply to the library media staff, to the library collection, to the facilities, and to the service program and include guidelines for the selection of library media. The bulletin also includes a suggested procedure to be used in processing citizen complaints and censorship challenges.

AUTHORITY NOTE: Promulgated in accordance with 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 4:2 (January 1978), amended LR 4:360 (October 1978), LR 7:287 (June 1981), LR 16:297 (April 1990), LR 23:563 (May 1997).

Weegie Peabody
Executive Director

9705#030

RULE

Department of Environmental Quality Office of Solid and Hazardous Waste Hazardous Waste Division

RCRA V Federal Package
(LAC 33:V.Chapters 1,
15, 22 and 41)(HW055*)

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 Hazardous Waste Division Regulations, LAC 33:V.Chapters 1, 15, 22, and 41 (HW055*).

This rule is identical to a federal law or regulation which is applicable in Louisiana. No fiscal or economic impact will result from the rule. Therefore, the rule is promulgated in accordance with R.S. 49:953(F)(3) and (4).

The rule contains the following provisions: 1) the exclusion from the definition of solid waste of secondary materials that are recycled back into the secondary production process from which they were generated from the definition of solid waste; 2) treatment standards for certain newly identified organic toxicity wastes and for newly listed coke products, chlorotoluene production wastes, and dilution prohibitions for high total organic content ignitable and toxicity characteristic pesticides; 3) minor modifications to the land disposal restrictions; and 4) the removal of the exemption from anti-skid/de-icing uses of slags from high temperature metals recovery (HTMR) processing of hazardous wastes K061, K062, and F006.

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.1]

2. A generator who temporarily stores hazardous wastes in an environmentally safe container or tank (see LAC 33:V.1109.E) on-site for 90 days or less is exempt from the permitting regulations except for the requirements of LAC 33:V.Chapter 11. Generators must record the date that storage began by proper marking of the container or by other methods acceptable to the administrative authority. Such temporary storage shall be in an environmentally sound

manner in compliance with the technical requirements of LAC 33:V.1505, 1509.A, 1513-1517, 1525, and as applicable, with LAC 33:V.1903.A and B, 1905-1913, 1919, 2103-2109.C, and 2111-2115.

* * *

[See Prior Text in D.3-28.e]

29. In accordance with the standards and criteria below and the procedures in LAC 33:V.105.K, the administrative authority may determine on a case-by-case basis that the following recycled materials are not solid wastes. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

* * *

[See Prior Text in D.29.a-M.10]

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), LR 23:564 (May 1997).

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise:

* * *

[See Prior Text]

Solid Waste—

* * *

[See Prior Text in 1-5.a.ii]

iii. returned to the original process from which they are generated, without first being reclaimed or land disposed. The material must be returned as a substitute for feedstock materials. In cases where the original process to which the material is returned is a secondary process, the materials must be managed such that there is no placement on land.

* * *

[See Prior Text in *Solid Waste* 5.b - *Zone of Engineering Control*]

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), LR 23:564 (May 1997).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

* * *

[See Prior Text in A-C.5]

6. the owner or operator of an elementary neutralization unit or wastewater treatment unit (see LAC 33:V.109) provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in LAC 33:V.Chapter 22.Table 2, Treatment Standards for Hazardous Wastes) or reactive (D003) waste to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in LAC 33:V.1517.B;

* * *

[See Prior Text in C.7-10]

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 18:1256 (November 1992), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 23:565 (May 1997).

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2225. Treatment Standards Expressed as Concentrations in Waste Extract

A. LAC 33:V.Chapter 22.Table 7 identifies the hazardous constituents, along with the nonwastewater and wastewater treatment standard levels, that are used to regulate most prohibited hazardous wastes with numerical limits. For determining compliance with treatment standards for underlying hazardous constituents, as defined in LAC 33:V.2203, these treatment standards may not be exceeded. Compliance with these treatment standards is measured by an analysis of grab samples, unless otherwise noted in the LAC 33:V.Chapter 22.Table 7.

B. When wastes with differing treatment standards for a constituent of concern are combined for purposes of treatment, the treatment residue must meet the lowest treatment standard for the constituent of concern.

* * *

[See Prior Text in 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 16:1057 (December 1990), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 23:565 (May 1997).

§2230. Treatment Standards for Hazardous Debris

* * *

[See Prior Text in A-B.1]

2. the contaminants subject to treatment for debris that is contaminated with a prohibited listed hazardous waste are those constituents or wastes for which treatment standards are established under LAC 33:V.Chapter 22.Table 2; and

* * *

[See Prior Text in B.3-D.5]

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 21:266 (March 1995), amended LR 22:22 (January 1996), LR 23:565 (May 1997).

§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements

* * *

[See Prior Text in A]

B. If a generator determines that he or she is managing a waste prohibited under this Chapter, and the waste does not meet the applicable treatment standards set forth in LAC 33:V.Chapter 22.Subchapter A or the waste exceeds the applicable prohibition levels set forth in LAC 33:V.2213 or RCRA section 3004(d), with each shipment of waste the generator must notify the treatment or storage facility in writing. The notice must include the following information:

* * *

[See Prior Text in B.1]

2. the waste constituents that the person treating the waste will monitor, if monitoring will not include all regulated constituents, for wastes F001-F005, F039, D001, D002, and D012-D043 and in LAC 33:V.2213 or RCRA section 3004(d). Generators must also include whether the waste is a nonwastewater or wastewater (as defined in LAC 33:V.2203) and indicate the subcategory of the waste (such as "D003 reactive cyanide"), if applicable;

* * *

[See Prior Text in B.3-5]

6. the date the waste is subject to the prohibitions.

* * *

[See Prior Text in C-C.1.a]

b. the waste constituents that the person treating the waste will monitor, if monitoring will not include all regulated constituents, for wastes F001-F005, F039, D001, D002, and D012-D043 and in LAC 33:V.2213 or RCRA section 3004(d). Generators must also include whether the waste is a nonwastewater or wastewater (as defined in LAC 33:V.2203) and indicate the subcategory of the waste (such as "D003 reactive cyanide"), if applicable;

* * *

[See Prior Text in C.1.c-d]

2. The certification must be signed by a duly authorized representative and must state the following:

"I certify under penalty of law that I have personally examined and am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in LAC 33:V.Chapter 22.Subchapter A and all applicable prohibitions set forth in LAC 33:V.2213 or RCRA section 3004(d). I believe that the information I submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false certification, including the possibility of fines and imprisonment."

D. If a generator's waste is subject to an exemption from a prohibition on the type of land disposal method utilized for the waste (such as, but not limited to, a case-by-case extension under LAC 33:V.2239), an exemption under LAC 33:V.2241 or 2271, or a nationwide capacity variance under LAC 33:V.Chapter 22.Subchapter A, with each shipment of waste he or she must submit a notice to the facility receiving the waste, stating that the waste is not prohibited from land disposal. The notice must include the following information:

* * *

[See Prior Text in D.1-E.3]

F. If a generator determines whether the waste is prohibited solely on the basis of his or her knowledge of the waste, all supporting data used to make this determination must be retained on-site in the generator's files. If a generator determines whether the waste is prohibited on the basis of tests of this waste or an extract developed using the test method described in LAC 33:V.Chapter 49.Appendix B, all waste analysis data must be retained on-site in the generator's files.

G. If a generator determines that a prohibited waste that the generator is managing was excluded from the definition of hazardous or solid waste or exempted from regulation under LAC 33:V.Chapter 1, 39, or 41 subsequent to the point of generation, the generator must place a one-time notice stating such generation, subsequent exclusion from the definition of hazardous or solid waste or exemption from the regulation under LAC 33:V.Subpart 1, and the disposition of the waste, in the facility's file.

* * *

[See Prior Text in H]

I. If a generator is managing a lab pack that contains none of the wastes specified in LAC 33:V.Chapter 22.Table 6 and wishes to use the alternative treatment standards under LAC 33:V.2227.C, with each shipment of waste the generator must submit a notice to the treatment facility in accordance with LAC 33:V.2245.B, except that underlying hazardous constituents need not be determined. The generator must also comply with the requirements in LAC 33:V.2245.F and G, and must submit the following certification, which must be signed by a duly authorized representative:

"I certify under penalty of law that I have personally examined and am familiar with the waste, and that the lab pack does not contain any wastes identified in LAC 33:V.Chapter 22.Table 6. I am aware that there are significant penalties for submitting a false certification, including the possibility of fines and imprisonment."

* * *

[See Prior Text in J-K]

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 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 22:1130 (November 1996), LR 23:565 (May 1997).

§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Recordkeeping, and Notice Requirements

* * *

[See Prior Text in A-E.1]

2. the waste constituents to be monitored, if monitoring will not include all regulated constituents, for wastes F001-F005, F039, D001, D002, and D012-D043 and in LAC 33:V.2261 or RCRA section 3004(d). Generators must also include whether the waste is a nonwastewater or wastewater (as defined in LAC 33:V.2203) and indicate the subcategory of the waste (such as D003 reactive cyanide), if applicable;

* * *

[See Prior Text in E.3-H]

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 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 23:566 (May 1997).

APPENDIX

* * *

[See Prior Text in Tables 2-5]

Table 6

Wastes Excluded from Lab Packs under the Alternative Treatment Standards of LAC 33:V.2227.C
Hazardous waste with the following EPA hazardous waste codes may not be placed in lab packs under the alternative lab pack treatment standards of LAC 33:V.2227.C.

D009	K062	P012
F019	K071	P076
K003	K100	P078
K004	K106	U134
K005	P010	U151
K006	P011	

* * *

[See Prior Text in Table 7-footnote 3]

⁴Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010 or 9012, found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in LAC 33:V.110, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

⁵Vanadium and Zinc are not "underlying hazardous constituents" in characteristic wastes, according to the definition at LAC 33:V.2203.A.

Note: NA means not applicable

* * *

[See Prior Text in Table 8 - Certification Statement G]

Chapter 41. Recyclable Materials
§4139. Recyclable Materials Used in a Manner Constituting Disposal

* * *

[See Prior Text in A-A.4]

5. Anti-skid/de-icing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of hazardous wastes K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in Subsection A.2-4 of this Section and remain subject to regulation.

* * *

[See Prior Text in B-B.2]

3. Owners and operators of facilities that use recyclable

materials in a manner that constitutes disposal are regulated under all applicable provisions of LAC 33:V.Chapters 1, 3, 5, 7, 9, 11, 15, 19, 21, 22, 23, 25, 27, 29, 31, 33, 35, 37; Subchapters A-M of Chapter 43; and the notification requirement under section 3010 of RCRA. These requirements do not apply to products which contain these recyclable materials under the provisions of LAC 33:V.4139.A.2.

* * *

[See Prior Text in B.4]

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 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:367 (April 1991), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 22:21 (January 1996), LR 23:566 (May 1997).

H. M. Strong
Assistant Secretary

9705#008

RULE

Department of Environmental Quality Office of Solid and Hazardous Waste Hazardous Waste Division

Universal Waste Rule (LAC 33:V.Chapters 1, 3, 15, 22, 35, 38, 39, and 41)(HW054*)

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 Hazardous Waste Division Regulations, LAC 33:V.Chapters 1, 3, 15, 22, 35, 38, 39, and 41 (HW054*).

This rule is identical to a federal law or regulation which is applicable in Louisiana. No fiscal or economic impact will result from the rule. Therefore, the rule is promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule promulgates hazardous waste management regulations governing the collection and management of certain widely used wastes known as universal wastes. The specific wastes covered by this rule include batteries, pesticides that are either recalled or collected in waste pesticide collection programs and thermostats.

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.47]

48. The following wastes are exempt from regulation under this Subpart, except as specified in LAC 33:V.Chapter 38, and therefore, are not fully regulated as hazardous waste. The wastes listed in this Section are subject to regulation under LAC 33:V.Chapter 38:

- a. batteries as described in LAC 33:V.3803;
- b. pesticides as described in LAC 33:V.3805; and
- c. thermostats as described in LAC 33:V.3807.

* * *

[See Prior Text in E-M.10]

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), LR 23:567 (May 1997).

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§305. Scope of the Permit

* * *

[See Prior Text in A-C.9]

10. owners and operators of facilities granted a research development and demonstration permit under Section 3005(g) of Subtitle C of RCRA, is so specifically exempted by the administrative authority; or

11. universal waste handlers and universal waste transporters (as defined in LAC 33:V.3813) handling the wastes listed below. These handlers are subject to regulation under LAC 33:V.Chapter 38, when handling the below listed universal wastes:

- a. batteries as described in LAC 33:V.3803;
- b. pesticides as described in LAC 33:V.3805; and
- c. thermostats as described in LAC 33:V.3807.

* * *

[See Prior Text in D-G.3]

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 13:84 (February 1987), LR 13:433 (August 1987), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 23:567 (May 1997).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

* * *

[See Prior Text in A-C.8]

9. The addition of absorbent material to waste in a container (see LAC 33:V.109), or the addition of waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container and LAC 33:V.1517.B, 2103, and 2105 are complied with;

10. a generator accumulating waste on-site in compliance with LAC 33:V.1109.E; or

11. universal waste handlers and universal waste transporters (as defined in LAC 33:V.3813) handling the wastes listed below. These handlers are subject to regulation under LAC 33:V.Chapter 38, when handling the below listed universal wastes:

- a. batteries as described in LAC 33:V.3803;
- b. pesticides as described in LAC 33:V.3805; and
- c. thermostats as described in LAC 33:V.3807.

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 18:1256 (November 1992), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 23:568 (May 1997).

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

* * *

[See Prior Text in A-1.2]

3. de minimis losses to wastewater treatment systems of commercial chemical product or chemical intermediates that are ignitable (D001), corrosive (D002), or are organic constituents that exhibit the characteristic of toxicity (D012-D043), and that contain underlying hazardous constituents as defined in LAC 33:V.2203 are not considered to be prohibited wastes. De minimis is defined as losses from normal material-handling operation (e.g., spills from the unloading or transfer of materials from bins or other containers, 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 that are rendered empty by that rinsing;

4. land disposal prohibitions for hazardous characteristic wastes do not apply to laboratory wastes displaying the characteristic of ignitability (D001), corrosivity (D002), or organic toxicity (D012-D043) that are mixed with other plant wastewaters at facilities whose ultimate discharge is subject to regulation under the Clean Water Act (CWA) (including wastewaters at facilities that have eliminated the discharge of wastewater), provided that the annualized flow of laboratory wastewater into the facility's headworks does not exceed 1 percent, or provided that the laboratory wastes' combined annualized average concentration does not exceed one part per million in the facility's headworks; or

5. universal waste handlers and universal waste transporters (as defined in LAC 33:V.3813) are exempt from LAC 33:V.2205, 2245.A-I, 2246.E, and 2247 for the wastes listed below. These handlers are subject to regulation under LAC 33:V.Chapter 38, when handling the below listed universal wastes:

- a. batteries as described in LAC 33:V.3803;
- b. pesticides as described in LAC 33:V.3805; and
- c. thermostats as described in LAC 33:V.3807.

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).

Chapter 35. Closure and Post-Closure

§3525. Post-Closure Notices

* * *

[See Prior Text in A-B.1.b]

c. the survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by LAC 33:V.3517 and this Section have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the administrative authority; and

* * *

[See Prior Text in B.2-C.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 13:433 (August 1987), LR 18:1256 (November 1992), LR 23:568 (May 1997).

Chapter 38. Universal Wastes

Subchapter A. General

§3801. Scope and Applicability

A. This Chapter establishes requirements for managing batteries, pesticides, and thermostats as described in LAC 33:V.3813. This Chapter provides an alternative set of management standards in lieu of regulations under this Subpart.

B. Persons managing household wastes that are exempt under LAC 33:V.105.D.10 and are also of the same type as the universal wastes defined in this Chapter may, at their option, manage these wastes under the requirements of this Chapter.

C. Persons who commingle the wastes described in Subsection B of this Section together with universal waste regulated under this Chapter, must manage the commingled waste under the requirements of this Chapter.

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 23:568 (May 1997).

§3803. Applicability—Batteries

A. Batteries Covered Under this Chapter

1. The requirements of this Chapter apply to persons

managing batteries, as described in LAC 33:V.3813, except those listed in Subsection B of this Section.

2. Spent lead-acid batteries which are not managed under LAC 33:V.Chapter 41 are subject to management under this Chapter.

B. Batteries Not Covered Under this Chapter. The requirements of this Chapter do not apply to persons managing the following batteries:

1. spent lead-acid batteries that are managed under LAC 33:V.Chapter 41;

2. batteries, as described in LAC 33:V.3813, that are not yet wastes under LAC 33:V.4901, including those that do not meet the criteria for waste generation in Subsection C of this Section; and

3. batteries, as described in this Chapter, that are not hazardous waste. A battery is a hazardous waste if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

C. Generation of Waste Batteries

1. A used battery becomes a waste on the date it is discarded (e.g., when sent for reclamation).

2. An unused battery becomes a waste on the date the handler decides to discard it.

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 23:568 (May 1997).

§3805. Applicability—Pesticides

A. Pesticides Covered Under this Chapter. The requirements of this Section apply to persons managing pesticides, as described in LAC 33:V.3813, meeting the following conditions, except those listed in Subsection B of this Section:

1. recalled pesticides that are:

a. stocks of a suspended and canceled pesticide that are part of a voluntary or mandatory recall under FIFRA section 19(b), including, but not limited to those owned by the registrant responsible for conducting the recall; or

b. stocks of a suspended or canceled pesticide, or a pesticide that is not in compliance with FIFRA, that are part of a voluntary recall by the registrant;

2. stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program.

B. Pesticides Not Covered Under this Chapter. The requirements of this Chapter do not apply to persons managing the following pesticides:

1. recalled pesticides described in Subsection A.1 of this Section, and unused pesticide products described in Subsection A.2 of this Section, that are managed by farmers in compliance with LAC 33:V.105.D.5 (LAC 33:V.105.D.5 addresses pesticides disposed of on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label, providing the container is triple rinsed in accordance with the definition of empty container under LAC 33:V.109);

2. pesticides not meeting the conditions set forth in Subsection A of this Section. These pesticides must be managed in compliance with the hazardous waste regulations

in LAC 33:V.Subpart 1;

3. pesticides that are not wastes under Subsection C of this Section, including those that do not meet the criteria for waste generation in Subsection C of this Section or those that are not wastes as described in Subsection D of this Section; and

4. pesticides that are not hazardous waste. A pesticide is a hazardous waste if it is listed in LAC 33:V.4901 or if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

C. When a Pesticide Becomes a Waste

1. A recalled pesticide described in Subsection A of this Section becomes a waste on the first date on which both of the following conditions apply:

a. the generator of the recalled pesticide agrees to participate in the recall; and

b. the person conducting the recall decides to discard (i.e., burn the pesticide for energy recovery).

2. An unused pesticide product described in Subsection A.2 of this Section becomes a waste on the date the generator decides to discard it.

D. Pesticides That Are Not Wastes. The following pesticides are not wastes:

1. recalled pesticides described in Subsection A.1 of this Section, provided that the person conducting the recall:

a. has not made a decision to discard (i.e., burn for energy recovery) the pesticide. Until such a decision is made, the pesticide does not meet the definition of "solid waste" under LAC 33:V.109; thus the pesticide is not a hazardous waste and is not subject to hazardous waste requirements, including this Chapter. This pesticide remains subject to the requirements of FIFRA; or

b. has made a decision to use a management option that, under LAC 33:V.109, does not cause the pesticide to be a solid waste (i.e., the selected option is use (other than use constituting disposal) or reuse (other than burning for energy recovery), or reclamation). Such a pesticide is not a solid waste and therefore is not a hazardous waste, and is not subject to the hazardous waste requirements including this Chapter. This pesticide, including a recalled pesticide that is exported to a foreign destination for use or reuse, remains subject to the requirements of FIFRA;

2. unused pesticide products described in Subsection A.2 of this Section, if the generator of the unused pesticide product has not decided to discard (i.e., burn for energy recovery) them. These pesticides remain subject to the requirements of FIFRA.

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 23:569 (May 1997).

§3807. Applicability—Mercury Thermostats

A. Thermostats Covered Under this Chapter. The requirements of this Chapter apply to persons managing thermostats, as described in LAC 33:V.3813, except those listed in Subsection B of this Section.

B. Thermostats Not Covered Under this Chapter. The requirements of this Chapter do not apply to persons managing the following thermostats:

1. thermostats that are not yet wastes under LAC 33:V.Chapter 49. Subsection C of this Section describes when thermostats become wastes; and

2. thermostats that are not hazardous waste. A thermostat is a hazardous waste if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

C. Generation of Waste Thermostats

1. A used thermostat becomes a waste on the date it is discarded (i.e., sent for reclamation).

2. An unused thermostat becomes a waste on the date the handler decides to discard it.

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 23:569 (May 1997).

§3813. Definitions

Battery—a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

Destination Facility—a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in LAC 33:V.3821.A and C and 3843.A and C. A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

FIFRA—The Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 - 136y).

Generator—any person, by site, whose act or process produces hazardous waste identified or listed in LAC 33:V.Chapter 49 or whose act first causes a hazardous waste to become subject to regulation.

Large Quantity Handler of Universal Waste—a universal waste handler (as defined in this Section) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, or thermostats, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste is accumulated.

On-Site—the same or geographically contiguous property which may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a crossroads intersection, and access is by crossing as opposed to going along the right of way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, are also considered on-site property.

Pesticide—any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

1. is a new animal drug under FFDCA section 201(w); or

2. is an animal drug that has been determined by regulation of the secretary of Health and Human Services not to be a new animal drug; or

3. is an animal feed under FFDCA section 201(x) that bears or contains any substances described by Paragraph 1 or 2 of this Subsection.

Small Quantity Handler of Universal Waste—a universal waste handler (as defined in this Section) who does not accumulate more than 5,000 kilograms total of universal waste (batteries, pesticides, or thermostats, calculated collectively) at any time.

Thermostat—a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of LAC 33:V.3821.C.2 or 3843.C.2.

Universal Waste—any of the following hazardous wastes that are subject to the universal waste requirements of this Chapter:

1. batteries as described in LAC 33:V.3803;
2. pesticides as described in LAC 33:V.3805; and
3. thermostats as described in LAC 33:V.3807.

Universal Waste Handler—a generator (as defined in this Section) of universal waste; or the owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination. A universal waste handler does not include a person who treats (except under the provisions of LAC 33:V.3821.A or C, or 3843.A or C), disposes of, or recycles universal waste; or a person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

Universal Waste Transfer Facility—any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for 10 days or less.

Universal Waste Transporter—a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

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 23:570 (May 1997).

Subchapter B. Standards for Small Quantity Handlers of Universal Waste

§3815. Applicability

This Subchapter applies to small quantity handlers of universal waste (as defined in LAC 33:V.3813).

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 23:570 (May 1997).

§3817. Prohibitions

A small quantity handler of universal waste is:

1. prohibited from disposing of universal waste; and
2. prohibited from diluting or treating universal waste, except by responding to releases as provided in LAC 33:V.3829; or by managing specific wastes as provided in LAC 33:V.3821.

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 23:571 (May 1997).

§3819. Notification

A small quantity handler of universal waste is not required to notify the department of universal waste handling activities.

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 23:571 (May 1997).

§3821. Waste Management

A. Universal Waste Batteries. A small quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. a small quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a small quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

- a. sorting batteries by type;
- b. mixing battery types in one container;
- c. discharging batteries so as to remove the electric charge;
- d. regenerating used batteries;
- e. disassembling batteries or battery packs into individual batteries or cells;
- f. removing batteries from consumer products; or
- g. removing electrolyte from batteries; and

3. a small quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste identified in LAC 33:V.4903.

- a. If the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste, it is subject to all applicable requirements of these regulations. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to LAC 33:V.Chapter 11.

- b. If the electrolyte or other solid waste does not exhibit a characteristic of hazardous waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local Solid Waste Regulations.

B. Universal Waste Pesticides. A small quantity handler of universal waste must manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

1. a container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

2. a container that does not meet the requirements of Subsection B.1 of this Section, provided that the unacceptable container is over packed in a container that does meet the requirements of Subsection B.1 of this Section; or

3. a tank that meets the requirements of LAC 33:V.Chapter 19 except for LAC 33:V.1915.C; or

4. a transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

C. Universal Waste Thermostats. A small quantity handler of universal waste must manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. a small quantity handler of universal waste must contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a small quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats, provided the handler:

- a. removes the ampules in a manner designed to prevent breakage of the ampules;

- b. removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

- c. ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of LAC 33:V.1109.E;

- d. immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of LAC 33:V.1109.E;

- e. ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

- f. ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and

emergency procedures, including transfer of mercury from containment devices to appropriate containers;

g. stores removed ampules in closed, nonleaking containers that are in good condition;

h. packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

3. a small quantity handler of universal waste who removes mercury-containing ampules from thermostats must determine whether the mercury or clean-up residues resulting from spills or leaks, and/or other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units) exhibit a characteristic of hazardous waste identified in LAC 33:V.4903.

a. If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of these regulations. The handler is considered the generator of the mercury, residues, and/or other waste and must manage it subject to LAC 33:V.Chapter 11.

b. If the mercury, residues, and/or other solid waste does not exhibit a characteristic of hazardous waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local Solid Waste Regulations.

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 23:571 (May 1997).

§3823. Labeling/Marking

A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

1. universal waste batteries (e.g., each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste—Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

2. a container, (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in LAC 33:V.3805.A.1 are contained must be labeled or marked clearly with:

a. the label that was on or accompanied the product as sold or distributed; and

b. the words "Universal Waste—Pesticide(s)" or "Waste—Pesticide(s);"

3. a container, tank, or transport vehicle or vessel in which unused pesticide products as described in LAC 33:V.3805.A.2 are contained must be:

a. labeled or marked clearly with:

i. the label that was on the product when purchased, if still legible;

ii. the appropriate label as required under the U.S. Department of Transportation Regulation 49 CFR part 172; or

iii. another label prescribed or designated by the waste pesticide collection program administered or recognized by the state; and

b. the words "Universal Waste—Pesticide(s)" or "Waste—Pesticide(s)."

4. universal waste thermostats (e.g., each thermostat), or a container in which the thermostats are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste—Mercury Thermostat(s)," or "Waste Mercury Thermostat(s)," or "Used Mercury thermostat(s)."

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 23:572 (May 1997).

§3825. Accumulation Time Limits

A. A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of Subsection B of this Section are met.

B. A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

C. A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

1. placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

2. marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;

3. maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;

4. maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

5. placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

6. any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

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 23:572 (May 1997).

§3827. Employee Training

A small quantity handler of universal waste must inform all employees who handle or have responsibility for managing universal waste. The information must describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility.

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 23:573 (May 1997).

§3829. Response to Releases

A. A small quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

B. A small quantity handler of universal waste must determine whether any material resulting from the release is hazardous waste, and if so, must manage the hazardous waste in compliance with all applicable requirements of these regulations. The handler is considered the generator of the material resulting from the release, and must manage it in compliance with LAC 33:V.Chapter 11.

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 23:573 (May 1997).

§3831. Off-Site Shipments

A. A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

B. If a small quantity handler of universal waste self-transportes universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of Subchapter D of this Chapter while transporting the universal waste.

C. If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR Parts 171-180, a small quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable U.S. Department of Transportation Regulations under 49 CFR parts 172-180.

D. Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

E. If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:

1. receive the waste back when notified that the shipment has been rejected; or

2. agree with the receiving handler on a destination facility to which the shipment will be sent.

F. A small quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a

shipment containing universal waste that he has received from another handler. If a handler rejects a shipment or a portion of a shipment, he must contact the originating handler to notify him of the rejection and to discuss reshipment of the load. The handler must:

1. send the shipment back to the originating handler; or
2. if agreed to by both the originating and receiving handler, send the shipment to a destination facility.

G. If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the administrative authority of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The administrative authority will provide instructions for managing the hazardous waste.

H. If a small quantity handler of universal waste receives a shipment of nonhazardous, nonuniversal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local Solid Waste Regulations.

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 23:573 (May 1997).

§3833. Tracking Universal Waste Shipments

A small quantity handler of universal waste is not required to keep records of shipments of universal waste.

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 23:573 (May 1997).

§3835. Exports

A small quantity handler of universal waste who sends universal waste to a foreign destination must:

1. comply with the requirements applicable to a primary exporter in LAC 33:V.1113.D, G.1.a-d, G.1.f, G.2, and H;

2. export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in LAC 33:V.1113; and

3. provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

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 23:573 (May 1997).

Subchapter C. Standards for Large Quantity Handlers of Universal Waste

§3837. Applicability

This Subchapter applies to large quantity handlers of universal waste (as defined in LAC 33:V.3813).

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 23:573 (May 1997).

§3839. Prohibitions

A large quantity handler of universal waste is:

1. prohibited from disposing of universal waste; and
2. prohibited from diluting or treating universal waste, except by responding to releases as provided in LAC 33:V.3851; or by managing specific wastes as provided in LAC 33:V.3843.

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 23:574 (May 1997).

§3841. Notification

A. Except as provided in Subsection A.1 and 2 of this Section, a large quantity handler of universal waste must have sent written notification of universal waste management to the administrative authority, and received an EPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.

1. A large quantity handler of universal waste who has already notified EPA of his hazardous waste management activities and has received an EPA Identification Number is not required to renotify under this Section.

2. A large quantity handler of universal waste who manages recalled universal waste pesticides as described in LAC 33:V.3805.A.1 and who has sent notification to EPA as required by 40 CFR part 165 is not required to notify for those recalled universal waste pesticides under this Section.

B. This notification must include:

1. the universal waste handler's name and mailing address;
2. the name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;
3. the address or physical location of the universal waste management activities;
4. a list of all of the types of universal waste managed by the handler (e.g, batteries, pesticides, thermostats); and
5. a statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste (e.g, batteries, pesticides, thermostats) the handler is accumulating above this quantity.

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 23:574 (May 1997).

§3843. Waste Management

A. Universal Waste Batteries. A large quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. a large quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or

damage that could cause leakage under reasonably foreseeable conditions;

2. a large quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

- a. sorting batteries by type;
- b. mixing battery types in one container;
- c. discharging batteries so as to remove the electric charge;
- d. regenerating used batteries;
- e. disassembling batteries or battery packs into individual batteries or cells;
- f. removing batteries from consumer products; or
- g. removing electrolyte from batteries; and

3. a large quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste identified in LAC 33:V.4903.

a. If the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of these regulations. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to LAC 33:V.Chapter 11.

b. If the electrolyte or other solid waste does not exhibit a characteristic of hazardous waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local Solid Waste Regulations.

B. Universal Waste Pesticides. A large quantity handler of universal waste must manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

1. a container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

2. a container that does not meet the requirements of Subsection B.1 of this Section, provided that the unacceptable container is over packed in a container that does meet the requirements of Subsection B.1 of this Section; or

3. a tank that meets the requirements of LAC 33:V.Chapter 19, except for LAC 33:V.1915.C; or

4. a transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

C. Universal Waste Thermostats. A large quantity handler of universal waste must manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. a large quantity handler of universal waste must

contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a large quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler:

a. removes the ampules in a manner designed to prevent breakage of the ampules;

b. removes ampules only over or in a containment device (e.g., tray or pan sufficient to contain any mercury released from an ampule in case of breakage);

c. ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of LAC 33:V.1109;

d. immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of LAC 33:V.1109;

e. ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

f. ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

g. stores removed ampules in closed, nonleaking containers that are in good condition;

h. packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

3. a large quantity handler of universal waste who removes mercury-containing ampules from thermostats must determine whether the mercury or clean-up residues resulting from spills or leaks and/or other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units) exhibit a characteristic of hazardous waste identified in LAC 33:V.4903:

a. if the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of these regulations. The handler is considered the generator of the mercury, residues, and/or other waste and is subject to LAC 33:V.Chapter 11;

b. if the mercury, residues, and/or other solid waste does not exhibit a characteristic of hazardous waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local Solid Waste Regulations.

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 23:574 (May 1997).

§3845. Labeling/Marking

A. A large quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

1. Universal waste batteries (e.g., each battery), or a container or tank in which the batteries are contained, must be labeled or marked clearly with the any one of the following phrases: "Universal Waste—Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

2. A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in LAC 33:V.3805.A.1 are contained must be labeled or marked clearly with:

a. the label that was on or accompanied the product as sold or distributed; and

b. the words "Universal Waste—Pesticide(s)" or "Waste—Pesticide(s);"

3. A container, tank, or transport vehicle or vessel in which unused pesticide products as described in LAC 33:V.3805.A.2 are contained must be:

a. labeled or marked clearly with:

i. the label that was on the product when purchased, if still legible;

ii. appropriate label as required under the U.S. Department of Transportation Regulation 49 CFR part 172; or

iii. another label prescribed or designated by the pesticide collection program; and

b. the words "Universal Waste—Pesticide(s)" or "Waste—Pesticide(s);"

4. Universal waste thermostats (e.g., each thermostat), or a container or tank in which the thermostats are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste—Mercury Thermostat(s);" or "Waste Mercury Thermostat(s);" or "Used Mercury Thermostat(s)."

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 23:575 (May 1997).

§3847. Accumulation Time Limits

A. A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of Subsection B of this Section are met.

B. A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

C. A large quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is

received. The handler may make this demonstration by:

1. placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

2. marking or labeling the individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;

3. maintaining an inventory system on-site that identifies the date the universal waste being accumulated became a waste or was received;

4. maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

5. placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

6. any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

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 23:575 (May 1997).

§3849. Employee Training

A large quantity handler of universal waste must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.

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 23:576 (May 1997).

§3851. Response to Releases

A. A large quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

B. A large quantity handler of universal waste must determine whether any material resulting from the release is hazardous waste, and if so, must manage the hazardous waste in compliance with all applicable requirements of these regulations. The handler is considered the generator of the material resulting from the release, and is subject to LAC 33:V.Chapter 11.

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 23:576 (May 1997).

§3853. Off-Site Shipments

A. A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

B. If a large quantity handler of universal waste self-transport universal waste off-site, the handler becomes a universal waste transporter for those self-transportation

activities and must comply with the transporter requirements of Subchapter D of this Chapter while transporting the universal waste.

C. If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR Parts 171-180, a large quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable U.S. Department of Transportation Regulations under 49 CFR parts 172-180.

D. Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

E. If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:

1. receive the waste back when notified that the shipment has been rejected; or

2. agree with the receiving handler on a destination facility to which the shipment will be sent.

F. A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that he has received from another handler. If a handler rejects a shipment or a portion of a shipment, he must contact the originating handler to notify him of the rejection and to discuss reshipment of the load. The handler must:

1. send the shipment back to the originating handler; or

2. if agreed to by both the originating and receiving handler, send the shipment to a destination facility.

G. If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the administrative authority of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The administrative authority will provide instructions for managing the hazardous waste.

H. If a large quantity handler of universal waste receives a shipment of nonhazardous, nonuniversal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local Solid Waste Regulations.

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 23:576 (May 1997).

§3855. Tracking Universal Waste Shipments

A. Receipt of Shipments. A large quantity handler of universal waste must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

1. the name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent;

2. the quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats); and

3. the date of receipt of the shipment of universal waste.

B. Shipments Off-Site. A large quantity handler of universal waste must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste sent must include the following information:

1. the name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;

2. the quantity of each type of universal waste sent (e.g., batteries, pesticides, thermostats); and

3. the date the shipment of universal waste left the facility.

C. Record Retention

1. A large quantity handler of universal waste must retain the records described in Subsection A of this Section for at least three years from the date of receipt of a shipment of universal waste.

2. A large quantity handler of universal waste must retain the records described in Subsection B of this Section for at least three years from the date a shipment of universal waste left the facility.

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 23:576 (May 1997).

§3857. Exports

A large quantity handler of universal waste who sends universal waste to a foreign destination must:

1. comply with the requirements applicable to a primary exporter in LAC 33:V.1113.D, G.1.a-d, G.1.f, G.2, and H;

2. export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in LAC 33:V.1113; and

3. provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

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 23:577 (May 1997).

Subchapter D. Standards for Universal Waste Transporters

§3859. Applicability

This Subchapter applies to universal waste transporters (as defined in LAC 33:V.3813).

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 23:577 (May 1997).

§3861. Prohibitions

A universal waste transporter is:

1. prohibited from disposing of universal waste; and

2. prohibited from diluting or treating universal waste, except by responding to releases as provided in LAC 33:V.3867.

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 23:577 (May 1997).

§3863. Waste Management

A. A universal waste transporter must comply with all applicable U.S. Department of Transportation Regulations in 49 CFR parts 171-180 for transport of any universal waste that meets the definition of hazardous material in 49 CFR 171.8. For purposes of the U.S. Department of Transportation Regulations, a material is considered a hazardous waste if it is subject to the hazardous waste manifest requirements specified in LAC 33:V.Chapter 11. Because universal waste does not require a hazardous waste manifest, it is not considered hazardous waste under the U.S. Department of Transportation Regulations.

B. Some universal waste materials are regulated by the U.S. Department of Transportation as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 CFR 173.2. As universal waste shipments do not require a manifest under LAC 33:V.Chapter 11, they may not be described by the U.S. Department of Transportation proper shipping name "hazardous waste, (I) or (s), n.o.s.," nor may the hazardous material's proper shipping name be modified by adding the word "waste."

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 23:577 (May 1997).

§3865. Storage Time Limits

A. A universal waste transporter may only store the universal waste at a universal waste transfer facility for 10 days or less.

B. If a universal waste transporter stores universal waste for more than 10 days, the transporter becomes a universal waste handler and must comply with the applicable requirements of Subchapter B or C of this Chapter while storing the universal waste.

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 23:577 (May 1997).

§3867. Response to Releases

A. A universal waste transporter must immediately contain all releases of universal wastes and other residues from universal wastes.

B. A universal waste transporter must determine whether any material resulting from the release is hazardous waste, and if so, it is subject to all applicable requirements of these regulations. If the waste is determined to be a hazardous waste, the transporter is subject to LAC 33:Chapter 11.

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 23:577 (May 1997).

§3869. Off-Site Shipments

A. A universal waste transporter is prohibited from transporting the universal waste to a place other than a universal waste handler, a destination facility, or a foreign destination.

B. If the universal waste being shipped off-site meets the U.S. Department of Transportation's definition of "hazardous materials" under 49 CFR 171.8, the shipment must be properly described on a shipping paper in accordance with the applicable U.S. Department of Transportation Regulations under 49 CFR part 172.

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 23:578 (May 1997).

§3871. Exports

A universal waste transporter transporting a shipment of universal waste to a foreign destination may not accept a shipment if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter must ensure that:

1. a copy of the EPA Acknowledgment of Consent accompanies the shipment; and
2. the shipment is delivered to the facility designated by the person initiating the shipment.

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 23:578 (May 1997).

Subchapter E. Standards for Destination Facilities

§3873. Applicability

A. The owner or operator of a destination facility (as defined in LAC 33:V.3813) is subject to all applicable requirements of LAC 33:V.Chapters 3, 5, 9, 15, 17, 19, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 37, 41, and 43, and the notification requirement under LAC 33:V.105.A.

B. The owner or operator of a destination facility that recycles a particular universal waste without storing that universal waste before it is recycled must comply with LAC 33:V.4115.B.

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 23:578 (May 1997).

§3875. Off-Site Shipments

A. The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility, or a foreign destination.

B. The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a

portion of a shipment, he must contact the shipper to notify him of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility must:

1. send the shipment back to the original shipper; or
2. if agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.

C. If the owner or operator of a destination facility receives a shipment containing hazardous waste that was shipped as a universal waste, the owner or operator of the destination facility must immediately notify the administrative authority of the illegal shipment, and provide the name, address, and phone number of the shipper. The administrative authority will provide instructions for managing the hazardous waste.

D. If the owner or operator of a destination facility receives a shipment of nonhazardous, nonuniversal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal or state Solid Waste Regulations.

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 23:578 (May 1997).

§3877. Tracking Universal Waste Shipments

A. The owner or operator of a destination facility must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

1. the name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;
2. the quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats); and
3. the date of receipt of the shipment of universal waste.

B. The owner or operator of a destination facility must retain the records described in Subsection A of this Section for at least three years from the date of receipt of a shipment of universal waste.

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 23:578 (May 1997).

Subchapter F. Import Requirements

§3879. Imports

Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of this Chapter, immediately after the waste enters the United States, as indicated below:

A. A universal waste transporter is subject to the universal waste transporter requirements of Subchapter D of this Chapter.

B. A universal waste handler is subject to the small or large quantity handler of universal waste requirements of Subchapter B or C of this Chapter, as applicable.

C. An owner or operator of a destination facility is subject to the destination facility requirements of Subchapter E of this Chapter.

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 23:578 (May 1997).

Chapter 39. Small Quantity Generators §3915. Requirements

The small quantity generator must:

* * *

[See Prior Text in A-B.4.b]

5. for universal waste managed under LAC 33:V.Chapter 38, a universal waste handler or destination facility subject to the requirements of LAC 33:V.Chapter 38.

* * *

[See Prior Text in C-C.7.b]

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 13:237 (April 1987), LR 16:220 (March 1990), repromulgated LR 18:1256 (November 1992), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 23:579 (May 1997).

Chapter 41. Recyclable Materials

§4105. Requirements for Recyclable Material

Recyclable materials are subject to additional regulation as follows:

* * *

[See Prior Text in A-B.1.b]

2. Reserved

* * *

[See Prior Text in B.3-E]

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 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:219 (March 1990), LR 17:362 (April 1991), repromulgated LR 18:1256 (November 1992), amended LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), LR 23:579 (May 1997).

§4145. Spent Lead-Acid Batteries Being Reclaimed

A. Applicability. The regulations of this Section apply to persons who reclaim (including regeneration) spent lead-acid batteries that are recyclable materials ("spent batteries"). Persons who generate, transport, or collect spent batteries, who regenerate spent batteries, or who store spent batteries but do not reclaim them (other than spent batteries that are to be regenerated) are not subject to these regulations.

B. General Requirements. Owners or operators of facilities that store spent lead acid batteries before reclaiming (other than spent batteries that are to be regenerated) them are subject to the following requirements:

* * *

[See Prior Text in B.1-3]

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 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 13:237 (April 1987), LR 23:579 (May 1997).

H.M. Strong
Assistant Secretary

9705#007

RULE

Department of Health and Hospitals Office of Public Health

Genetic Diseases—Neonatal Screening (LAC 48:V.6303)

(Editor's Note: A portion of the following rule, published on pages 301 through 302 in the March, 1997 *Louisiana Register* is being republished to correct typographical errors.)

Title 48

PUBLIC HEALTH - GENERAL

Part V. Public Health Services

Subpart 19. Genetic Diseases Services

Chapter 63. Neonatal Screening

§6303. Purpose, Scope, Methodology

* * *

F. Medical/Nutritional Management. In order for a patient with PKU or other rare inborn errors of metabolism, limited to organic acidemia, urea cycle defects and aminoacidopathies, to receive the special formulas for the treatment of these disorders from the state's Genetic Diseases Program and/or Special Supplemental Nutrition Program for Infants, Women, and Children (WIC), the following guidelines must be met:

a. ...

b. The patient must receive a medical evaluation at least once annually at Tulane Human Genetics Program Clinic or from another medical center program providing specialized management of metabolic patients under the supervision of a physician who is board certified in clinical biochemical genetics or a physician with written documentation of a medical evaluation and continuing consultation with a geneticist board certified in clinical biochemical genetics. A licensed and/or registered dietitian must also be on staff and readily available for both acute and chronic dietary needs of the patient.

c. The patient must provide necessary specimens as requested by the medical specialist at Tulane Human Genetics Program or a specialist at another medical center meeting the above criteria. Laboratory test results for phenylalanine and tyrosine levels must be submitted to the Genetics Program Office by the treating medical center.

d. - f. ...

G.1. - 8. ...

¹Reference ...

²References pertaining to Subsection G: ...

a. - e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR 17:378 (April 1991), LR 18:1131 (October 1992), LR 20:1386 (December 1994), LR 23:301 (March 1997), repromulgated LR 23:579 (May 1977).

Bobby P. Jindal
Secretary

9705#054

RULE

Department of Natural Resources Office of Conservation

Automatic Custody Transfer (LAC 43:XIX.2301-2305)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-G.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 9. Statewide Order No. 29-G-1

Chapter 23. Automatic Custody Transfer

§2301. Scope

This Statewide Order provides rules and regulations governing applications for measurement and transfer of custody of liquid hydrocarbons by the use of methods other than customary gauge tanks from fields in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, July 15, 1959, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:758 (June 1993), amended LR 23:580 (May 1997).

§2303. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meanings when found in this Statewide Order:

Automatic Custody Transfer—that the liquid hydrocarbons were automatically measured as they are transferred from the producer to the carrier.

Commissioner—the commissioner of Conservation.

District Manager—the head of any one of the districts of the state of Louisiana under the Office of Conservation, and specifically, the manager within whose district the field or fields affected by the application are located.

Interested Party—any person who is known to the applicant after reasonable search to presently own an interest in production being considered for automatic custody transfer.

Office—the Office of Conservation of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, July 15, 1959, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:758 (June 1993), amended LR 23:580 (May 1997).

§2305. Order

A. From and after the effective date hereof, permission to measure and transfer custody of liquid hydrocarbons by use of methods other than customary gauge tanks may be obtained as hereinafter provided and upon strict compliance with the procedure set forth herein.

B. No permission to use methods other than customary gauge tanks for measurement and custody transfer of liquid hydrocarbons will be granted unless and until the following data and information have been filed with the commissioner with a copy to the district manager:

1. a completed application form for permission to measure and transfer custody of liquid hydrocarbons by use of methods other than customary gauge tanks along with the requisite fee;

2. a diagrammatic sketch of the mechanical installation to be used along with a detailed explanation of the flow of liquid hydrocarbons, indicating locations of locking devices and seals to provide assurance against or evidence of tampering;

3. a cosigned statement by producer and carrier that, in their opinion, the transfer of liquid hydrocarbons in the manner proposed will provide reasonably accurate measurement and will not create inequities, and will afford the owner of any interest the opportunity to recover his just and equitable share of production. The statement incorporated in the application form will suffice for this purpose if signed by both parties, otherwise a separate statement is required;

4. a list of interested parties. This list shall include only those parties who have interests in the leases and/or units from which production is to be measured and custody transferred if approval is granted to the applicant and for which the applicant has no existing authority.

C. Notice of the filing of an application to measure and transfer of custody of liquid hydrocarbons by use of methods other than customary gauge tanks shall be published in the Official Journal of the state of Louisiana (by the Office of Conservation) and mailed (by the applicant) to the interested parties with an affidavit of mailing submitted to the Office of Conservation. A copy of the application does not have to be mailed to all interested parties.

D. No administrative approval for measurement and automatic custody transfer of liquid hydrocarbons will be granted, if, in the judgment of the commissioner, after considering all the data and information submitted, including any opposition expressed by interested parties, administrative approval is not warranted, or in the event any interested party files an application for a public hearing opposing the granting of authority for measurement and automatic custody transfer, together with the requisite hearing fee, within 10 days following the first publication of the notice of the application. The party seeking authority for measurement and automatic custody transfer may elect to file an application setting the matter for consideration at a public hearing if administrative approval is not granted.

E. Should the application for measurement and automatic custody transfer of liquid hydrocarbons be approved, the applicant shall provide a suitable means of testing each meter in order that its accuracy in operation can be proven, such

testing to be done before or at the time the meter is initially installed and monthly thereafter or at such other times as the commissioner of Conservation shall prescribe. The applicant shall retain the actual reports of such tests, and such reports shall be kept on file and available for inspection by any agent of the Office of Conservation or any interested party for a period of not less than three years.

F. This Statewide Order shall supersede Statewide Order No. 29-G, but shall be in addition to all other statewide orders, rules and regulations affecting the production and measurement of liquid hydrocarbons heretofore promulgated. To the extent of any conflict with such other statewide orders, rules and regulations, however, the provisions of this statewide order shall govern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, July 1959, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:758 (June 1993), amended LR 23:580 (May 1997).

George L. Carmouche
Commissioner

9705#040

RULE

Department of Natural Resources Office of Conservation

Gas/Oil Ratios, Allowables and Venting Natural Gas (LAC 43:XIX.3501-3511)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 45-I.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 15. Statewide Order No. 45-I-A

Chapter 35. Gas/Oil Ratios, Allowables and Venting of Natural Gas

§3501. Scope

This Statewide Order provides special rules and regulations governing gas/oil ratios, allowables, and the venting of natural gas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by Department of Conservation, July 20, 1943, amended January 1, 1966, December 1, 1973, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 23:581 (May 1997).

§3503. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meaning when found in this Statewide Order:

Base Gas/Oil Ratio—amount of natural gas, in cubic feet, which may be produced with one barrel of oil from a well recognized by the Office of Conservation as an oil well without reduction of the base oil allowable.

Base Oil Allowable—amount of oil, in barrels per day,

which may be produced from a well recognized by the Office of Conservation as an oil well before application of the base gas/oil ratio.

Commissioner—the commissioner of Conservation of the State of Louisiana

District Manager—the head of any one of the districts of the state of Louisiana under the Office of Conservation, and specifically the manager within whose district the well affected by this Statewide Order is located.

Horizontal Well—well with the wellbore drilled laterally at an angle of at least 80 degrees to the vertical and with a horizontal displacement of at least 50 feet in the pool in which the well is completed for production, measured from the initial point of penetration into such pool.

Oil Allowable—amount of oil authorized to be produced by the Office of Conservation from a well recognized by the Office of Conservation as an oil well.

Point of Delivery—point at which gas is vented to the atmosphere, whether from one or more wells or at any type of production facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by Department of Conservation, July 20, 1943, amended January 1, 1966, December 1, 1973, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 23:581 (May 1997).

§3505. Base Gas/Oil Ratio and Allowables

A. The base gas/oil ratio for a well recognized by the Office of Conservation as an oil well is hereby fixed at 2000 cubic feet of natural gas per barrel of oil (2000/1). Any well recognized by the Office of Conservation as an oil well which has a gas/oil ratio of 2000/1 or below will be allowed to produce its base oil allowable without reduction. Any well recognized by the Office of Conservation as an oil well which has a gas/oil ratio exceeding 2000/1 and from which the operator cannot use or sell the gas will have its base oil allowable reduced by assigning to such well an oil allowable determined by multiplying the base oil allowable by the base gas/oil ratio and dividing by the gas/oil ratio of the well.

B. If the operator can use or sell the gas, the allowable which shall be granted to a well which produces oil with a gas/oil ratio in excess of 2000/1, or to a well which produces hydrocarbons from the gas cap of an oil pool, shall be equivalent volumetrically to the quantity of hydrocarbons a well in the same pool would be allowed to produce if it were producing oil with a gas/oil ratio of 2000/1, each computed at reservoir conditions based on available data; provided that reasonable estimates of reservoir conditions shall be used if actual reservoir conditions cannot be determined from available data. Such allowables shall be calculated as follows:

1. Any well recognized by the Office of Conservation as an oil well which has a gas/oil ratio exceeding 2000/1 will have its base oil allowable reduced by assigning to such well an oil allowable determined by the following formula:

$$Q_o (2000+) = Q_o \left[\frac{V(R_p - R_o) + B}{V(R_i - R_o) + B} \right]$$

where:

Q_o = current depth bracket oil allowable for one well

when producing gas-oil ratio is less than 2000:1.

$Q_o(2000+)$ = oil allowable for one well when producing gas-oil ratio is greater than 2000:1.

V = barrels of space occupied by one std. Mcf of gas at reservoir conditions (res. bbls. per MSCF).

R_p = permissible gas-oil ratio for an oil well (2.0 MSCF/STB).

R_i = producing gas-oil ratio of wells for which the allowable is being calculated (MSCF/STB).

R_o = solution gas-oil ratio at the current bottomhole pressure (MSCF/bbl.).

B = volume occupied by one barrel of stock tank oil and its solution gas at the current reservoir pressure (Res. bbl. per STB).

2. Any well recognized by the Office of Conservation as a gas well and which is determined by the Office of Conservation to be producing from the gas cap of an oil pool will be assigned a volumetric gas allowable determined by application of the following formula:

$$Q_s = A_g \frac{Q_o}{A_o} \left[\frac{V (R_p - R_o) + B}{V} \right]$$

where:

Q_g = gas well allowable (MSCF per day).

A_o = number acres in oil unit.

A_g = number acres in gas unit.

Q_o = current depth bracket oil allowable for one well when producing gas-oil ratio is less than 2000:1.

R_o = solution gas-oil ratio at the current bottomhole pressure (MSCF/bbl.).

B = volume occupied by one barrel of stock tank oil and its solution gas at the current reservoir pressure (Res. bbl. per STB).

V = barrels of space occupied by one std. Mcf of gas at reservoir conditions (res. bbls. per MSCF).

R_p = permissible gas-oil ratio for an oil well (2.0 MSCF/STB).

C. The gas/oil ratios of wells which have been assigned an oil allowable based on a gas/oil ratio of 2000/1 or below shall be determined by testing at as close as practical the allowable rate. The gas/oil ratios of wells which are known to have high gas/oil ratios >2000/1 shall be determined by testing at the rate determined by the operator and the district manager as the most efficient rate. The gas/oil ratio for a gas lift well shall be calculated by subtracting the input gas from the output gas and dividing by the oil produced.

D. Any flowing oil well which produces oil with excessive amount of salt water and has a gas/oil ratio exceeding 2000/1 shall not have its base oil allowable reduced by assigning a penalized allowable under §3505.A or a volumetric allowable under §3505.B hereof if to do so would reduce the base oil allowable for the well to such a figure that the well could not produce by natural flow. Requests for exemption of any such well from the penalized or volumetric allowable shall be made in writing to the district manager, accompanied by appropriate data to establish that the well qualifies for the requested exemption, and such request may be granted by the district manager, upon receipt of such data, without the necessity of

a public hearing.

E. The operator of any well which is subject to a volumetric allowable restriction under Subsection B of this Section this may be granted an exemption from such restriction if such operator can use or sell the natural gas produced from such well and if, pursuant to written application to and subsequent written approval by the appropriate district manager, it is established that:

1. the well is the only well capable of producing from the pool; or

2. the productive limits of the pool underlies a single lease or voluntary unit; or

3. all persons owning interests in the pool agree in writing, to the requested exemption from the volumetric allowable restriction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by Department of Conservation, July 20, 1943, amended January 1, 1966, December 1, 1973, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 23:581 (May 1997).

§3507. Venting of Gas

The venting of natural gas from any well producing in the state of Louisiana is hereby expressly prohibited except in those instances where the Office of Conservation finds, upon written application, that such prohibition would result in an economic hardship on the operator of the well, lease or production facility from which the gas is proposed to be vented; provided, however, that no such economic hardship can be found in the case where the current market value, at the point of delivery, of the gas proposed to be vented exceeds the cost involved in making such gas available to a market. Such applications shall be filed with the district office and approval thereof will be at the discretion of the district manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by Department of Conservation, July 20, 1943, amended January 1, 1966, December 1, 1973, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 23:582 (May 1997).

§3509. Exceptions and Hearings

A. These rules and regulations shall govern the production of oil and gas or both in the state of Louisiana, except:

1. where the production of oil and gas or both is regulated by special field orders; and

2. in the recognized stripper areas; and

3. production of oil and gas or both from horizontal wells.

B. Other exceptions to the provisions of this Statewide Order which are found to be proper and in the interest of conservation, the prevention of waste, and the protection of the rights of all persons owning interests in the pool shall be granted only after public hearing based on legal notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by Department of Conservation, July 20, 1943, amended January 1, 1966, December 1, 1973, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 23:582 (May 1997).

§3511. Violations

Unless specifically prohibited by the commissioner or his authorized staff, the venting of gas due to unavoidable situations will not be considered a violation of this Statewide Order. However, any venting which contradicts the spirit or intent of this Statewide Order shall be a violation hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by Department of Conservation, July 20, 1943, amended January 1, 1966, December 1, 1973, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 23:583 (May 1997).

George L. Carmouche
Commissioner

9705#039

RULE

Department of Natural Resources Office of Conservation

Multiple Completions (LAC 43:XIX.1301-1305)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-C.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 5. Statewide Order No. 29-C-4

Chapter 13. Multiple Completions

§1301. Scope

This Statewide Order provides Rules and Regulations governing the multiple completion of wells productive of hydrocarbons from multiple zones in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended June 21, 1960, September 1, 1960, June 15, 1962, March 1, 1967, September 1, 1971, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:766 (June 1993), amended LR 23:583 (May 1997).

§1303. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meaning when found in this Statewide Order:

Commissioner—the commissioner of Conservation.

District Manager—the head of any one of the districts of the state of Louisiana under the Office of Conservation, and specifically, the manager within whose district the well which is subject to an application under the provisions of this Statewide Order is located.

Multiple Completion—the completion of any well so as to permit simultaneous production from two or more pools while maintaining segregation of each such pool through the single wellbore to the surface. Segregation and simultaneous production of separate intervals within a recognized pool through a single wellbore to the surface shall not be considered a multiple completion.

Owner—as used herein, shall have the meaning as such term is defined in Title 30 of the Louisiana Revised Statutes of 1950.

Pool—as used herein, shall have the meaning as such term is defined in Title 30 of the Louisiana Revised Statutes of 1950.

Selective Completion—the completion of any well utilizing downhole equipment so as to permit production to be changed from one separate pool to another without the necessity of a workover or additional perforating.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended June 21, 1960, September 1, 1960, June 15, 1962, March 1, 1967, September 1, 1971, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:766 (June 1993), amended LR 23:583 (May 1997).

§1305. Order

A. On and after the effective date hereof, a permit to multiply complete a new or existing well in separate pools, where the proposed completions are in compliance with all applicable Office of Conservation statewide orders, may be obtained by submitting a complete application to drill, as outlined in Part XIX, Subpart 1 (Statewide Order No. 29-B), for each proposed completion concurrent with drilling and/or workover operations on the first completion, or at such other time as a desire to make a multiple completion is known, together with the prescribed fees in accordance with the procedure hereinafter outlined.

B. In the instance where a multiple completion is applied for, the completions must be in separate pools and the following procedure will be followed in submitting the required data for each multiple completion:

1. The applicant shall file the following in duplicate along with the appropriate fees as prescribed by Part XIX, Subpart 2 or successor regulation with the appropriate district manager:

- a. application for permit to drill (Form MD-10-R);
- b. location plat (as prescribed by Part XIX, Subpart 1, Chapter 1, Section 103).

2. After completion of the above well, the applicant shall file in duplicate the following with the appropriate district manager for multiple completion(s):

- a. application for multiple completion (Form A.D.C.);
- b. completion report (Form Comp.);
- c. electric log or portion thereof of the subject well showing clearly thereon the subsurface of the separate pools in which the applicant has multiply completed the well;
- d. diagrammatic sketch of the wellbore showing the mechanical installation;
- e. Packer Leakage Test (Form P.L.T.);
- f. Packer Setting Certificate (Form P.S.C.).

3. Any application for recompletion of an existing multiple completion shall comply with §1305.B.2 above.

C. An allowable will be granted for each completion of a multiply completed well upon the filing of all information, as prescribed in §1305.B.2 above, and after a permit to drill has been issued for each pool in which a completion has been made.

D. In the event the commissioner of Conservation approves the multiple completion as requested, the following shall be complied with:

1. Each multiple completed well shall be tested upon completion and annually thereafter in the following matter:

a. All completions shall be shut-in for a sufficient length of time to allow wellhead pressures to become stabilized and for a minimum of two hours thereafter, and a record made of the wellhead pressure buildup in each completion during the shut-in period. At the end of this shut-in period one of the completions shall be produced at such a rate and under such conditions as may be designated by the district manager, or his representative, for a period of six hours while the other completions are kept shut-in, and a record shall be made of the pressures of all completions during the test period. Upon completion of the initial test, the procedure shall be rotated and a following test carried out as outlined above with the completion that was produced during the previous test shut-in.

b. Under unusual circumstances and conditions of the well being tested, this procedure may be altered providing the desired information is obtained.

2. The operator shall submit, in duplicate, to the appropriate district manager, Form P.L.T.

E. Should the zones approved for multiple completion become intercommunicative, the operator shall immediately repair and separate the pools.

F. Each separate completion shall be considered a separate well as to permits, allowables, fees and for all other purposes.

G. The use of selective completion equipment in separate pools is expressly prohibited except as provided herein and no work should precede approval by the commissioner of Conservation of the application which shall be filed in duplicate with the appropriate district manager.

1. Onshore wells will only be considered for administrative approval of selective completion in separate pools where the documentation which follows clearly shows all such separate pools to be wholly contained within one lease. The application shall include the following:

a. application for multiple completion (Form A.D.C.);

b. electric log or portion thereof of the subject well showing clearly thereon the subsurface of the separate pools which applicant proposes to selectively complete in the well;

c. diagrammatic sketch of the wellbore showing the proposed mechanical installation;

d. lease ownership map showing all leases in area of the subject well and the productive outlines of the pools proposed for selective completion;

e. subsurface structure maps on each pool proposed for selective completion showing all boundaries which establish the productive outlines;

f. work permit (Form DM4R).

2. Offshore wells will be considered for administrative approval of selective completion in separate pools upon submission of the documentation required under §1305.G.1.a-f. Additionally, if the productive limits of any separate pool included in the application underlies more than one lease, the items listed below will also be required:

a. a list of the names and addresses of the owners of the leases shown to be underlain by the separate pools;

b. written concurrence of all the owners shown on the list required in §1305.G.2.a.

H. Notwithstanding the provisions of the previous Paragraph, an application for selective completion may be filed with the appropriate district manager for a well that does not meet all requirements set forth in §1305.G upon showing for good cause that such request should be considered. An exceptional application of this nature will be considered for administrative approval by the commissioner of Conservation upon recommendation of the district manager as a last resort to prevent the loss of oil and gas that could not be recovered by any other means than through the use of selective completion equipment or under other exceptional circumstances as determined to be appropriate by the commissioner.

I. In the event a well is authorized for selective completion in separate pools, the operator thereof shall continuously monitor the performance of such well in an effort to determine that the separate pools remain isolated and shall secure a work permit from the district manager before affecting a change from one separate pool to another through the use of the downhole selective equipment. Also, each such change in pool shall be considered a recompletion and all reports normally filed when recompleting a well will be required.

J. The foregoing shall supersede and replace the provisions of Statewide Order No. 29-C, and all prior amendments thereto and all prior memoranda issued thereunder and shall govern the multiple and selective completion of wells productive of hydrocarbons in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended June 21, 1960, September 1, 1960, June 15, 1962, March 1, 1967, September 1, 1971, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:766 (June 1993), amended LR 23:583 (May 1997).

George L. Carmouche
Commissioner

9705#041

RULE

Department of Natural Resources Office of Conservation

Oil and Gas Commingling (LAC 43:XIX.1501-1503)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-D.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 6. Statewide Order No. 29-D-1

Chapter 15. Commingling of Oil and Gas Production Onshore

§1501. Scope

This Statewide Order provides rules and regulations governing the applications for commingling and the use of methods other than gauge tanks for allocation of production from fields in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended February 25, 1957, June 1, 1962, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:768 (June 1993), amended LR 23:585 (May 1997).

§1503. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meanings where found in this Statewide Order:

Commingling—the combination of gas and/or liquid hydrocarbon production before sales from two or more leases and/or units, subject to the following:

a. Combination of lease production with production from a unit which is wholly contained geographically within that lease is not considered commingling.

b. No additional commingling approval is required for a unit if approval to commingle at the same commingling facility has previously been independently granted covering all leases contributing to the subject unit.

c. Once commingling approval for a unit has been granted, no additional commingling approval is required if interests in a unit change or the unit is revised if no new leases are added as a result of the change or unit revision.

Commingling Facility—any facility which has been authorized by the office for commingling as defined herein.

Commissioner—the commissioner of Conservation.

District Manager—the head of any one of the districts of the state of Louisiana under the Office of Conservation, and specifically, the manager within whose district the field or fields are located from which the applicant proposes to commingle production.

Interested Party—any person who is known to the applicant after reasonable search to presently own an interest in production from the leases or units being considered for commingling.

Office—the Office of Conservation of the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended February 25, 1957, June 1, 1962, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:768 (June 1993), amended LR 23:585 (May 1997).

§1505. Order

From and after the effective date hereof, permission to commingle gas and/or liquid hydrocarbons and to use metering, well test or other methods for allocation of

production may be obtained as hereinafter provided and upon strict compliance with the procedures set forth herein.

1. Metering

a. No authority to commingle gas and/or liquid hydrocarbons and to use metering for allocation of production will be granted unless and until the following data and information have been filed with the commissioner with a copy to the district manager:

i. a completed application form for permission to commingle gas and/or liquid hydrocarbon production along with the requisite fee;

ii. a diagrammatic sketch of the mechanical installation to be used along with a detailed explanation of the flow of the gas and/or liquid hydrocarbons, the procedures and frequency for calibration/proving of metering devices and allocation formula to be utilized;

iii. a signed statement that, in the opinion of the applicant, the commingling of gas and/or liquid hydrocarbons and the use of metering for allocation of production in a manner proposed will provide reasonably accurate measurement, will not create inequities, and will afford the owner of any interest the opportunity to recover his just and equitable share of production;

iv. a list of interested parties. This list shall include only those parties who have interests in the leases and/or units from which production is to be commingled if approval is granted to the applicant and for which the applicant has no existing commingling authority.

b. Notice of the filing of an application to commingle and to use metering for allocation of production shall be published in the official journal of the state of Louisiana (by the Office of Conservation) and mailed (by the applicant) to the interested parties with an affidavit of mailing submitted to the Office of Conservation. A copy of the application does not have to be mailed to all interested parties.

c. No administrative approval for the commingling of gas and/or liquid hydrocarbons and the use of metering for allocation of production will be granted, if, in the judgment of the commissioner, after considering all the data and information submitted, including any opposition expressed by interested parties, administrative approval is not warranted, or in the event any interested party files an application for a public hearing opposing the granting of commingling authority, together with the requisite hearing fee, within 10 days following the first publication of the notice of the application. The party seeking commingling authority may also elect to file an application setting the matter for consideration at a public hearing if administrative approval is not granted.

d. Should the application for the use of metering be approved, the applicant shall provide a suitable means of testing each meter in order that the accuracy of any meter in operation can be proven, such testing to be done monthly for liquid hydrocarbon allocation meters and quarterly for gaseous hydrocarbon allocation meters or at such other times as the commissioner of Conservation shall prescribe. The applicant shall retain the actual reports of such tests, and such reports shall be kept on file and available for inspection by any agent of the Office of Conservation or any interested

party for a period of not less than three years. Permission, in writing, from the Office of Conservation must be obtained for all by-pass or other lines that will permit flow around the regular meter, and each such line must have a meter that will permit measurement. The commissioner may grant an exception to this requirement if it is established to his satisfaction that good grounds exist justifying said exception.

e. Emergency authorization to commingle may be obtained from the Office of Conservation for 90 days upon proper showing that the methods of production and allocation meet the minimum standards necessary for formal approval if the well(s) would otherwise have to remain shut-in pending formal approval. Under exceptional circumstances this period may be extended for good cause shown but for no longer than needed for an applicant diligently pursuing formal approval.

f. Consolidation of two or more facilities may be approved administratively without the necessity of a public hearing by submitting a request for such to the Office of Conservation.

g. All allocation measurements must be in accordance with the American Petroleum Institute (API) *Manual of Petroleum Measurement Standards*, Chapter 20, Allocation Measurement.

2. Well Tests

a. No authority to commingle gas and/or liquid hydrocarbons and to use well tests for allocation of production will be granted unless and until the following data and information have been filed with the commissioner with a copy to the district manager:

i. a completed application form for permission to commingle gas and/or liquid hydrocarbon production along with the requisite fee;

ii. a diagrammatic sketch of the mechanical installation to be used along with a detailed explanation of the flow of the gas and/or liquid hydrocarbons, the procedures and frequency of well tests and for calibration/proving of any metering devices and allocation formulas to be utilized;

iii. a signed statement that, in the opinion of the applicant, the commingling of gas and/or liquid hydrocarbons and the use of well tests for allocation of production in the manner proposed will provide reasonably accurate measurement, will not create inequities, and will afford the owner of any interest the opportunity to recover his just and equitable share of production;

iv. a list of interested parties. This list shall include only those parties who have interests in the leases and/or units from which production is to be commingled if approval is granted to the applicant and for which the applicant has no existing commingling authority.

b. The application shall also include:

i. written approval of 100 percent of all interested parties; or

ii. a request for a public hearing pursuant to R.S. 30:6; or

iii. if the applicant can demonstrate that one or more prior commingling applications for the use of well test allocation at the subject commingling facility have been unsuccessful in obtaining 100 percent approval, that approval was granted by order after a public hearing, and that all leases

involved in the subject application are the same as the prior applications (i.e., no new leases), then the applicant may request, and the commissioner may authorize, the processing of such application under the same procedures outlined in §1505.A.2 and 3 of this Statewide Order.

c. Should the application for the approval of the use of well tests be approved, such testing shall be done in a manner that meets or exceeds the minimum standards set forth hereinbelow:

i. All wells shall be tested a minimum four hours at least once a month to determine productivity rate.

ii. Wells having any erratic producing characteristics that cause variable rates of flow while producing on a continuous choke size shall be tested a minimum of four hours biweekly to determine productivity rate.

iii. If at any time between the regular testing periods, as outlined above, the choke size of any well is changed, the time and date of change shall be recorded and productivity rate test conducted after the well has stabilized on the new choke. Production allocation shall be made according to these various productivity rates for the time they were in effect.

iv. If at any time the choke in a well is changed because of wear, tests shall be conducted before the choke is changed and after the well has stabilized on the new choke. The average rate between the previous productivity rate test and the productivity rate test conducted immediately after the choke has been changed shall be used to determine production for this period back to the first day of the current month.

v. If the producing characteristics of a well significantly change between the regular testing periods, such as: the beginning or increase in water percentage; a change in gas-oil ratio, especially above the 2000/1 limit; or considerable change in tubing pressure, etc., then tests shall be made at no longer than one-week intervals until production again stabilizes.

vi. Daily checks on individual wellhead pressures shall be recorded and maintained by the operator of each well covered by the approval to commingle by well tests, provided weather permits.

vii. If any operator feels that some other interval of testing is appropriate, he may request an exception to the above guidelines by writing the commissioner with a copy to the district manager outlining his problems and suggested interval of testing. The commissioner may, after consultation with the district manager and staff, grant such exceptions as he deems appropriate by special administrative order without a public hearing.

viii. All allocation measurements must be in accordance with the American Petroleum Institute (API) *Manual of Petroleum Measurement Standards*, Chapter 20, Allocation Measurement.

d. All required tests shall be recorded on Form DM-1-R, Form DT-1, or a document with a similar format and made available for inspection by any agent of the Office of Conservation or any interested party for a period of not less than three years.

e. Emergency application to commingle may be

obtained from the Office of Conservation for 90 days upon proper showing that the methods of production and allocation meet the minimum standards necessary for formal approval if the well(s) would otherwise have to remain shut-in pending formal approval. Under exceptional circumstances this period may be extended for good cause shown but for no longer than needed for an applicant diligently pursuing formal approval.

f. Consolidation of two or more facilities may be approved administratively without the necessity of a public hearing by submitting a request for such to the Office of Conservation.

3. Other

a. If any operator feels that commingling of gas and/or liquid hydrocarbons utilizing some method other than metering or well tests for allocation of production is appropriate, he may seek permission to do so in the manner hereinafter provided and upon strict compliance with the procedures set forth herein.

b. No authority to commingle gas and/or liquid hydrocarbon production utilizing any method will be granted unless and until the following data and information have been filed with the commissioner with a copy to the district manager:

i. a completed application form for permission to commingle gas and/or liquid hydrocarbon production along with the requisite fee;

ii. a diagrammatic sketch of the mechanical installation to be used along with a detailed explanation of the flow of the gas and/or liquid hydrocarbons and the manner in which measurement and allocation will be accomplished, including the procedures and frequency of well tests, calibration/proving of any metering devices and allocation formulas to be utilized;

iii. a signed statement that, in the opinion of the applicant, the commingling of gas and/or liquid hydrocarbons and the use of the method cited for allocation of production in the manner proposed will provide reasonably accurate measurement, will not create inequities, and will afford the owner of any interest the opportunity to recover his just and equitable share of production;

iv. a list of interested parties. This list shall include only those parties who have interests in the leases and/or units from which production is to be commingled if approval is granted to the applicant and for which the applicant has no existing commingling authority.

c. The commissioner shall advise the applicant whether such application will be processed under the provisions of §1505.A, B, or some alternative procedure he deems appropriate at his discretion, and the applicant shall take the actions so mandated if he wishes to continue pursuit of approval of his application.

d. Emergency authorization to commingle may be obtained from the Office of Conservation for 90 days upon proper showing that the methods of production and allocation meet the minimum standards necessary for formal approval if the well(s) would otherwise have to remain shut-in pending formal approval. Under exceptional circumstances this period may be extended for good cause shown but for no longer than needed for an applicant diligently pursuing formal approval.

e. Consolidation of two or more facilities may be approved administratively without the necessity of a public hearing by submitting a request for such to the Office of Conservation.

f. This Statewide Order shall supersede Statewide Order No. 29-D, but shall be in addition to all other statewide orders, rules and regulations affecting the drilling and production of gas and/or liquid hydrocarbons heretofore promulgated. To the extent of any conflict with such other orders, rules and regulations, however, provisions of this Statewide Order shall govern. In case of any conflict between this Statewide Order and the special orders on specific fields, said special orders on specific fields shall govern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1955, amended February 25, 1957, June 1, 1962, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:768 (June 1993), amended LR 23:585 (May 1997).

George L. Carmouche
Commissioner

9705#035

RULE

Department of Public Safety and Corrections Board of Private Security Examiners

Definitions, Organization, Board Membership,
Training, Investigations (LAC 46:LIX.Chapters 1-8)

Under the authority of the Private Security Regulatory and Licensing Law, R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Private Security Examiners has amended LAC 46:LIX.Chapters 1-8 as follows:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIX. Private Security Examiners

Chapter 1. Definitions, Organization, Board Membership and General Provisions

§101. Definitions

A. - B. ...

C. *Emergency Assignment*—any unplanned or unexpected event not covered by a prior contractual agreement.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:846 (October 1989), LR 18:189 (February 1992), LR 23:587 (May 1997).

§103. Organization, Board Membership and General Provisions

A - I. ...

J. Meetings shall be announced and held in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.),

and the Open Meetings Law (R.S. 42:4.2 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:11 (January 1989), LR 15:846 (October 1989), LR 18:189 (February 1992), LR 23:587 (May 1997).

Chapter 2. Company Licensure

§201. Qualifications and Requirements for Company Licensure

A. - E.5. ...

6. A certificate of general public liability insurance in an amount as required by law with the state of Louisiana named as an additional insured.

E.7. - J.4. ...

K. **Insurance Renewal.** On or before the expiration date of the required general liability insurance policy, licensee shall submit to the board a new certificate of insurance in an amount as required by law showing that insurance has been renewed and there has not been any lapse in coverage.

L.1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:846 (October 1989), LR 18:190 (February 1992), LR 23:588 (May 1997).

Chapter 3. Security Officer Registration

§301. Qualifications and Requirements for Security Officer Registration

A. An applicant for security officer registration shall meet all of the qualifications and requirements specified in R.S. 37:3283 in addition to the rules herein.

B. An applicant for security officer registration shall meet all of the qualifications of a licensee as defined in R.S. 37:3276, except:

1. the applicant may be a resident alien;
2. the applicant must be at least 18 years of age if registered unarmed, or if registered to carry a baton;
3. the applicant must be at least 21 years of age if registered armed.

C. Any person who performs the functions and duties of a security officer shall fill out and file with the board an application form provided and approved by the board. The application must be either postmarked or received in the board office within 20 calendar days of the applicant's date of hire.

D.1. - 2. ...

3. non-refundable application fee and fingerprint processing fee;

4. if applicant has worked less than 20 calendar days, documentation must nevertheless be submitted, but without the required fees if a termination form is included showing the dates worked.

E. Applicant must sign the application to certify that the information he is providing the board is correct.

F. - J.1. ...

2. Each company a security officer is employed with shall submit an application marked "dual registration" with the required application fee. The application must be either

postmarked or received in the board office within 20 calendar days of the applicant's date of hire.

3. ...

K.1 - 4.f. ...

5. If a registration card is lost or mutilated, registrant is responsible. A \$10 fee will be assessed to issue a replacement card and registrant shall submit in writing to the board his name, social security number, registration card number and circumstances surrounding loss or mutilation of card.

K.6. - M.2. ...

N. **Emergency Assignment**

1. Unarmed security officers may work emergency assignments a maximum of 20 calendar days within a six month consecutive period.

2. Registration requirements set forth in §301.D.4 apply.

3. Armed security officers must be registered with the board and have received all firearms training prior to working an armed post.

O. - P.1. ...

2. If registrant terminates employment with one employer and is reemployed within 30 calendar days in the same classification, the new employer, within 10 days of such reemployment, shall submit to the board a notice of the change on a form prescribed by the board, together with a transfer fee paid by the new employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:11 (January 1989), LR 15:846 (October 1989), LR 18:191 (February 1992), LR 23:588 (May 1997).

Chapter 4. Training

§403. Classroom Training

A. - C. ...

D. All scores of such examinations must be recorded and submitted to the board by the licensee or employer, as the case may be, on its prescribed training verification form signed by the licensed instructor within 30 calendar days from completion of training.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 18:192 (February 1992), LR 23:588 (May 1997).

§405. Firearms Training

A. Armed security officers, in addition to the training requirements outlined in R.S. 37:3284 and in the rules herein, shall complete 12 hours of firearms training and range qualifications by a board-licensed firearms instructor prior to working an armed assignment. Examination scores must be recorded and submitted to the board by the licensee or employer, as the case may be, on its prescribed verification form signed by the licensed instructor within 30 calendar days from completion of training.

B. - C. ...

D. Annual refresher firearms training is due one year from

the date of the last firearms training recorded at the board office. The anniversary date will not change if the training is taken within 30 days prior to said date.

E.1. - 3. ...

F. Handgun Proficiency Course. The handgun proficiency course shall have the following requirements:

1. a score of 75 percent required to qualify, 188 points out of 250 points;
2. an approved standard police or security firearms target shall be used;
3. the caliber weapon trained with must be the same caliber weapon the security officer carries while on duty;
4. the handgun course of fire shall be:
 - a. at a distance of four yards:
 - i. 12 shots, unsupported, point shooting, without sights: 45 seconds;
 - (a.) six shots, strong hand only;
 - (b.) six shots, weak hand only;
 - b. at a distance of seven yards:
 - i. two shots, unsupported, two-handed with sights: 5 seconds (indexing these rounds);
 - ii. 12 shots, unsupported, two-handed with sights: 60 seconds;
 - iii. 12 shots, unsupported, two-handed point shooting: 60 seconds
 - c. at a distance of 15 yards:
 - i. 12 shots, barricade, strong hand: 60 seconds;
 - ii. 12 shots, barricade, two handed with sights: 60 seconds;
 - (a.) six shots, standing right barricade;
 - (b.) six shots, standing left barricade.

G.1. - 3. ...

H. Shotgun Proficiency Course. The shotgun proficiency course shall have the following requirements:

1. ...
2. The shotgun course of fire shall be:
 - a. five rounds of buckshot (nine pellets only); 60 percent required to qualify out of 90 points possible on a NRA B-27 target. B-29 target may be used for 25 yards or 15 yards;
 - b. scoring: two points for each hit within the seven ring. One point for each hit outside the seven ring, in the black;
 - c. at a distance of 15 yards; two rounds, standing from the shoulder: 10 seconds;
 - d. at a distance of 25 yards; two rounds total from the shoulder; one round standing, two rounds kneeling. Time includes loading time with the shotgun starting from the "cruiser-safe" position (chamber empty, magazine loaded, safety on): 20 seconds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:192 (February 1992), amended LR 23:588 (May 1997).

§407. Baton Training

A. - D. ...

E. Security officers trained in baton must successfully pass a written examination administered by a board-licensed baton

instructor and achieve a minimum passing score of 70 percent. Examination scores must be recorded and submitted to the board by the licensee or employer, as the case may be, on its prescribed verification form signed by the licensed instructor within 30 calendar days from completion of training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:193 (February 1992), amended LR 23:589 (May 1997).

§409. Instructor Requirements, Responsibilities and Liability

A. The board shall collect the following instructor fees pursuant to R.S. 37:3286:

1. - 10. ...

B. ...

C. Instructor Responsibilities and Liability

1. An inhouse instructor who is covered under his employer's company insurance policy shall be required to have his employer submit a letter to the board stating that he is covered under the company policy for the teaching of security officers. If not covered under a company insurance policy, an instructor must provide a certificate of general public liability insurance in an amount as required by law with the state of Louisiana named as an additional insured.

C.2. - D.2. ...

E. Insurance Renewal. On or before the expiration date of the general liability insurance policy, instructor shall submit to the board a new certificate of insurance in an amount as required by law showing that insurance has been renewed and there has not been any lapse of coverage.

F. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:194 (February 1992), amended LR 23:589 (May 1997).

Chapter 8. Licensee Suitability, Records, Investigations and Registrant Violations

§805. Investigations

A. ...

B. An investigation conducted by a duly-authorized representative of the board is not to be construed as an inspection of files as described in §803.C hereof. It is an investigation of alleged violations by a licensee or registrant as a result of a complaint, and is exempt from written and verbal notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:195 (February 1992), amended LR 23:589 (May 1997).

§807. Violations by Registrants

A.1. - 2. ...

3. failure to affix a photograph of registrant, taken within the last six months, to registration card;

4. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:195 (February 1992), amended LR 23:589 (May 1997).

Wayne R. Rogillio
Executive Secretary

9705#021

RULE

**Department of Social Services
Office of Community Services**

**Central Registry—Child Abuse
and Neglect Cases (LAC 67:V.1103)**

The Department of Social Services, Office of Community Services amends LAC 67:V.1103, State Central Registry. This rule is mandated by the Louisiana Children's Code, Title VI, Child in Need of Care, Chapter 5, Article 615.

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Subpart 3. Child Protective Services

Chapter 11. Administration and Authority

§1103. State Central Registry

A. - A.1.a ...

b. Records of reports of suspected child abuse or neglect in which the determination is made that the reports appear to be justified will be maintained until the youngest child in the victim's family reaches the age of 18 or five years from the determination, whichever is longer. When, after the investigation, the determination is made by the department that the report does appear to be justified, any subsequent adjudication by a court exercising juvenile jurisdiction which dismisses the child in need of care petition involving this report shall be added to the central registry. Records of reports of child fatalities determined to have been caused by child abuse or neglect will be maintained for 20 years. Records on determinations of caretakers in restrictive care facilities and day care centers in which reports appear to be justified will be maintained for five years, unless there is another justified finding involving the same perpetrator. In those cases, the records will be maintained until there has been no subsequent justified finding for five years. Records on justified findings on foster families, when the child victim is a foster child, will be maintained indefinitely.

A.1.c. ...

2. The central registry shall release information regarding cases of child abuse or neglect to other states' child welfare agencies upon formal inquiry by that agency, when the inquiry is made pursuant to an ongoing child protection investigation, foster care home study, adoptive home study, or family services case following a child protection investigation in the requesting state, in accordance with R.S. 46:56 F(4)(a). The information may also be released to a private licensed child placing agency located in Louisiana. Information released to such agencies is confidential and will not be released to sources outside the agency.

B. ...

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Children's Code, Title VI, Child in Need of Care, Chapter 5, Articles 615 and 616, and Title XII, Adoption of Children, Chapter 2, Article 1173, and R.S. 14:403(H).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), amended LR 20:199 (February 1994), LR 21:583 (June 1995), LR 23:590 (May 1997).

Madlyn B. Bagneris
Secretary

9705#049

RULE

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

Food Stamp Disqualification (LAC 67:III.1988)

The Department of Social Services, Office of Family Support amends LAC 67:III.Subpart 3, Food Stamps.

Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, mandated certain food stamp policy revisions. This rule is being promulgated to add §1988.B which was omitted from the original notice of intent published October 20, 1996.

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. Fleeing felons and probation/parole violators are ineligible for benefits.

B. Effective January 1, 1997 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 permanently disqualified from receiving food stamps. This shall not apply to convictions occurring on or before August 22, 1996.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 23:590 (May 1997).

Madlyn B. Bagneris
Secretary

9705#048

RULE

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

**Individual and Family Grant
Correction of LAC (LAC 67:III.4702)**

The Department of Social Services, Office of Family Support has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 10, Individual and Family Grant (IFG) Program.

This rule corrects errors in codification which occurred between the amendments of April 1995 and December 1996, that is, §4702.C was deleted. A historical note for August 1995 had also been omitted. Therefore, §4702 is being repromulgated in its entirety. This rule represents no change in IFG Program policy.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 10. Individual and Family Grant Program

Chapter 47. Application, Eligibility, and Furnishing Assistance

**Subchapter C. Need and Amount of Assistance
§4702. Flood Insurance**

A. In order to be eligible for assistance under the IFG Program, an individual or family residing on property located in a flood hazard zone and whose losses are the result of flooding must agree to purchase adequate flood insurance and maintain such insurance for as long as they live in the home. This maintenance provision also applies to individuals who buy, or otherwise have transferred to them, any real estate for which flood insurance maintenance has been required.

B. The dollar value of the required flood insurance policy for housing and personal property grants where the applicant resides in a flood zone is also adjusted at the beginning of each federal fiscal year to reflect changes in the *Consumer Price Index for All Urban Consumers*.

C. A Group Flood Insurance Policy (GFIP), a policy covering all individuals named by a state as recipients of an IFG Program award for flood damage, has been established. The criteria for determining who is required to purchase flood insurance has not changed.

1. The amount of coverage provided by the GFIP will be equivalent to the IFG maximum grant and will cover both homeowners and renters.

2. The amount of coverage is adjusted annually according to the Consumer Price Index.

3. Implementation of the GFIP will be at the time of the disaster declaration and coverage will begin 60 days from the date of the disaster declaration.

4. Term of coverage will be 36 months from the inception date of the GFIP.

5. Coverage for IFG recipients will begin on the thirtieth day after the National Flood Insurance Program (NFIP) receives the premium payment from the state.

6. Premium is set at \$200 for each individual or family, but may be adjusted thereafter to reflect NFIP loss experience

and any adjustment of benefits under the IFG Program.

7. Premium sent to the NFIP on behalf of the recipient is considered as part of the grant.

8. Homeowners must maintain flood insurance coverage on the residence at the flood-damaged property address for as long as the structure exists, even if ownership of the property changes.

9. Renters must maintain flood insurance coverage on the contents for as long as the renter resides at the flood-damaged property address.

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131 and P.L. 93-288.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:444 (June 1989), LR 15:744 (September 1989), amended by the Department of Social Services, Office of Family Support, LR 17:474 (May 1991), LR 17:766 (August 1991), LR 17:888 (September 1991), LR 18:939 (September 1992), LR 18:1351 (December 1992), LR 19:167 (February 1993), LR 19:213 (February 1993), LR 19:606 (May 1993), LR 19:784 (June 1993), LR 20:449 (April 1994), LR 21:402 (April 1995), LR 21:837 (August 1995), LR 22:1232 (December 1996), repromulgated LR 23:591 (May 1997).

Madlyn B. Bagneris
Secretary

9705#047

RULE

**Department of Social Services
Office of the Secretary**

**Child Care Eligibility
Requirements—Aliens (LAC 67:I.101)**

The Department of Social Services, Office of the Secretary amends the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, in the Child Care Assistance Program, effective June 1, 1997.

Rulemaking is necessary in order to comply with the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, which was signed into law on August 22, 1996.

Title 67

SOCIAL SERVICES

Part I. Office of the Secretary

Chapter 1. Child Care Assistance Program

§101. Eligibility Requirements

General Requirements: Child Care and Development Block Grant and Title IV-A At-Risk Child Care

1. - 7. ...

8. Aliens

a. Only noncitizens who are "qualified aliens" are eligible for assistance. A qualified alien is:

i. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (8 USC 1101 et seq.);

ii. an alien who is granted asylum under Section 208 (8 USC 1158) of such act;

iii. a refugee who is admitted under Section 207 (8 USC 1157) of such act;

RULE

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

**Plan Document—Prescription
Drug Exclusions and Limitations**

iv. an alien who is paroled into the United States under Section 212(d)(5) [8 USC 1182(d)(5)] of such act for at least one year;

v. an alien whose deportation is being withheld under Section 243(h) [8 USC 1253(h)] of such act; or

vi. an alien who was granted conditional entry pursuant to Section 203(a)(7) [8 USC 1153(a)(7)] of such act as in effect prior to April 1, 1980.

b. Qualified aliens who enter the United States on or after August 22, 1996 are ineligible for assistance for five years from the date of entry, with the following exceptions:

i. Aliens admitted as refugees under Section 207 (8 USC 1157) of the Immigration and Nationality Act are eligible from the date of entry.

ii. Aliens granted asylum under Section 208 (8 USC 1158) of such act are eligible from the date asylum was granted.

iii. Aliens whose deportation is withheld under Section 243(h) (8 USC 1253) of such act are eligible after such withholding.

iv. Veterans as defined in 38 USC 101 lawfully residing in the United States who were honorably discharged for reason other than alienage or their spouses and unmarried dependent children and persons on active duty (other than active duty for training) in the armed forces or their spouses and unmarried dependent children are eligible.

c. In determining eligibility and benefit amount for an alien, the income and resources of their sponsor and the sponsor's spouse must be considered. A sponsor is defined as any person who executed an affidavit of support pursuant to Section 213.A of the Immigration and Nationality Act on behalf of the alien. The income and resources of the sponsor shall apply until the alien either 1) achieves United States citizenship through naturalization or 2) has worked 40 qualifying quarters of coverage as defined under Title II of the Social Security Act (42 USC 413) or can be credited with such qualifying quarters as provided under Section 435 of the Personal Responsibility and Work Opportunity Act of 1996. No quarter beginning after December 31, 1996 shall be credited if the alien received any federal means-tested public benefits (as defined in Section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) during that quarter.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L.104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1133 (October 1992), LR 18:1415 (December 1992), LR 19:1440 (November 1993), LR 20:459 (April 1994), LR 20:794 (July 1994), LR 20:899 (August 1994), LR 21:589 (June 1995), LR 23:591 (May 1997).

Madlyn B. Bagneris
Secretary

9705#050

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 amends the Plan Document of Benefits.

The board finds that it is necessary to amend the Plan Document to restrict benefits for amphetamines to diagnoses of Attention Deficit Disorder or Narcolepsy, and to exclude benefits for smoking deterrents. 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 W to read as follows:

VIII. Exceptions and Exclusions for All Medical Benefits

No benefits are provided under this contract for:

* * *

W. The following drugs, medicines, and related services:

1. appetite suppressant drugs;
2. dietary supplements;
3. topical forms of Minoxidil;
4. Retin-A dispensed for covered persons over age 26;
5. amphetamines dispensed for diagnoses other than Attention Deficit Disorder or Narcolepsy;
6. nicotine, gum, patches, or other products, services, or programs intended to assist an individual to reduce or cease smoking or other use of tobacco products;
7. nutritional or parenteral therapy;
8. vitamins and minerals; and
9. drugs available over the counter.

* * *

James R. Plaisance
Executive Director

9705#034

RULE

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

Experimental Dove Field
Leasing (LAC 76:XIX.107)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Wildlife and Fisheries Commission does hereby promulgate rules governing public

dove hunting on property leased by the Department of Wildlife and Fisheries.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting

Chapter 1. Resident Game Hunting Seasons

§107. Experimental Dove Field Leasing Program

A. In recognition of the popularity of dove hunting and the lack of lands available to the general public for dove hunting, the Wildlife and Fisheries Commission establishes rules for an experimental public dove hunting program on private lands leased by the Department of Wildlife and Fisheries.

B. The following rules will apply to those lands which dove hunting rights have been leased by the Department of Wildlife and Fisheries for the day(s) specified in the lease:

1. All hunters are required to have a daily permit. This permit will be available at the field on the day of the hunt. Permits will be issued on a first come, first serve basis. An administrative fee may be charged for daily permits.

2. Leased fields may be closed to additional hunters when a predetermined number of permits have been issued. However, additional hunters may be admitted throughout the day as hunters leave the field and surrender their permits.

3. No alcoholic beverages may be consumed or possessed on the leased property. Persons who appear to be impaired or under the influence of alcohol or other controlled substances will be denied access to the field(s).

4. Shot larger than size 7½ is prohibited.

5. Only mourning doves may be taken.

6. Loaded firearms are prohibited in vehicles or at check stations.

7. Persons exhibiting unsafe gun handling shall be removed from the field(s).

8. Vehicles are restricted to designated areas or roads.

9. No littering. Each hunter is responsible for removing his/her trash, including shell hulls, from the leased property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:783 and 56:109B.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 23:593 (May 1997).

Daniel J. Babin
Chairman

9705#019

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Charges, Settlement, and Attorney Fees

The Civil Service Commission will hold a public hearing on June 4, 1997 to consider the following notice of intent. The hearing will begin at 9 a.m. and will be held in the Department of Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA. The following will be considered at the meeting:

Amend Rule 16.4

16.4 Formal Charges

(a) ...

(b) Formal charges should be clearly identified as such, may not be combined with any other matter filed with the director or the commission and must:

6. [delete the final word "and"]

7. [replace the final period with a semicolon and insert a final word "and"]

8. describe what evidence the complainant has to prove the charges.

Explanation: This amendment will give the commission a means of gauging whether a complainant has any evidence to support the charges before the commission decides to order a public investigation.

Amend Rule 16.12

16.12 Withdrawal of Charges; Settlement

(a) [pick up existing rule 16.12.]

(b) With the approval of the commission, the parties may settle a public investigation and the settlement shall constitute a final disposition of the investigation.

Explanation: A provision for settling investigations was inadvertently omitted when Chapter 16 was revised.

Add Rule 16.15.1

16.15.1 Attorney Fees

When a complainant does not bear his burden of proving the charges, the commission may order him to pay attorney fees in an amount not to exceed \$1500 per respondent.

Explanation: The courts have consistently held that attorney fees cannot be awarded absent a specific statutory provision therefor. This amendment will allow the commission to award attorney fees when a complainant does not prove his or her case.

Persons interested in making comments relative to these proposals 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, give notification prior to this meeting.

Allen H. Reynolds
Director

9705#022

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Performance Planning and Review System

The Civil Service Commission will hold a public hearing on June 4, 1997 to consider the following rule amendments. The hearing will begin at 9 a.m. and will be held in the Department of Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA. The following will be considered at the meeting:

Amend Rule 6.14(d) and (i)

6.14 Merit Increases

(d) The appointing authority may... provided the employee has not received an official overall "poor" or "needs improvement" performance planning and review rating for ...

(i) An employee who has a current official overall performance planning and review rating of "poor" or "needs improvement" shall not be eligible for any increase under the provisions of this rule.

Explanation: In order to be consistent with wording in Chapter 10, the references to unsatisfactory service ratings have been changed to reflect "poor" or "needs improvement" performance planning and review ratings.

Amend Rule 7.9(a)2(a)

7.9 Promotional Examinations

(a) ...

1. ...

2. (a) Admission... announced. An employee having a current official overall Performance Planning and Review rating of "poor" or "needs improvement" shall not be admitted to any competitive examination.

Explanation: In order to be consistent with wording in Chapter 10, the references to unsatisfactory service ratings have been changed to reflect "poor" or "needs improvement" performance planning and review ratings.

Amend Rule 8.20(d)

8.20 Promotion

(d) The director... having a current official overall performance planning and review rating of "poor" or "needs improvement"...

Explanation: In order to be consistent with wording in Chapter 10, the references to unsatisfactory service ratings have been changed to reflect "poor" or "needs improvement" performance planning and review ratings.

Amend Rule 17.16.1 and

17.16.1(a), (b), (c), (d), (e), and (f)

17.16.1 Employees with "Poor" Performance Planning and Review Ratings

(a) Within the affected class... whose two most recent official overall performance planning and review ratings were

Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, State Plans
§903. Teacher Certification Standards

A. Bulletin 746

B. - H. ...

I. Noncertified Personnel

1. Full-time/part-time noncertified school personnel, excluding speech, language, and hearing specialists, may be employed by local public education agencies experiencing extreme difficulty in employing certified teachers for the classroom, provided that the following documentation is submitted to the Department of Education:

a. a signed affidavit by the local superintendent that the position could not be filled by a certified teacher;

b. submission of names, educational background, subject matter and grade level being taught as an addendum to the Annual School Report.

2. Individuals employed under this policy must:

a. hold a minimum of a baccalaureate degree from a regionally accredited institution;

b. take all appropriate areas of the NTE at the earliest date that it is offered during the first year of employment and all appropriate areas at least once each year during subsequent years of employment; and

c. earn six semester hours of college course work each year as indicated below:

i. Teachers who have not completed a teacher education program must:

(a). within the first year of employment and prior to consideration for re-employment the second year, achieve the required scores on the Communication Skills and General Knowledge portions of the NTE; be officially admitted to a teacher education program; and obtain a prescription or outline of course work required for certification;

(b). prior to consideration for re-employment each year, complete at least six semester hours of college course work as prescribed by the college or university to complete a teacher education program.

ii. Teachers who have completed a teacher education program but who have not achieved the required scores on all parts of the NTE, prior to consideration for re-employment each year, must earn six semester hours appropriate to the area of the NTE (General Knowledge, Professional Knowledge, Communication Skills, Specialty Area) in which the score was not achieved.

A university sponsored seminar, workshop or course specially designed for preparing for the NTE may be used once to substitute for three semester hours of the required course work. Documentation from the university must be provided to verify participation.

3. The following documentation, as appropriate, shall be kept on file in the LEA's superintendent's/personnel office:

a. official transcripts showing a minimum of a baccalaureate degree from a regionally accredited institution;

b. documentation that the teacher has been officially admitted to a teacher education program, if applicable;

"poor" shall be laid off...

(b) In the event... whose two most recent official overall performance planning and review ratings were "poor"..., the least senior employees with such official overall "poor" performance planning and review ratings shall be laid off first.

(c) Within each class,... permanent employees whose two most recent official overall performance planning and review ratings were "poor" shall be displaced...

(d) In the event... whose two most recent official overall performance planning and review ratings were "poor"..., the least senior employees with such official overall "poor" performance planning and review ratings shall be displaced first.

(e) Subject... permanent employees whose two most recent official overall performance planning and review ratings were "poor" may only displace employees who do not have permanent status.

(f) For purposes of this rule,... having two official overall "poor" performance planning and review ratings when the delays for appealing both ratings...

Explanation: In order to be consistent with wording in Chapter 10, the references to unsatisfactory service ratings have been changed to reflect "poor" performance planning and review ratings.

Amend Rule 17.24

17.24 Department Preferred Reemployment Lists

A person should apply in writing... Rule 17.16.1(f), eligibility for the department preferred reemployment list does not extend to an employee whose two most recent official overall performance planning and review ratings were "poor"...

Explanation: In order to be consistent with wording in Chapter 10, the references to unsatisfactory service ratings have been changed to reflect "poor" performance planning and review ratings.

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

If any accommodations are needed, notify this office prior to the meeting.

Allen H. Reynolds
Director

9705#068

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Noncertified
School Personnel (LAC 28:I.903)

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, a revision to the interim emergency policy for hiring full-time/part-time noncertified school personnel. LAC 28:I.903.I is amended in its entirety as follows: