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# Executive Orders

## EXECUTIVE ORDER DCT 81-11

WHEREAS, the Governor's Thrift Industry Advisory Council was created by the authority of Executive Order 81-6; and

WHEREAS, it is within the best interest of the people of our state, our state chartered savings and loan associations, their employees, and customers to assure that the state's thrift industry remains strong and vital;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State Of Louisiana, by virtue of the authority invested in me as Governor, pursuant to the Constitution and applicable statutes of the State of Louisiana, do hereby direct the Governor's Thrift Industry Advisory Council to study problems of the thrift industry in the State of Louisiana and to make recommendations to the Commissioner of Financial Institutions.

Said Council shall be composed of six members rather than five as stipulated in Executive Order No. 81-6. Three of those members shall be appointed from the area composed of the First, Second, and Third Congressional Districts of the State. Two members shall be appointed from the area composed of the Fourth, Fifth and Seventh Congressional Districts. One member shall be appointed from the area composed of the Sixth and Eighth Congressional Districts.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 28th day of December, A.D., 1981.

David C. Treen  
Governor of Louisiana

## EXECUTIVE ORDER DCT 82-1

WHEREAS, alcoholism and drug abuse are major problems in Louisiana as well as the entire United States; and

WHEREAS, alcoholism and drug abuse costs the taxpayers of this state millions of dollars in treatment, law enforcement and rehabilitation; and

WHEREAS, there are many programs dealing with the problems, both on the state and local levels of government; and

WHEREAS, there is a need to study these programs in order to provide the best services at the most economical level of funding; and

WHEREAS, during the 1980 Regular Session of the Legislature, legislation was enacted to encourage the Governor to appoint a special committee on alcoholism and drug abuse to study problems related to alcohol and drug abuse, the extent of such problems, treatment, rehabilitation, necessary education, research, law enforcement, prevention, physical and mental ailments caused by such abuse; and

WHEREAS, it is in the best interests of the people of our State to undertake this worthy pursuit;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the authority vested in me as Governor, pursuant to the Constitution and applicable statutes of the State of Louisiana, do hereby create the Governor's Committee on Alcoholism and Drug Abuse, whose duties shall be to study problems related to alcohol and drug abuse, the extent of such

problems, treatment, rehabilitation, necessary education, research, law enforcement, prevention, and the physical and mental ailments caused by such abuse.

BE IT FURTHER RESOLVED, that the Governor shall designate a chairman of such committee.

BE IT FURTHER RESOLVED, that the committee shall meet at the discretion of its members and shall be reimbursed for actual expenses incurred in attending meetings of the committee in accordance with appropriate statutes.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 8th day of January, A.D., 1982.

David C. Treen  
Governor of Louisiana

## EXECUTIVE ORDER DCT 82-2

WHEREAS, The problem of alcohol-related automobile accidents has become a problem of national proportions; and

WHEREAS, Annually some 26,000 Americans will die and 750,000 will suffer crippling and other serious injuries from alcohol-related automobile accidents; and

WHEREAS, In Louisiana in 1981 an estimated 500 fatalities, 40,000 injured persons and approximately 80,000 accidents were alcohol related, making Louisiana second in the nation in alcohol-related fatalities; and

WHEREAS, The problems of drunk driving have an economic cost running into the billions of dollars annually; and

WHEREAS, Drunk driving is the nation's number one highway safety problem;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the authority vested in me as Governor, pursuant to the Constitution and applicable statutes of the State of Louisiana, do hereby create the Governor's Task Force on Drinking and Driving to study the facts surrounding this problem and to make specific recommendations for legislation to combat this problem.

Said Task Force shall be composed of 15 members: A member of the Louisiana House of Representatives; a member of the Louisiana State Senate; a judge; one representative from the following: Attorney General's Office, State Police, Sheriff's Association, District Attorney's Association, Medical Association, the insurance community, labor and industry, Alcoholics Anonymous, Highway Safety Commission, the Governor's Commission on Alcoholism and Drug Abuse, and two members at large.

The Commission shall meet and make recommendations to the Governor prior to the 1982 Regular Session of the Louisiana Legislature.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 25th day of January, A.D., 1982.

David C. Treen  
Governor of Louisiana

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Education Educational Employees Professional Improvement Program

The State Committee for the Louisiana Educational Employees Professional Improvement Program (R.S. 17:3601-R.S. 17:3661) at its January 19, 1982 meeting exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B, and adopted the following emergency rule:

Dr. Helen Brown moved that the Committee adopt Bulletin 1619 (Revised 1982) and instruct the staff to promulgate the Guidelines for local committees in keeping with the Administrative Procedure Act, R.S. 49:952, et. seq., and also instruct the staff to advise the Governor, the Attorney General, and the Department of the State Register that under the provisions of Louisiana Revised Statutes 49:953B that these guidelines were being adopted on an emergency basis. The committee is of the opinion that if the guidelines are not adopted on an emergency basis, there will be a significant risk that expected participants and members of local committees will not be cognizant of the necessary criteria involved in both the implementation and the administration of the program for the second year prior to the enrollment period, March 1 through March 31, 1982. Ms. Gloria Walker seconded, and the motion passed with eight yeas and zero nays.

Robert C. Rice, Chairman  
State Committee for the Louisiana  
Educational Employees Professional  
Improvement Program.

## DECLARATION OF EMERGENCY

### Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953B, to amend, effective March 2, 1982, the policy for payment for abortions under Title XIX, Medicaid, as follows:

Payment will be made to the attending physician for abortions only when the physician has found and certified in writing to the Office of Family Security, Medical Assistance Program, that on the basis of his professional judgement, the life of the mother would be endangered if the fetus were carried to term.

This reduction in service will bring the Medical Assistance Program into full compliance with the conditions for which Federal Financial Participation is available for abortions pursuant to Public Law 97-92. Under this legislation, Federal funds are no longer available for abortions for victims of rape and incest. Earlier compliance was delayed pending the resolution of an injunction granted November 27, 1978, which enjoined the Department of Health and Human Resources from enforcement of R.S. 40:1299.35 (now R.S. 40:1299.34.5) which limited abortions to those medically necessary to prevent the death of the mother.

George A. Fischer  
Secretary

## DECLARATION OF EMERGENCY

### Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, does hereby exercise the emergency provision of the Administrative Procedure Act (R.S. 49:953B) to adopt, effective April 1, 1982, a rule which reduces the period of eligibility of refugees and Cuban/Haitian entrants certified for cash and medical assistance in the Refugee Resettlement Program (RRP) and Cuban/Haitian Entrants Program, to 18 months from the date of entry into the United States.

Thus, any refugees and Cuban/Haitian entrants certified in the Refugee Resettlement Program or Cuban/Haitian Entrants Program who have been in the United States for 18 months or longer on or after April 1, 1982 will no longer be eligible for cash and medical assistance. These recipients are currently eligible for assistance for a period of 36 months from the date of entry into the United States.

Refugees and Cuban/Haitian entrants who meet the eligibility requirements of Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI) and Medicaid would not be affected by this proposed policy change and would continue to be eligible for such assistance for 36 months from the date of entry into the United States.

This proposed rule change is in response to a notification from the Office of Refugee Resettlement which advised that the implementation date of February 1, 1982 contained in the Notice of Proposed Rulemaking published in the December 11, 1981 issue of the Federal Register (Vol. 46, No. 238, pages 60629 - 60633) has been changed to April 1, 1982.

George A. Fischer  
Secretary

## DECLARATION OF EMERGENCY

### Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, has exercised those powers conferred by the emergency provision of the Administrative Procedure Act, R.S. 49:953B, to adopt the following as an emergency rule:

Effective March 1, 1982, the personal care needs allowance for those Title XIX Medical Assistance recipients in the OAA (Aged), ANB (Blind), and DA (Disabled) categories residing in Intermediate Care Facilities I, Intermediate Care Facilities II, Skilled Nursing Facilities, and Intermediate Care Facilities for the Mentally Retarded, will be increased from \$25 to \$50 per month.

An optional state supplementation payment up to \$25 per month will be made to recipients with gross income below \$50 per month. Recipients with monthly income equal to or greater than \$50 will be allowed to retain \$50 for personal care needs.

This action has been taken in order to make the increased personal expenses allowance available to the recipients at the earliest possible date. Senate Concurrent Resolution No. 133 of the 1980 Regular Session of the Legislature authorized this increase and funds were subsequently appropriated in the 1981 Regular Session of the Legislature.

George A. Fischer  
Secretary

## DECLARATION OF EMERGENCY

### Department of Health and Human Resources Office of Licensing and Regulation

The Department of Health and Human Resources, Office of Licensing and Regulation, does hereby exercise the emergency provision of the Administrative Procedure Act (R.S. 49:953 B) to adopt, effective January 22, 1982 the following policies and guidelines for Section 1122, Capital Expenditures Review in those regions where the HSAs are no longer performing review functions. These policies and guidelines are adopted in accordance with the mandate of 42 CFR Part 100.106 (a)(1)(38 FR 31381, November 1973 as amended at 39 FR 32030, September 4, 1974).

Until such time as the North Louisiana Health Systems Agency ceases to review Section 1122 applications for capital expenditures the following procedure shall apply. The applicant shall provide three copies of the application for capital expenditures to the Division of Health Planning and Development and 25 copies to Mr. Herb Darling, Executive Director, North Louisiana Health Systems Agency, 1600 Fairfield, Suite 400, Shreveport, LA 71101.

The North Louisiana Health Systems Agency will review the application at a public meeting of an appropriate committee. Notice of the meeting will be publicized in the local newspaper. In addition, the applicant will be given sufficient notice of the date of the meeting and will be invited to attend to explain his application. The review committee will make its recommendations to the Board of Directors or Executive Committee which body shall make the final decision of the HSA and send its findings and recommendations to DHPD.

For complete policies and guidelines, please turn to the Notice of Intent on page 112 of the *Register*.

George A. Fischer  
Secretary

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

RESOLUTION ADOPTED BY THE LOUISIANA WILDLIFE AND FISHERIES COMMISSION AT ITS REGULAR MEETING HELD IN NEW ORLEANS, JANUARY 26, 1982.

WHEREAS, following the failure of Allen Dam in Natchitoches Parish, the Northwest Game and Fish Preserve Commission passed a resolution barring commercial net fishing on Black and Clear Lakes for calendar year 1982, and

WHEREAS, the Northwest Game and Fish Preserve Commission has since requested the Louisiana Department of Wildlife and Fisheries to take appropriate action in order to enforce this resolution, and

WHEREAS, as a result of the Allen Dam collapse, Black and Clear Lakes are undergoing a drastic drawdown which has reduced their water acreage from 14,000 acres to 3,000 acres, thus creating a severe concentration of fish populations which would be detrimentally affected by netting in this particular situation.

THEREFORE BE IT RESOLVED, the Louisiana Wildlife and Fisheries Commission hereby prohibits the use of netting in Black and Clear Lakes, Natchitoches Parish, for the remainder of calendar year, 1982.

Jesse J. Guidry  
Secretary

# Rules

## RULE

### Department of Agriculture Agriculture and Environmental Sciences

The Commissioner of Agriculture, pursuant to the authority contained in LSA 3:2302 and in accordance with Notice of Intent published on January 20, 1982, has adopted the following amendments to the Rules and Regulations governing the Apiary Program:

Rule 1.13 was amended to read as follows:

Combless Package Cage - Any container used in shipping bees without comb or foundation

Rule 1.18 was amended to read as follows:

Quarantined Area - A yard in which American Foulbrood infection has been found, and all that area within a yard or apiary, or any area defined as a quarantined area by the State Entomologist because of excessive disease (above four percent) found present in bees within the area or because restricted articles were moved into the area from a quarantined area

Rule 1.20, reading as follows, was added:

Super - A standard 10 frame hive body (all depths)

Rule 1.21, reading as follows, was added:

Frame - a wooden or plastic case for holding honeycomb

Rule 4.1 was amended to read as follows:

Agents of the Department are authorized and shall be allowed entrance onto any property or premises in the State of Louisiana for the purpose of carrying out the provisions of these regulations. Whenever reasonably possible, agents shall notify beekeeper before performing any inspections.

Rule 4.3, reading as follows, was added:

All hives shall have removable tops and frames for inspection purposes.

Rule 6.2 was amended to read as follows:

Colonies of bees and/or used or second-hand beekeeping equipment, as defined in Rule 1.19 or in Rule 8.0 of these regulations shall not be sold within the State of Louisiana or to destinations outside the State of Louisiana unless accompanied by a special permit issued by the State Entomologist. Any apiarist wishing to sell colonies of bees and/or used or second-hand beekeeping equipment may secure the required special permit by contacting the Baton Rouge or District Office(s) of the State Entomologist.

Rule 7.2 was amended to read as follows:

Package permits and certificate permits shall not be issued to cover the shipment or movement of package bees and/or queens from an area that has been quarantined on account of American Foulbrood infection until it has been determined that the American Foulbrood infection has been destroyed. If an apiary or yard of bees has four percent or less American Foulbrood infestation, as noted below, the infected colony(ies) shall be burned immediately and no quarantine imposed; however, a second inspection shall be made within 21-30 days to insure control of the disease. Where a second inspection is required, colonies shall not be moved except by special permission of the State Entomologist.

Colonies in apiary or yard	AFB Infected Colony
1-25	1
26-50	2
51-75	3
75 or more	4

If over four percent of the colonies, but not more than four colonies, in an apiary or yard are found to be infested with American Foulbrood, the colonies shall be burned immediately and the apiary or yard shall be placed under a 21-30 day quarantine, during which time no drugs will be allowed to be fed to the bees. If after 21-30 days an inspection shows that the apiary or yard is found free from American Foulbrood infestation, the quarantine shall be lifted. However, if American Foulbrood is again found, an additional 21-30 day quarantine period shall be enforced and infested colonies shall be burned immediately. An additional 60-day quarantine shall be enforced on any quarantined apiary or yard found to be treated with drugs to mask the infection.

Rule 9.1 was amended to read as follows:

All colonies of bees infected with American Foulbrood shall be destroyed by burning the frames, bees and combs in the presence of or by an inspector.

Rule 11.0 was subdivided into three Rules and amended to read as follows:

Rule 11.1 Restricted articles shipped or moved into Louisiana in violation of these regulations shall be destroyed in accordance with LSA 3:2301-2308.

Rule 11.2 Any person who violates any of the provisions of R.S. 3:2301-2308 or any provision of these Rules and Regulations shall be fined not less than \$10 nor more than \$100, or imprisoned for not less than ten days nor more than one month.

Rule 11.3 A penalty shall be assessed for each separate violation of the Law or these Rules and Regulations.

Bob Odom  
Commissioner

## **RULE**

### **Department of Agriculture Livestock Sanitary Board**

The State Department of Agriculture, Livestock Sanitary Board, in accordance with the authority contained in LSA 3:2095 and pursuant to Notices of Intent published on December 20, 1981, and January 20, 1982, adopted the following amendments to its Rules and Regulations at a public hearing on February 4, 1982:

Subsection (2) of Paragraph 2 of Regulation 1 was amended to read as follows:

All intact male and female calves over 12 months of age moving into the State of Louisiana from Class B and Class C states must have a permit for entry prior to coming into Louisiana. These test eligible cattle must be quarantined and retested 45 to 120 days after movement into Louisiana.

The following are exempt from this requirement:

A) Individually identified, officially calf vaccinated females under 20 months of age for dairy breeds and under 24 months of age for beef breeds which are not preparturient (springers) or postparturient, and the herd of origin is not known to be infected with brucellosis.

B) Individually identified cattle originating from a certified brucellosis free herd or certified Brucellosis Free Area and moving directly to a Louisiana farm. The certified herd number must be recorded on the health certificate.

C) Cattle accompanied by a waybill to a recognized slaughter establishment for immediate slaughter only or to an approved livestock auction market for sale for immediate slaughter, for sale to quarantined feedlots, or for sale to a Louisiana farm where they would be quarantined and retested within 45 to 120 days.

D) Steers and spayed heifers.

Subsection (3) of Paragraph 2 of Regulation 1 was amended to read as follows:

(3) Bulls under 12 months of age are eligible to move into Louisiana without brucellosis restrictions provided the herd of origin is not known to be infected with brucellosis.

Subsection E of Section 9 of Regulation 3 was amended to read as follows:

Auction operators will be in violation of Livestock Sanitary Board regulations if livestock that is to be sold for immediate slaughter is sold to anyone other than authorized buyers.

Subparagraph (a) under "Exceptions" in Subsection A of Section 13 of Regulation 3 was amended to read as follows:

Horses consigned and/or sold for immediate slaughter shall be sold to authorized buyers only. Such animals shall be branded with the letter "S" on the left shoulder prior to leaving the auction market and shall be accompanied by VS 1-27 to an approved slaughtering establishment.

A new Section 5 of Regulation 28, reading as follows, was adopted:

Section 5 - Buyers Authorized to Handle EIA Positive and "S" Branded Horses

#### **1. Definitions**

A. "Authorized buyer" means (a) an employee of an USDA approved slaughtering establishment who buys horses that move from the auction market directly to the slaughtering establishment with no period of time spent in a holding area of any kind; or (b) a buyer who has a permit issued by the Livestock Sanitary Board to operate a quarantine holding area for EIA positive and "S" branded horses.

B. "Buyer" means any individual, partnership, corporation, or association which handles EIA positive and/or "S" branded horses.

C. "Permit" means a document issued by the Livestock Sanitary Board on an annual basis authorizing a buyer to handle EIA positive and/or "S" branded horses in a quarantine holding area.

D. "Quarantine holding area" means an area where EIA positive and/or "S" branded horses are kept and where such horses are separated by at least 440 yards from all other horses.

#### **2. Requirements for Permit for Operation of Quarantine Holding Area**

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

B. The facility to be operated as a quarantined holding area must meet the requirements of the definition in Section 5.1.D above.

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

D. The buyer desiring to operate a quarantine holding area must agree in writing to comply with the Rules and Regulations of the Livestock Sanitary Board and to permit inspection of the premises at any reasonable time by the Board.

E. No other horses except horses consigned for slaughter may be kept in a quarantine holding area.

F. No horses can be kept in the quarantine holding area for longer than 60 days.

G. All permits must be renewed annually.

Bob Odom  
Commissioner

## **RULE**

### **Department of Commerce Office of Financial Institutions**

Under authority granted by LRS 6:902B, the Commissioner of Financial Institutions has adopted the following rule for the purpose of providing a means by which state chartered savings and loan associations may have authority consistent with that granted Federal associations by an opinion of the General Counsel Federal Home Loan Bank Board, subject Cashier's Checks Authority, dated July 29, 1981.

## **RULE**

State chartered Savings and Loan Associations may offer "Cashier's Checks", to aid in effecting withdrawals and for other purposes associated with the institution's normal business.

Hunter O. Wagner, Jr.  
Commissioner of Financial Institutions

## **RULE**

### **Department of Commerce Office of Financial Institutions**

Under authority granted by R.S. 6:902B, the Commissioner of Financial Institutions has adopted the following rule for the purpose of providing a means by which state chartered savings and loan associations may have authority consistent with that granted federal associations by Federal Home Loan Bank Insurance Regulation 563.9-3, published in the Federal Register, Volume 45, Page 76103, on November 18, 1980.

## **RULE**

Notwithstanding the limitations outlined in LRS 6:822B(1), state chartered savings and loan associations may lend to one borrower a maximum of 10 percent of such institution's withdrawable accounts or an amount equal to such institution's net worth, whichever is less; or an amount not exceeding \$200,000, and beginning on January 1, 1982, and annually thereafter, such amount adjusted by the dollar amount that reflects the percentage increase, if any, in the Consumer Price Index during the previous 12 months as shown in the November to November index.

For the information and guidance of state chartered savings and loan associations, Insurance Regulation 563.9-3 is outlined below.

#### **§563.9-3 Loans to one borrower.**

(a) Definition of terms. For the purpose of this section the term "one borrower" means (1) any person or entity that is, or that upon the making of a loan will become, obligor on a loan, (2) nominees of such obligor, (3) all persons, trusts, partnerships, syndicates, and corporations of which such obligor is a nominee or a beneficiary, partner, member, or record or beneficial stockholder owning 10 percent or more of the capital stock, and (4) if such obligor is a trust, partnership, syndicate, or corporation, all trusts, partnerships, syndicates, and corporations of which any beneficiary, partner, member, or record or beneficial stockholder owning 10 percent or more of the capital stock, is also a beneficiary, partner, member, or record or beneficial stockholder owning 10 percent or more of the capital stock of such obligor; and the term "total balances of all outstanding loans" means the original amounts loaned by an insured institution plus any additional advances and interest due and unpaid, less repayments and participating interests and exclusive of any loan on the security of such institutions savings accounts or real estate the title to which has been conveyed to a bona fide purchaser of such real estate.

(b) Limitations. No insured institution shall have outstanding any loan to one borrower, as defined in paragraph (a) of this section, if the sum of (1) the amount of such loan and (2) the total balances of all outstanding loans owed to such institution and its service corporation affiliates by such borrower exceed an amount equal to 10 percent of such institution's withdrawable accounts or an amount equal to such institution's net worth whichever amount is less: Provided, that, notwithstanding any other limitation of this sentence, any such loan may be made if the loan is secured by a lien on low-rent housing, or if the sum of sub-paragraphs (1) and (2) of this paragraph (b) does not exceed \$200,000.00 and, beginning on January 1, 1982, and annually thereafter, such amount adjusted by the dollar amount that reflects the percentage increase, if any, in the Consumer Price Index during the previous 12 months as shown in the November-to-November index.

(c) Determination by institution; maintenance of records. If an insured institution or service corporation affiliate thereof makes a loan to any one borrower, as defined in paragraph (a) of this section, in an amount which, when added to the total balances of all outstanding loans owed to such institution and its service corporation affiliates by such borrower, exceeds \$250,000 or 2 percent of the net worth of such institution, whichever is greater, but in all cases where such outstanding loans exceed 1,000,000, the records of such institution or its service corporation affiliate with respect to such loan shall include documentation showing that such loan was made within the limitations of paragraph (b) of this section; for the purpose of such documentation such institution or service corporation affiliate may require, and may accept in good faith, a certification by the borrower identifying the persons, entities, and interests described in the definition of one borrower in paragraph (a) of this section.

Hunter O. Wagner, Jr.  
Commissioner of Financial Institutions

## **RULE**

### **Department of Commerce Office of Financial Institutions**

Under authority granted by R.S. 6:902B, the Commissioner of Financial Institutions has adopted the following rule for the purpose of providing a means by which state chartered savings and loan associations may have authority consistent with that granted Federal associations by Federal Home Loan Bank Board Rules and Regulations 563.9(a) and 563.9(b) revised November 17, 1980 and Bank Regulation 80-700 dated November 10, 1980, published in the Federal Register, Volume 45, page 76095 on November 18, 1980.

## **RULE**

Notwithstanding any limitations set forth by LRS 6:701(13); LRS 6:731 H (2)(a) or LRS 6:831, state chartered savings and loan associations are hereby authorized to deal in loans originated from sources other than savings and loan associations or other federally insured or federally guaranteed institutions and participate in nationwide lending as outlined in Federal Home Loan Bank Board Regulation 563.9, which was published in Volume 45, page 76095, of the Federal Register dated November 18, 1980.

For the information and guidance of state chartered associations, the Federal Home Loan Bank Board Regulation, as amended, is outlined below.

## 563.9 NATIONWIDE LENDING

(a) An insured institution may invest in, sell, purchase, participate or otherwise deal in loans or interests therein on security property located outside its normal lending territory but within the United States or its territories and possessions.

(b) An institution investing in a nationwide loan shall obtain a signed report of appraisal of the real estate security for the loan, prepared by an appraiser having no interest, direct or indirect, in that security or in any loan on that security and whose compensation is not affected by the approval or declining of the loan.

Hunter O. Wagner, Jr.  
Commissioner of Financial Institutions

## RULE

### Department of Commerce Office of Financial Institutions

Under authority granted by LRS 6:902B, the Commissioner of Financial Institutions has adopted the following rule for the purpose of providing a means by which State Chartered Savings and Loan Associations may have authority consistent with that granted Federal associations by Federal Home Loan Bank Regulations 545.4-2, which was published in Volume 46, page 24531, of the Federal Register dated May 1, 1981, and an amendment thereto published in Volume 46, page 41763, of the Federal Register dated August 18, 1981.

## RULE

Notwithstanding any limitations imposed by Chapter 9, Title 6, Louisiana Revised Statutes, state chartered savings and loan associations are hereby authorized to establish or use RSUs and participate with others in RSU operations, on an unrestricted geographic basis as authorized by Federal Home Loan Bank Regulation 545.4-2. For the information and guidance of state chartered associations, the Federal Home Loan Bank Board Regulations is outlined below. The words "Commissioner" and "State Chartered Associations" are substituted for the words "Board" and "Federal Associations" wherever used in the Federal regulation.

### 545.4-2 - Remote Service Units (RSUs)

(a) Applicability of Regulation E. Transactions made under this Section are subject to the Electronic Fund Transfer Act (15 U.S.C. §1693 et seq.) and Regulation E of the Federal Reserve Board (12 CFR §205.2).

(b) Definitions. As used in this section - (1) "Commissioner" means the Commissioner of Financial Institutions, State of Louisiana.

(2) "Generic data" means statistical information which does not identify any individual accountholder.

(3) "Personal security identifier" (PSI) means any word, number, or other security identifier essential for an accountholder to gain access to an account.

(4) "Remote service unit" (RSU) means an information processing device, including associated equipment, structures and systems, by which information relating to financial services rendered to the public is stored and transmitted, instantaneously or otherwise, to a financial institution. Any such device not on the premises of a state chartered association that, for activation and

account access, requires use of a machine-readable instrument and PSI in the possession and control of an accountholder, is an RSU. The term includes, without limitation, point of sale terminals, merchant-operated terminals, cash-dispensing machines, and automated teller machines. It excludes automated teller machines on the premises of a state chartered association, unless shared with other financial institutions. An RSU is not a branch, satellite, or other type of facility or agency of a state chartered association under §545.14 et seq. of this Part.

(5) "RSU account" means a savings or loan account that may be accessed through use of an RSU.

(6) "State Chartered Association" means a savings and loan or homestead association chartered under the laws of the State of Louisiana.

(c) General. A state chartered association may establish or use RSUs and participate with others in RSU operations, on an unrestricted geographic basis. No RSU may be used to open a savings account or establish a loan account.

(d) RSU access techniques. A state chartered association shall provide a PSI to each accountholder and require its use when accessing an RSU; it may not employ RSU access techniques that require the accountholder to disclose a PSI to another person. The association must inform each accountholder that the PSI is for security purposes and shall not be disclosed to third parties. Any device used to activate an RSU shall bear the words "Not Transferable" or their equivalent. A passbook may not be such a device.

(e) Service charges. A state chartered association may impose service charges for RSU financial services.

(f) Privacy of account data. A state chartered association shall allow accountholders to obtain any information concerning their RSU accounts. Except for generic data or data necessary to identify a transaction, no state chartered association may disclose account data to third parties, other than the Commissioner or his representatives, unless express written consent of the accountholder is given, or applicable law requires. Information disclosed to the Commissioner will be kept in a manner to ensure compliance with the Privacy Act, 5 V.C. §522(a). A state chartered association may operate an RSU according to an agreement with a third party or share computer systems, communications facilities, or services of another financial institution only if such third party or institution agrees to abide by this Section as to information concerning RSU accounts in the state chartered association.

(g) Bonding. A state chartered association shall take all steps necessary to protect its interest in financial services processed at each RSU, including obtaining available fidelity, forgery, and other appropriate insurance.

(h) Security. A state chartered association shall protect electronic data against fraudulent alterations or disclosure. All RSUs shall meet the minimum security devices requirements of Part 563a of this Chapter as though such units were offices as defined in §563a.1 of said Part, except to the extent that an association satisfies the Commissioner that those requirements are inappropriate. In such a case, alternative measures satisfactory to the Commissioner must be taken for installation, maintenance and operation of security devices and procedures, reasonable in cost, to discourage robberies, burglaries, larcenies, and computer theft and to assist in identification and apprehension of persons who commit such acts.

(i) Commissioner. A state chartered association may share an RSU controlled by an institution not subject to examination by a regulatory agency only if such institution has agreed in writing that the RSU is subject to such examination by the Commissioner as it deems necessary.

Hunter O. Wagner, Jr.  
Commissioner of Financial Institutions.



## **RULE**

### **Department of Commerce Racing Commission**

The Louisiana State Racing Commission, at its meeting held January 22, 1982 formally adopted the following rule:  
LAC 11-6:45.1

45.1 In claiming races any horse is subject to being claimed for its entered price by any racing interest recognized by the Commission, by any licensed horse owner, or his authorized agent, but only for the account of the person making the claim, or for whom the claim was made by the agent (provided; however, that no person shall claim his own horse or a horse in which he has an interest or cause his horse to be claimed directly or indirectly for his own account.)

J. Melton Garrett  
Chairman

## **RULE**

### **Department of Commerce Racing Commission**

The Louisiana State Racing Commission, at its meeting held January 22, 1982 formally adopted the following rule:  
LAC 11-6:14.17

"Mutual and miscellaneous employees of an Association shall be licensed, but shall not be assessed any fees or other charges for the license. (A miscellaneous employee is defined as a person employed at a race track by a concessionaire and/or a person who is a member of a bona fide trade and/or labor union who is employed at a race track by a Racing Association.) All other persons who work at a race track in any capacity not specifically provided for in RS 4:169 (a) shall be licensed and charged an occupational fee of \$2.00.

J. Melton Garrett  
Chairman

## **RULE**

### **Department of Commerce Racing Commission**

The Louisiana State Racing Commission, at its meeting held January 22, 1982 formally adopted the following rule:  
LAC 11-6:20.24

20.24 Riders will not be permitted to use whips on two-year olds prior to March 15.

J. Melton Garrett  
Chairman

## **RULES**

### **Board of Elementary and Secondary Education**

Rule 3.01.08

The Board approved for final adoption, Curriculum Standards mandated by Act 750 (R.S., 1979) as presented by the Department.

Rule 3.01.08(a)

The Board approved for final adoption, Minimum Standards for Mathematics, Reading and Writing.

Rule 3.01.51.dd

The Board adopted an amendment to Bulletin 741, Page 36, Early College Admissions Policy to add: "Applies only to high school students attending college full time" for clarification purposes.

Rule 7.02.04(1)

The Board adopted Revisions to Bulletin 1508, *Pupil Appraisal Handbook*, Pages 36, 37, 75 and 48.

James V. Soileau  
Executive Director

## **RULES**

### **Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice State Grant-In-Aid Program Program Restrictions**

1. All grants must be approved by the Louisiana Commission on Law Enforcement (LCLE).
2. No traffic-related grants will be eligible.
3. Local criminal justice agencies are the only eligible grantees (including private non-profit agencies involved in juvenile delinquency prevention or other specific crime problems). State agencies are ineligible for participation.
4. All projects shall be eligible for a maximum of one year funding.
5. Indirect costs are ineligible expenditures.
6. No state grant-in-aid funds may be used for project evaluations or for Regional Planning Units administrative expenses.
7. There is a general restriction prohibiting the funding of the following items:
  - a) All mobile vehicles (automobiles, vans, airplanes, boats, etc.), gasoline, tires, automobile repair and maintenance, insurance, uniforms, leather accessories, maintenance of equipment and uniforms, firearms and ammunition. (Ammunition for training purposes will be considered on a case-by-case basis.)
  - b) No automobile accessories will be allowed except radio equipment.
8. Renovation will be limited to a maximum of \$25,000 in grant funds.
9. Private non-profit agencies will be required to have a current surety bond equal to the amount of the grant.
10. Personnel costs (salary, fringe, etc.) may be eligible for funding under new grants.
11. Consultants and contracts will be limited to research/development and training programs. Consultants may not be used to perform services ordinarily accomplished by existing personnel.
12. Consultant fees will be limited to a maximum of \$25 per hour. Travel time may not be counted in computation. Travel expenses will be based on State Travel Regulations.
13. Consultant services which are available as no-cost technical assistance will not be eligible for funding.
14. All State Grant-In-Aid juvenile projects must be reviewed first by the JJDP Advisory Board prior to review by the Louisiana Commission on Law Enforcement. All courts projects must be reviewed by the Judicial Planning Committee prior to review by the LCLE.
15. Applications received at the Louisiana Commission on Law Enforcement on or before the fifteenth of the month shall be presented to the Commission at the meeting in the following month.

16. Funding for equipment grants will be made on the basis of a purchase order or invoice submitted by the grantee.

17. Payment for training (including advanced and in-service) shall be a on-reimbursement basis subject to State Travel Regulations. All other subgrants shall be made on a quarterly draw-down basis.

18. Use of confidential funds are subject to rules and regulations established by the Louisiana Commission on Law Enforcement.

19. All funds unawarded by March 1 shall be reviewed by the Louisiana Commission on Law Enforcement for redistribution at the following Commission meeting.

20. All unspent funds, as reported on the March 31 fiscal report, shall be reviewed at the following Commission meeting for deobligation and redistribution.

21. State reimbursement for basic training tuition shall not exceed \$400 per person certified by POST. (Requires successful completion) Reimbursement shall be limited to tuition cost only. (No travel, lodging and meals.)

22. No university (or any certified academy) receiving direct state appropriations for law enforcement training shall be eligible for training funds under this program.

23. Basic training and travel policies may be adopted by local councils (subject to LCLE approval and state travel regulations) and be an eligible reimburseable expense out of Local Block Training.

24. Any subgrant to a single agency in excess of \$3,000 made from regional block training funds, excluding basic training, must be approved by the Louisiana Commission on Law Enforcement.

25. No agency on official notice by the Louisiana POST Council of non-compliance with state basic training mandates shall be eligible for participation in the State Grant-In-Aid Program except basic training reimbursement.

26. To be eligible for participation in the State GIA program, local criminal justice agencies will be required to comply with requests for information mandated by the Louisiana Commission on Law Enforcement.

#### 27. APPEALS PROCEDURE:

When an application for funding is rejected by the Commission, or when an approved subgrant is discontinued, the applicant or subgrantees may appeal the decision of the Commission by filing a notice of appeal with the Louisiana Commission on Law Enforcement at the recognized business address, (1885 Wooddale Boulevard, Room 610, Baton Rouge, Louisiana, 70806). The notice of appeal must be by certified mail and must be filed no later than 15 business days after receipt of the notice of denial by the applicant or subgrantee.

Upon receipt of the notice of appeal by the Louisiana Commission on Law Enforcement, the Executive Director will notify the Commission that an appeal hearing will be held on the date of the next regularly scheduled Commission meeting. The Priorities Committee will hear the appeal and make recommendations to the Commission. The Executive Director shall designate the time and place of the meeting, and a copy of the notice shall be sent to the applicant or subgrantee.

On the date of the next regularly scheduled Commission meeting, the Priorities Committee shall meet and hear evidence by the applicant or subgrantee relative to reasons the appeal should be granted. The applicant or subgrantee may present as many witnesses as may be necessary to support his appeal, except that the Committee Chairman may limit the number or time allotted to the witnesses where necessary. The secretary to the Commission shall take minutes of the appeal hearing and the entire hearing shall be recorded. The Committee may also request other evidence relating to the application or project.

At the conclusion of the hearing, the Committee shall present its findings and make recommendations to the Commission.

A vote shall then be taken on the appeal.

In the event the appeal is denied, the applicant or subgrantee may, within 15 days of the date of denial, file with the Office of the Governor and the Louisiana Commission on Law Enforcement, a notice of appeal to the Governor. The notice of appeal must be by certified mail.

Upon receipt of the notice of appeal to the Governor, the Louisiana Commission on Law Enforcement shall have 15 days to provide the applicant or subgrantee and the Governor with the minutes of the appeal hearing and a copy of the vote of the Commission. The recorded tapes shall also be made available to the Governor at his request.

The results of the appeal to the Governor shall be communicated to the Louisiana Commission on Law Enforcement within 20 days.

Nothing herein shall preclude the resubmission of an application through the use of regular Louisiana Commission on Law Enforcement procedures.

Elmer B. Litchfield  
Executive Director

## RULE

### Department of Health and Human Resources Board of Examiners For Nursing Home Administrators

The State Board of Examiners for Nursing Home Administrators has adopted the following changes to its Rules and Regulations.

1. Rule 12, paragraph 2 amended to read:

"Prospective preceptors shall apply on forms supplied by the Board for approval of the Board prior to beginning any A.I.T. Program. Preceptors shall be approved by the Board when it is verified that they meet requirements for preceptor."

2. Rule 17, paragraph B amended to read:

"A copy of the certificate(s) of attendance for 15 hours of approved Continuing Education is to be attached to the annual Re-registration application."

3. Rule 14, paragraph A amended to read:

2. "collectively contain a minimum of 15 clock hours with the recommendation that no more than five hours be offered daily."

4. Rule 12, paragraph 5 amended to read:

"This provision, or portions thereof, may be waived if the applicant has earned at least a baccalaureate degree in health care administration or has work experience in the health field that meets or exceeds AIT requirements in his or her specialty and/or other areas as approved by the Board. Request for Waiver(s) must be submitted with the application (B.E. 2) for approval of the Board."

Winborn E. Davis  
Executive Secretary

## RULES

### Department of Health and Human Resources Office of Licensing and Regulation Board of Nursing

R.N. 2.05 (3)

When the Board has determined that a program in Nursing Education is not meeting the Legal Standards and Requirements, the Board, after an evaluation or hearing, shall provide the nursing program with a written notice of a specific deficiency, or deficiencies, and place the program on conditional approval for a period of one year. A program has the right, at any time, to present evidence to the Board that the deficiency, or deficiencies has/have been corrected, and may petition the Board to restore full approval status to the Nursing Education Program.

At the end of one year, from the date on which the program was placed on conditional approval, the program shall submit to the Board, a written report with a specific plan of action for removing the specified deficiency or deficiencies. If the program presents sufficient evidence that the deficiency, or deficiencies, has/have been corrected, the Board may restore full approval status. If a program presents substantive evidence that action is being taken to correct the specified deficiencies, the Board may, after an evaluation and hearing, continue the conditional approval status for another year. At the end of the second year, the program shall submit to the Board, a second written report of the progress made in correcting the deficiency, or deficiencies.

At the end of three consecutive years of being on conditional approval, if after a hearing, it is determined that the program has not corrected the deficiency or deficiencies, the Board shall remove the program from the list of state approved schools.

Merlyn M. Maillian, R.N.  
Executive Director

## RULES

### Department of Health and Human Resources Board of Practical Nurse Examiners

The Louisiana State Board of Practical Nurse Examiners at its meeting on January 29, 1982 adopted the following amendments to the *Administrative Rules and Minimum Requirements Relating to Practical Nursing Education and Licensure to Practice in the State of Louisiana*.

#### Section IV

##### Program Projection

#### 6. Curriculum Requirements

6-1 Development - The curriculum shall be developed and written by the nursing faculty and shall include the philosophy and objectives of the program and shall be approved by the Louisiana State Board of Practical Nurse Examiners.

6-2 Length of Program - A program shall be no less than 1500 hours of scheduled instruction with at least 700 hours being classroom instruction. Theory and clinical experience should be concurrent, if possible, progressing from the simple to the complex.

a. Program instruction and clinical experience shall be no less than 12 months.

b. Part time program instruction and clinical experience shall be no longer than two years.

#### 6-3 The Curriculum shall include:

a. Body Structure and Function providing the student with a foundation for understanding basic anatomy and the normal functions of the human body and deviations from normal.

b. Introduction to Microbiology presenting a basic understanding of microbes necessary in carrying out nursing procedures and in helping to prevent illness and/or its transfer to others.

c. Vocational Adjustments including concepts of self adjustment, personality development, ethical, legal and social relationships with patients, families, employers and co-workers, communication skills, responsibilities of the practical nurse and general information on nursing and nursing organizations.

d. Personal, Family and Community Health presenting concepts of health and its maintenance, human development throughout the life cycle, development, spread and control of disease, and local, state and national health resources.

e. Nutrition in Health and Illness describing concepts of proper nutrition of all age groups and diet modifications for therapeutic purposes.

f. Introduction to Pharmacology presenting concepts relating to action, dosage, side effects and administration of medications.

g. Principles and Practices of Nursing presenting the application of concepts which will provide basic principles of nursing care and correlated experiences to develop competency in Medical-Surgical Nursing, Geriatric Nursing, Maternal-Child Nursing and Mental Health Nursing.

h. Career Readiness presenting information relating to interviews, completing application forms, writing resumes, requesting license endorsement in another state, job seeking, career opportunities, continuing education availability and review for the practical nurse licensure examination.

Helen W. Sheehan, R.N.  
Executive Director

## RULE

### Department of Health and Human Resources Board of Veterinary Medicine

At a public meeting held in Alexandria, Louisiana on February 5, 1982, and following a hearing on January 7, 1982, at which public comment was received, the Louisiana Board of Veterinary Medicine adopted the following Rules in accordance to law:

#### ANNUAL MEETING - [R.S. 37:1515 (E)]

The annual meeting of the Louisiana Board of Veterinary Medicine shall be on the fourth Friday in May of each year, at a time and place to be announced by posting public notice of the time and place of said meeting 24 hours in advance of such meeting at the permanent office of the Louisiana Board of Veterinary Medicine at 1986 Beaumont Drive, Baton Rouge, Louisiana.

Additional meetings of the Board may be called by the President or any three members of the Board and may be announced by posting notice of the date, time and place of such meeting, at least 24 hours in advance thereof, at the permanent office of the Board located at 1986 Beaumont Drive, Baton Rouge, Louisiana.

#### FEES [R.S. 37:1518 (3)]

The Board hereby adopts and establishes the following fees:

(a) Examination fee, per examination, State or National	\$100
(b) Original Registration Fee	\$ 25
(c) Annual Renewal of License Fee	\$ 50

## APPLICATIONS FOR LICENSE - [R.S. 37:1520 (A)]

### Subsection A

The application for licensure to practice veterinary medicine in the State of Louisiana shall be written, signed by the applicant, and shall contain the information set forth in R.S. 37:1520 (A).

In addition to the above requirements, the Board may also require that any applicant furnish the following information:

1. A current photograph of the applicant;
2. A transcript of the applicant's veterinary school records;
3. A copy of the applicant's diploma from an accredited veterinary medical school;
4. A certificate by the applicant that the applicant has not been arrested or indicted for or been convicted, pled guilty or pled nolo contendere to either a felony or misdemeanor, other than minor traffic violations, and, in the event that the applicant is unable to so certify, may require the applicant to explain in full and/or provide further documentation;
5. A certificate that the applicant has never had his or her license to practice veterinary medicine revoked, suspended or denied, and, in the event that the applicant is unable to so certify, the Board may request or require full explanation and/or documentation concerning such revocation, suspension or denial;
6. A list of the veterinary licenses which the applicant currently holds;
7. The score on any previous National Examinations or State Examinations (whether Louisiana State Examinations or State Examinations from other States) previously taken by the applicant;
8. A list of licensed veterinarians for reference and/or letters of recommendations from licensed veterinarians, furnished for the purpose of determining the applicant's professional capabilities and ethical standards;

9. A certificate that the applicant has received and read the Louisiana Veterinary Practice Law and the rules and regulations promulgated by the Board.

The Board may require such application to be sworn to by the applicant, notarized, or attested to by the applicant under penalty of perjury.

The Board may reject any application which does not contain full and complete answers and/or information as requested, and may reject any application if any of the information furnished in the application is fabricated, false, misleading or incorrect.

## LICENSES WITHOUT EXAMINATION

[R.S. 37:1522]

The Board shall not issue licenses without examination under any circumstances.

## TEMPORARY PERMITS

[R.S. 37:1523]

The Board shall not issue temporary permits under any circumstances.

## APPEALS AND REVIEW

[R.S. 49:951 (2)]

### Subsection A

Any applicant desiring to review his or her National Examination and/or the master answer sheet and/or the examination questions shall make arrangements with the National Board of Veterinary Medical Examiners and/or any person, firm, corporation or entity charged with the preparation, grading and/or administration of the National Examination by the National Board of Veterinary Medical Examiners for such review. The Louisiana Board of Veterinary Medicine shall not conduct reviews of the questions contained on the National Examination, the answers to

the questions contained on the National Examination, or any applicant's score on the National Examination.

### Subsection B

Any person aggrieved by a decision of the Board, other than a licensee against whom disciplinary proceedings have been brought pursuant to R.S. 37:1526, may, within 30 days of notification of the Board's action or decision, petition the Board for a review of the Board's actions.

Such petition shall be in the form of a letter, signed by the person aggrieved, and mailed to the Board at its principal office located at 1986 Beaumont Drive, Baton Rouge, Louisiana 70806.

Upon receipt of such petition, the Board then may proceed to take such action as it deems expedient or hold such hearings as may be necessary, and may review such testimony and/or documents and/or records as it deems necessary to dispose of the matter, but the Board shall not, in any event, be required to conduct any hearings or investigations, or consider any offerings, testimony or evidence unless so required by Statute or other rules or regulations of the Board.

### Subsection C

Any licensee against whom disciplinary proceedings have been instituted and against whom disciplinary action has been taken by the Board pursuant to R.S. 37:1526 shall have rights of review and/or rehearing and/or appeal in accordance with the terms and provisions of the Administrative Procedure Act.

## INFORMATION, AGENCY OFFICE, REQUEST FOR RULES OR ACTION

[R.S. 49:951 (1)]

### Subsection A

The Board shall maintain its principal office at 1986 Beaumont Drive in Baton Rouge, Louisiana, where the records of the Board shall be maintained for public inspection by any interested parties during regular office hours.

### Subsection B

Persons requesting information concerning Board activities, or wishing to request adoption, amendment or repeal of rules, or seeking to institute disciplinary proceedings, or having other business of whatever kind or character before the Board may do so at the principal office of the Board, in writing, or in person.

### Subsection C

Notices of Board meetings, proposed rules, and all other information concerning the activities, functions and actions of the Board shall be available for public inspection at the principal office of the Board.

A.R. Allbritton, D.V.M.

Secretary-Treasurer

## RULE

### Department of Health and Human Resources Office of Family Security Office of Human Development

The Department of Health and Human Resources, Office of Family Security and Office of Human Development, has adopted a rule to implement Cuban/Haitian entrants Program. The Notice of Intent proposing this rule was published March 20, 1981. This program, provided for by P.L. 96-442, covers the Cuban and Haitian immigrants who began arriving in the United States in the Spring of 1980 and who were given the special "entrants" status. These immigrants, due to their "entrants" status, are not eligible under the currently funded Refugee Resettlement Program.

Within the limits of available appropriations the Department of Health and Human Services through the Office of Refugee Resettlement will provide special Federal funding to states for 100 percent of the costs of cash and medical assistance and related administrative costs for Cuban/Haitian Entrants. Cash assistance through this program is based on AFDC and GA grant standards and is limited to 36 months. The Office of Family Security will administer the Cash and Medical Assistance Program. Funds are available to provide services for unaccompanied minors and an appropriation has been made for social services and the related administrative costs. These services will be administered by the Office of Human Development.

George A. Fischer  
Secretary

## **RULE**

### **Department of Health and Human Resources Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, has deleted from the Title XIX Medical Assistance Program effective October 30, 1981, the following list of drugs. Identical products made by manufacturers not shown on the list are also excluded from payment.

DESI DRUG PRODUCTS AND KNOWN RELATED DRUG PRODUCTS THAT LACK SUBSTANTIAL  
EVIDENCE OF EFFECTIVENESS AND ARE SUBJECT TO A NOTICE OF OPPORTUNITY FOR HEARING  
SEPTEMBER 25, 1981

<u>Trade Name</u>	<u>Active Ingredient</u>	<u>Dosage Form/Route</u>	<u>Firm</u>	<u>Remarks</u>
Adrenosem Salicylate	Carbazochrome Salicylate	Tab/Oral Sol/IM	Beecham Labs	
Alevaire	Tyloxapol	Sol/Inh	Breon Winthrop	
Amesec	Aminophylline Amobarbital Ephedrine Hydrochloride	ECT/Oral Cap/Oral	Lilly	
Aminophylline & Amytal	Aminophylline Amobarbital	Cap/Oral	Lilly	
Amphocortrin	Calcium Amphomycin Hydrocortisone Acetate Neomycin Sulfate	Crm/Top	Warner-Lambert Co./ Warner-Chilcott	
Ananase	Bromelains	ETC/Oral	Rorer	
Antora-B.T.D	Pentaerythritol Tetranitrate Secobarbital	Cap/Oral	Mayrand	
Arlidia	Nylidrin Hydrochloride	Tab/Oral	USV	
Avasyme	Chymotrypsin	ECT/Oral	Wallace	
Azo Gantanol	Phenazopyridine Hydrochloride Sulfamethoxazole	Tab/Oral	Roche	
Bentyl/Phenobarbital	Dicyclimine Hydrochloride Phenobarbital	Cap/Oral Tab/Oral	Merrell Dow Pharmaceuticals	NOOH does not apply to syrup
Betadine Vaginal Gel	Povidone-Iodine	Gel/Vag	Purdue Frederick	
Brophed	Ephedrine Sulfate Hydroxyzine Hydrochloride Theophylline	Tab/Oral	Cord	
Butazolidin Alka	Aluminum Hydroxide Magnesium Trisilicate Phenylbutazone	Tab/Oral	Geigy	
Cantil w/Phenobarbital	Mepenzolate Bromide Phenobarbital	Tab/Oral	Merrell Dow Pharmaceuticals	
Caldecort	Calcium Undecylenate Hydrocortisone Acetate	Ont/Top	Pennwalt	
Caldecort	Calcium Undecylenate Hydrocortisone Acetate Neomycin Sulfate	Ont/Top	Pennwalt	
Carbital	Carbromal Sodium Pentobarbital	Cap/Oral Elx/Oral	Warner-Lambert Co./ Parke-Davis	
Cartrax	Hydroxyzine Hydrochloride Pentaerythritol Tetranitrate	Tab/Oral	Roerig	
Celestone w/ Neomycin	Betamethasone Neomycin Sulfate	Crm/Top	Schering	
Cetacaine	Benzocaine Tetracaine Hydrochloride	AER/Top Ont/Top Gel/Top Liq/Top	Cetylite	
Chymoral	Chymotrypsin Trypsin	ECT/Oral	Armour Pharm	
Combid	Isopropamide Iodide Prochlorperazine Maleate	SRC/Oral	SKF	
Car-Tar-Quin	Coal Tar Solution Dilodihydroxyquin Hydrocortisone	Crm/Top Lot/Top	Dome	
Cordran-N	Flurandrenolide Neomycin Sulfate	Ont/Top Crm/Top Lot/Top	Lilly	
Corovas	Pentaerythritol Tetranitrate Secobarbital	SRC/Oral	Amfre-Grant	

Trade Name	Active Ingredient	Dosage Form/Route	Firm	Remarks
Cortisporin	Gramicidin Hydrocortisone Neomycin Sulfate Polymyxin B Sulfate	Crm/Top	Burroughs-Wellcome	
Cortomycin	Hydrocortisone Neomycin Sulfate	Ont/Top	Bryant Pharmaceutical	
Cyclandelate	Cyclandelate	Tab/Oral	Cord Premo	
Cyclandelate	Cyclandelate	Cap/Oral	Ives	
Dalite	Aminophylline Benzocaine Dried Aluminum Hydroxide Gel Ephedrine Hydrochloride Phenobarbital	Tab/Oral	Wallace	
Dalite-KI	Aminophylline Benzocaine Dried Aluminum Hydroxide Gel Ephedrine Hydrochloride Phenobarbital Potassium Iodide	Tab/Oral	Wallace	
Dartcon PB	Oxyphenacylimine Hydrochloride Phenobarbital	Tab/Oral	Beecham Labs	
Daener	Deanol Acetamidobenzoate	Tab/Oral	Riker	
Deprol	Benzetylzine Hydrochloride Meprobamate	Tab/Oral	Wallace	
Di-Ademil-K	Hydroflumethazide Potassium Chloride	Tab/Oral	Squibb	
Dibenzylamine	Phenoxylbenzamine Hydrochloride	Cap/Oral	SKF	
Difenham	Methylethylthiazide Cryptenamine Tannates	Tab/Oral	Wallace	
Donatal Extentabs	Atropine Sulfate Hyoscyamine Sulfate Phenobarbital	SR/Oral	Robins	NOOH applies only to controlled release product
Equisales	Aspirin Meprobamate Ethioheptazine Citrate	Tab/Oral	Wyeth	
Equanilrate	Meprobamate Pentamethylol Tetranitrate	Tab/Oral	Wyeth	
Erythrocin	Erythromycin	Ont/Top	Abbott	
Erythromycin	Erythromycin	Ont/Top	Upjohn	
Florinef	Fludocortisone Acetate Gramicidin Neomycin Sulfate	Lot/Top	Squibb	
Hydrocortisone-Neomycin	Hydrocortisone Acetate Neomycin Sulfate	Crm/Top	Byk-Gulden	
Hydromet	Hydrocortisone Neomycin Sulfate	Lot/Top	Merck Sharp & Dohme	
Ilotycin No. 90	Erythromycin	Ont/Top	Lilly	
Iodochlorhydroxyquin w/ Hydrocortisone	Hydrocortisone Iodochlorhydroxyquin	Crm/Top	Byk-Gulden	
Isordil w/Phenobarbital	Isosorbide Dinitrate Phenobarbital	Tab/Oral	Ives	
Isoxuprine HCL	Isoxuprine Hydrochloride	Tab/Oral	Cord Premo	
Librax	Chloridazepoxide Hydrochloride Clidinium Bromide	Cap/Oral	Roche	

<u>Trade Name</u>	<u>Active Ingredient</u>	<u>Dosage Form/Route</u>	<u>Firm</u>	<u>Remarks</u>
Lufyllin-EPG	Dyphiline Ephedrine Hydrochloride Guaifenesin Phenobarbital	Tab/Oral Elx/Oral	Wallace	
Luftodil	Ephedrine Hydrochloride Guaifenesin Phenobarbital Theophylline	Tab/Oral	Wallace	
Kenalog-S	Gramicidin Neomycin Sulfate Triamcinolone Acetonide	Ont/Top Crm/Top Lot/Top	Squibb	
Marax	Theophylline Ephedrine Sulfate Hydroxyzine Hydrochloride	Tab/Oral Syr/Oral	Roerig	
Mepergan Fortis	Meperidine Hydrochloride Promethazine Hydrochloride	Cap/Oral	Wyeth	
Meti-Derm w/Neomycin	Neomycin Sulfate Prednisolone	Ont/Top Aer/Top	Schering	
Midrin	Acetaminophen Dichloralphenazone Isometheptene	Cap/Oral	Reed & Carnrick	
Migral	Caffeine Cyclizine Hydrochloride Ergotamine Tartrate	Tab/Oral	Burroughs Wellcome	
Milpath	Meprobamate Tridihexethyl Chloride	Tab/Oral	Wallace	
Miltrate	Meprobamate Pentaerythritol Tetranitrate	Tab/Oral	Wallace	
Myco Triacet	Gramicidin Neomycin Sulfate Nystatin Triamcinolone Acetonide	Ont/Top	Promo	
Myeolog	Gramicidin Neomycin Sulfate Nystatin Triamcinolone Acetonide	Ont/Top Crm/Top	Squibb	
Myconel	Fludrocortisone Acetate Gramicidin Neomycin Sulfate Nystatin	Ont/Top	Squibb	
Naturetin w/K	Bendroflumethiazide Potassium Chloride	Tab/Oral	Squibb	
Neo-Aristocort	Neomycin Sulfate Triamcinolone Acetonide	Crm/Top Ont/Top	Lederle	
Neo-Aristoderm	Neomycin Sulfate Triamcinolone Acetonide	Aer/Top	Lederle	
Neo-Cort-Dome	Hydrocortisone Neomycin Sulfate	Lot/Top Crm/Top	Dome	
Neo-Cortef	Hydrocortisone Acetate Neomycin Sulfate	Ont/Top Lot/Top Crm/Top	Upjohn	
Neo-Decadron	Dexamethasone Sodium Neomycin Sulfate	Crm/Top	Merck Sharp & Dohme	
Neo-Decaspray	Dexamethasone Neomycin Sulfate	Aer/Top	Merck Sharp & Dohme	
Neo-Delta-Cortef	Neomycin Sulfate Prednisolone Acetate	Ont/Top Lot/Top	Upjohn	
Neo-Diloderm	Dichlorisone Neomycin Sulfate	Crm/Top	Schering	
Neo-Domeform-HC	Hydrocortisone Iodochlorhydroxyquin Neomycin Sulfate	Crm/Top	Dome	



Neomycin Sulfate  
Prednisolone Sodium Phosphate

Lot/Top

Neomycin Sulfate  
Hydrocortisone

Crm/Top

Dermik Labs

Pfizer

Ont/Top

Upjohn

Crm/Top

Dome

Ont/Top

Upjohn

Crm/Top

Schleffelin

Neo-Rasulin-F  
Hydrocortisone  
Neomycin Sulfate  
Resorcinol Monoacetate  
Sulfur

Neo-Synalar  
Fluocinolone Acetonide  
Neomycin Sulfate

Crm/Top

Syntex

Neo-Tarcorlin  
Coal Tar Extract  
Hydrocortisone  
Neomycin Sulfate

Ont/Top

Reed & Carnrick

NeoDecadron  
Dexamethasone Sodium Phosphate  
Neomycin Sulfate

Crm/Top

Merck Sharp & Dohme

Neomycin Sulfate-  
Hydrocortisone  
Hydrocortisone Acetate  
Neomycin Sulfate

Ont/Top

Winser Pharmaceutical

Neomycin Sulfate-  
Hydrocortisone  
Hydrocortisone  
Neomycin Sulfate

Ont/Top

Kasco-Etco Labs  
Byk-Gluden  
Premo  
Doak Pharmacal  
Ferndale Labs  
Clay-Park Labs

Neomycin Sulfate-  
Hydrocortisone Acetate  
Hydrocortisone Acetate  
Neomycin Sulfate

Ont/Top

American Pharmaceutical  
Bioscraft Labs  
Ambix Labs

Neosporin  
Neomycin Sulfate  
Polymyxin B Sulfate

Lot/Top

Burroughs-Wallcome

Neosporin-Q  
Gramicidin  
Neomycin Sulfate  
Polymyxin B Sulfate

Crm/Top

Burroughs-Wallcome

Nycin-HC  
Hydrocortisone  
Neomycin Sulfate

Ont/Top

Schlicamp Drug

Nylidrin HCL  
Nylidrin Hydrochloride  
Hydrocortisone  
Neomycin Sulfate

Tab/Oral

Cord

Nysa-Cort  
Hydrocortisone  
Nystatin

Lot/Top

Dome

Nystalorm-HC  
Hydrocortisone  
Iodochlorhydroxyquin  
Nystatin

Ont/Top

Dome

Nystalin-Neomycin  
Sulfate-Gramicidin-  
Triamcinolone Acetonide  
Gramicidin  
Neomycin Sulfate  
Nystatin

Crm/Top

Premo  
Byk-Gluden

Nystalin-Neomycin  
Sulfate-Gramicidin-  
Triamcinolone Acetonide  
Gramicidin  
Neomycin Sulfate  
Nystatin

Ont/Top

Byk-Gluden  
Clay-Park

Onycho-Phytex  
Alcohol  
Boric Acid  
Salicylic Acid  
Tannic Acid

Sol/Top

Unimed

Orenzyme  
Tyrosin  
Chymotrypsin

ECT/Oral

Merrell Dow  
Pharmaceuticals

Oxaline M  
Aluminum Hydroxide Gel  
Magnesium Hydroxide  
Oxethazoline

Sus/Oral

Wyeth

Trade Name	Active Ingredient	Dosage Form/Route	Firm	Remarks
Papase	Proteolytic Enzymes from Carica Papaya	Chewable Tab/ Oral or Buco	Warner-Lambert Co./Parke-Davis	NOOH does not apply to conventional dosage forms of Pethion
Pethidamate	Meprobamate	Tab/Oral	Lederle	
Pethion Sequels	Tridihexethyl Chloride	SR C/Oral	Lederle	
Pethion/Phenobarbital	Phenobarbital Tridihexethyl Chloride	Tab/oral SR C/Oral	Lederle	
Pertate w/ Phenobarbital	Phenobarbital Pentacetyritol Tetranttrate	SRT/Oral Tab/Oral	Warner-Lambert Co./Parke-Davis	
Pentylenetetrazol containing products	Aminobenzal-PT Cenaleone-M D-Vasco Gevizol Halizol Metrazol Mialex Mialex Mivert Nicolol Nicolol Nicolol Panazol Forte Pentalate Pentylentetrazol Pentylentetrazol & Niacin R-U-Vet Senilex Senilezol Su-Ton Liquid Su-Zol Liquid T-Lex Tenaplex Trela Vasolim Verlab Vita-Metrazol Vital	Aminobenzoate Potassium Tab/Oral Cap/Oral Pwr/Oral	Pan Americans Central Central Dunhall Garon Halsom Knohl Mismmer Winston Mallard Knohl Hyrex-K B.F. Asher Pan American Maynard Chromalloy Chromalloy Rucker O'Neil Edwards Rucker Su-Zol Liquid T-Lex Tenaplex Trela Vasolim Verlab Vita-Metrazol Vital	
Priscoline	Tolazoline Hydrochloride	Sol/TM-TV-SC	Ciba	
Pro-Banthine/ Phenobarbital	Phenobarbital Propanteline Bromide	Tab/Oral	Searle	
Propazine	Isopropamide Iodide Prochlorperazine	Cap/Oral	Cord	
Propion Gel	Propionate Calcium Propionate Sodium	Gel/Vag	Wyeth	
Quadrinal	Ephe-drine Hydrochloride Phenobarbital Potassium Iodide Theophylline Calcium Salicylate	Tab/Oral	Knohl	
Quibron Plus	Butabarbital Ephe-drine Hydrochloride Guafenesin Theophylline	Cap/Oral Elx/Oral	Mead Johnson	
Racet	Hydrocortisone Iodochlorhydroxyquin	Crm/Top	Lemmon Pharmacal	
Rautrax	Piumethazide Potassium Chloride Rauwolfia Serpentina	Tab/Oral	Squibb	

<u>Trade Name</u>	<u>Active Ingredient</u>	<u>Dosage Form/Route</u>	<u>Firm</u>	<u>Remarks</u>
Rautrax Improved	Hydroflumethiazide Potassium Chloride Rauwolfia Serpentina	Tab/Oral	Squibb	
Rautrax-N	Bendroflumethiazide Potassium Chloride Rauwolfia Serpentina	Tab/Oral	Squibb	
Rautrax-N Modified	Bendroflumethiazide Potassium Chloride Rauwolfia Serpentina	Tab/Oral	Squibb	
Roniacol	Nicotinyl Alcohol Tartrate	Tab/Oral SRT/Oral	Roche	
	Nicotinyl Alcohol	Elx/Oral		
Ruhexatal Pb	Mannitol Hexanitrate Phenobarbital	Tab/Oral	Lemmon	
Ruhexatal & Reserpine	Mannitol Hexanitrate Reserpine	Tab/Oral	Lemmon	
Sterazolidin	Dried Aluminum Hydroxide Gel Magnesium Trisilicate Phenybutazone Prednisone	Cap/Oral	Geigy	
Supertah H-C	Coal Tar Hydrocortisone	Ont/Top	Purdue Frederick	
Synaigos	Aspirin Caffeine Promethazine Hydrochloride	Cap/Oral	Ives	
Synaigos DC	Aspirin Caffeine Dihydrocodeine Bitartrate Promethazine Hydrochloride	Cap/Oral	Ives	
T.C.M.	Meprobamate Tridihexethylchloride	Tab/Oral	Zenith	
Terra-Cortril	Hydrocortisone Oxytetracycline Hydrochloride	Ont/Top	Pfizer	
Terra-Cortril	Hydrocortisone Oxytetracycline Hydrochloride Polymyxin B Sulfate	Aer/Top	Pfizer	
Tigan	Trimethobenzamide Hydrochloride	Cap/Oral Supp/Rectal	Beecham	NOOH does not apply to capsules in 200 mg or 400 mg strengths
Tri-Staton	Gramicidin Neomycin Sulfate Nystatin Triamcinolone Acetonide	Crm/Top	Clay-Park	
Trocinat	Thiphenamil Hydrochloride	Tab/Oral	Poythress	
Valpin PB	Anisotropine Methylbromide Phenobarbital	Tab/Oral	Endo	
Vasocon-A	Antazoline phosphate Naphazoline Hydrochloride	Sol/Oph	Cooper	
Vasodilan	Isoxsuprine Hydrochloride	Tab/Oral Sol/IM	Mead Johnson	
Vioform-Hydrocortisone	Hydrocortisone Iodochlorhydroxyquin	Crm/Top Ont/Top	Ciba	
Vytone	Dilodohydroxyquin Hydrocortisone	Crm/Top	Dermik Labs	

<u>Trade Name</u>	<u>Active Ingredient</u>	<u>Dosage Form/Route</u>	<u>Firm</u>	<u>Remarks</u>
Wyanoids HC	Belladonna Extract Bismuth Subcarbonate Bismuth Oxyiodide Boric Acid Ephedrine Sulfate Hydrocortisone Acetate Peruvian Balsam Zinc Oxide	Sup/Rtl	Wyeth	
Zactane	Ethoheptazine Citrate	Tab/Oral	Wyeth	
Zactirin	Aspirin Ethoheptazine Citrate	Tab/Oral	Wyeth	
Zactrin Compound 100	Aspirin Caffeine Ethoheptazine Phenacetin	Tab/Oral	Wyeth	
Ze-Tar-Quin	Coal Tar Dilodohydroxyquin Hydrocortisone	Crm/Top	Dermik Labs	
Zetone	Coal Tar Hydrocortisone	Crm/Top	Dermik Labs	

#### ABBREVIATIONS

##### Dosage Forms

Aer	Aerosol
Cap	Capsule
Crm	Cream
Dps	Drops
ECT	Enteric coated tablets
Elx	Elixir
Liq	Liquid
Lot	Lotion
Ont	Ointment
Pwr	Powder
Pwr Recon	Powder for reconstitution
SRC	Sustained release capsule
SRT	Sustained release tablet
Sol	Solution
Sup	Suppositories
Sus	Suspension
Syr	Syrup
Tab	Tablet

##### Routes of Administration

Bucc	Buccal
IM	Intramuscular
IV	Intravenous
Inh	Inhalation
Oph	Ophthalmic
Rtl	Rectal
SC	Subcutaneous
Top	Topical
Vag	Vaginal

This action is necessary in order to comply with a Rule and general notice published in the Federal Register on October 1, 1981 (46 FR 48550) and October 23, 1981 (46 FR 51646) respectively. These regulations were to implement Section 2103 of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) which prohibits the use of federal funds, therefore discontinuing reimbursement, under Medicare Part B and Medicaid for expenses incurred on or after October 1, 1981, for the drugs identified in Section 2103. Although both the Rule and general notice cited above purport to grant a 90 day grace period extending to January 1, 1982, this grace period was declared invalid in a civil lawsuit entitled National Council of Senior Citizens v. Schweiker (civ. Action No. 81-2452) United States District Court for the District of Columbia. In that suit, the Department of Health and Human Services was ordered to implement Section 2103 of the Act effective October 30, 1981. The Department of Health and Human Resources received notice of this action via telegram on October 29, 1981.

George A. Fischer  
Secretary

#### **RULE**

##### **Department of Health and Human Resources Office of Family Security**

Effective February 22, 1982, the Department of Health and Human Resources, Office of Family Security, as mandated by the Omnibus Reconciliation Act of 1981, P.L. 97-35, Sec. 101-117, will proceed to phase in retrospective budgeting and monthly reporting (RB/MR) requirements as to all Food Stamp Program recipients, except those described in paragraph B. Retrospective Budgeting/Monthly Reporting will be implemented in three phases as follows:

1) By October, 1982, approximately 13 percent of the food stamp caseload will have implemented RB/MR.

2) Beginning in October, 1982 through July, 1983, approximately 74 percent of the state's food stamp caseload will be added to RB/MR on parish-wide basis. Additional staff is anticipated to process this increased workload.

3) In August, 1983, the remaining caseload will implement RB/MR. Enhanced data processing capabilities are anticipated to aid in processing these cases.

A. The amount of benefits for food stamp recipients will be based on the actual income or circumstances which existed in the second prior month. Food stamp recipients subject to monthly reporting will be required to submit a monthly report of household circumstances including verification of income to the local Office of Family Security.

The monthly reports shall be submitted to the local Office of Family Security by the tenth day of each month or the next working day if the tenth is a holiday or weekend. Failure to submit a completed report, including verification each month, may result in suspension or closure of the case.

B(1a). Those households whose income is by contract for other than an hourly or piecework basis or by self-employment, derive their annual income in a period of time shorter than one year shall have their income calculated by averaging such income over a twelve-month period. These households will be subject to the monthly reporting requirement, but not the retrospective budgeting requirement.

B(1b). Those households that receive educational loans on which payment is deferred, grants, scholarships, fellowships, veteran's educational benefits, and the like to the extent that they are used for tuition and mandatory school fees at an institution of

higher education or school for the handicapped shall have their income calculated by averaging such income over the period for which it is received. These households will be subject to the monthly reporting requirement, but not the retrospective budgeting requirement.

B(2). Households that have no earned income and in which all members are 60 years of age or over or receive Supplemental Security Income benefits under Title XVI of the Social Security Act or disability and blindness payment under Title I, II, X, XIV, and XVI of the Social Security Act shall be subject to the retrospective budgeting requirement but not the monthly reporting requirements.

B(3). Migrant farmworker households will not be subject to either the monthly reporting requirement or the retrospective budgeting requirement.

George A. Fischer  
Secretary

#### **RULE**

##### **Department of Health and Human Resources Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, effective March 1, 1982, will implement a 7.96 percent increase in reimbursement rates for specific provider groups in 1-6 below:

- (1) Private Physicians and Optometric Program
- (2) Public Physicians Program
- (3) Laboratory and X-Ray Program
- (4) Chiropractic Program
- (5) Early, Periodic, Screening, Diagnosis and Treatment (EPSDT) Dental Program
- (6) Early, Periodic, Screening, Diagnosis and Treatment Eyeglasses Program
- (7) In the Adult Dental Program, selected services within the program will be increased with an overall increase not to exceed 7.96 percent.
- (8) A \$5 fee increase from \$15 to \$20, will be implemented for providers for paid examination completion of Form 90 - Medical and Social Evaluation on Disability.

George A. Fischer  
Secretary

#### **RULE**

##### **Department of Health and Human Resources Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, effective March 1, 1982, will limit payment for laboratory and diagnostic testing performed in a physician's office. Claims for these tests will be paid only when the physician has on file with the Medical Assistance Program, Provider Enrollment Section, a complete list of the laboratory and diagnostic equipment, the capabilities of such equipment, and permits verification of this data in accordance with the provider agreement.

Only those physicians who desire to claim reimbursement for laboratory or diagnostic tests performed in their offices need to complete and return the form. The laboratory and diagnostic equipment which needs to be reported is that equipment which is not common to all physician's offices and for whose use there are specific CPT-IV codes.

George A. Fischer  
Secretary

## **RULE**

### **Department of Health and Human Resources Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, has adopted a rule to implement the Low Income Home Energy Assistance Program to assist low income households with the high cost of home energy.

Eligible households are those with liquid assets such as cash on hand, checking and savings accounts, stocks, bonds, and credit shares, valued at \$1,500 or less for single person households and \$3,000 for a multi-person household. Additionally, total monthly income shall not be more than \$309 for a single person household and \$505 for a multi-person household during February, 1982. For the month of August, the total allowable monthly income is subject to change in accordance with the percentage increase effective July 1, 1982, for Supplementary Security Income and Social Security Administration recipients. Finally, eligible households will be paying for a heating and/or cooling utility or paying rent which includes an amount for utilities.

Applications for assistance will be accepted from February 1, 1982, through February 26, 1982, for the heating assistance program and from August 2, 1982, through August 31, 1982, for the cooling assistance program. All payments will be made for the months of February and August, 1982. Payment amounts will range from \$40 to \$55.

George A. Fischer  
Secretary

## **RULE**

### **Department of Health and Human Resources Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, will implement effective March 1, 1982, a 7.96 percent increase in reimbursement rates for outpatient services rendered at private mental health centers.

George A. Fischer  
Secretary

## **RULE**

### **Department of Health and Human Resources Office of Health Services and Environmental Quality**

In accordance with the provisions of La. R.S. 40:3 and La. R.S. 40:5 the extension of the 1973 Oyster Harvesting Closure Line to include the Cocodrie area of Terrebonne Parish, Louisiana was enacted on an Emergency Order of Closure on May 19, 1981. This rule makes that closure permanent.

The area as described above was found to be substandard for shellfish harvesting in the respect that fecal coliform limits were exceeded during a recent sanitary survey of the area. Specifically these standards require that all oyster growing waters whose bacteriological quality have exceeded the fecal coliform median of 14 fecal coliforms per 100 ml. and more than 10 percent of the samples ordinarily exceed a median of 43 coliforms per 100 ml. be closed to oyster harvesting.

Additionally, the area may be so contaminated with fecal material that consumption of the oysters might be hazardous.

George A. Fischer  
Secretary

## **RULE**

### **Department of Health and Human Resources Office of Human Development**

The Department of Health and Human Resources, Office of Human Development has adopted rules affecting the eligibility of clients for services provided by the Office of Human Development within its client placement program. The rule changes allow the Office of Human Development to mandate that applicants for Office of Human Development client placement services apply for funding under available federally funded programs. Further, the rule changes allow the Office of Human Development to refuse to provide state funds for a voluntary placement in a facility if the applicant refuses to apply for funding under available federally funded programs or if the applicant refuses to utilize these funds for funding of a placement, if eligible.

George A. Fischer  
Secretary

## **RULE**

### **Department of Health and Human Resources Office of Human Development**

In accordance with the provisions of La. R.S. 36:254 the following procedures have been adopted to fund shelter care facilities as authorized by La. R.S. 15:1092. The Office of Human Development shall enter into contractual agreements with approved shelter care facilities and shall reimburse said facilities for the care of juveniles placed therein in accordance with the provision of the Juvenile Code of Procedures and the Federal Runaway Youth Act as contained in P.L. 93-415. The amount of funds that the Office of Human Development shall expend with regards to a specific shelter shall be determined by the allowable costs specified in a cost report submitted in accordance with the provisions of the current issue of the DHHR Rate Determination Manual for Non-State Operated Facilities, with the exception that provisions of said manual relating to occupancy rates and levels of care shall not be applicable with regards to shelter facilities funded by these regulations.

After establishing the actual yearly operational cost of a facility, the Department of Health and Human Resources shall initiate quarterly advances of funds for a facility that is selected to participate in the provisions of this program. The first advance shall be based upon 25 percent of the contractual agreement. In addition to the first year's operational cost, the Department of Health and Human Resources may provide reimbursement for start-up costs incurred by an approved shelter facility if the facility became operational no more than a year prior to its selection as a participant in this program. This one-time reimbursement, however, shall not exceed \$50,000 and shall be based upon the actual costs considered allowable by the Department that were incurred in establishing the shelter facility.

The actual selection of a shelter facility by the Department of Health and Human Resources for participation in this program shall be based upon the degree to which the facility meets the following criteria:

(1) Submission of a detailed proposal in accordance with a format approved by the Department of Health and Human Resources. Deadline for the submission of proposals for funding for FY 81 is January 15, 1982.

(2) Reasonableness of projected operational costs for the first year.

(3) Ability of the facility to obtain support (firm written commitments) from law enforcement agencies and juvenile courts

within the facility's specified catchment area indicating utilization of the facility once it is established.

(4) Location of the facility and the extent to which the facility will serve the total juvenile population without undue travel distances.

(5) Adequacy of written admission criteria to ensure that all youths within the catchment area who are eligible for shelter services are admitted on a space available, first come, first served basis. The extent that this philosophy is translated into a working cooperative agreement with each law enforcement agency and juvenile court within the catchment area will be significant.

(6) The established (documented) need for the facility and the number of beds proposed except that no facility shall be accepted for participation in the program if the bedspace for which reimbursement will be requested exceeds fifteen.

(7) Written intake procedures in accordance with Article 34(B) of the Juvenile Code of Procedure that are non-discriminatory with regards to the sex, age, race or status offense of juveniles with the exception that juveniles whose behavior by reputation or circumstance is considered a threat to the safety and welfare of other residents or staff shall be excluded from admission into the shelter facility.

(8) Transportation is secured for the facility's operation. Compliance should be in the form of a written cooperative agreement with law enforcement agencies within the catchment area that places the responsibility for the provision of transportation with regards to admission, attendance at court hearings and/or releases with appropriate law enforcement agencies. Additionally, the proposal should also indicate the facility's responsibilities with regards to the provision of transportation for those functions related to the care and supervision of resident youths.

(9) Written requirements for the filing of petitions and the timely scheduling of hearings as provided by the Juvenile Code of Procedure are prescribed for all youths.

Assurances of such should be in the form of a written agreement with each District Attorney within the catchment area indicating the District Attorney's intent to provide such for the youths from his jurisdiction.

George A. Fischer  
Secretary

## **RULE**

### **Department of Health and Human Resource Office of the Secretary**

The Department of Health and Human Resources intends to adopt the following guidelines for the Community Residential Development Fund.

#### **A. DEFINITION OF COMMUNITY RESIDENTIAL DEVELOPMENT FUND:**

The Community Residential Development Fund was established by Act 770 of the 1981 Louisiana Legislature for the purpose of granting loans to eligible private, non-profit organizations to pay for the initial costs of development of community residential programs. Community residential programs, as defined by Act 770, are residential programs for not less than four nor more than six physically and/or mentally disabled persons at one program site and would include such programs as community (group) homes, supervised apartments, or out-of-home respite care. Funds for the loan program are located within the Office of the Secretary to be used by the appropriate program Offices (i.e.: Mental Retardation, Human Development, and Mental Health and Substance Abuse). The maximum amount available to any one organization is \$45,000.

#### **B. ELIGIBLE ORGANIZATIONS:**

In order to be eligible to apply for funds under the Community Residential Development Fund, the applicant organizations must at a minimum meet the following criteria:

1) Must be classified non-profit according to the requirements of S. 501(c)(3) of the Internal Revenue Code of 1954, 26 U.S.C. § 501. (c)(3);

2) Must agree to serve clients of the Department of Health and Human Resources;

3) Must serve clients whose mental or physical disability is not a result of the aging process and whose impairment limits one or more major tasks: walking, seeing, hearing, speaking, or breathing and is attributable to any physiological disorder or condition, cosmetic disfigurement, or loss of limbs affecting one or more of the body's systems; neurological, musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; or any mental or psychological disorder such as mental retardation, organic brain syndrome, and emotional or mental illness; and

4) Must provide a ten percent match to the borrowed amount either in cash or in real property or in kind.

#### **C. ALLOWABLE COSTS:**

The Costs of development which can be paid by this loan would include the following categories;

1. The downpayment for the purchase and/or construction of a home, duplex, or apartment(s);

2. The modification/renovation of such facility;

3. The purchase of equipment, fire/safety devices, and/or furniture for the facility;

4. Costs incurred during the development phase of the program prior to and up to one month after admission of clients. Such costs could include;

a. The payment of salaries of personnel connected with the development and/or first month of operation of the program;

b. The payment of rent, utilities, food and other general operating expenses during the development phase and/or the first month of operation; and

c. The purchase of insurance during the development and/or the first month of operation.

Line item changes may be made only with prior approval from the appropriate program office.

#### **D. APPLICATION PROCESS: (NOTE: THE TIMETABLE SET FORTH IN THIS APPLICATION PROCESS APPLIES ONLY TO FY 1981-1982)**

1. Notification of the availability of funds for establishing community residential programs will be given through the Louisiana Register and through the Offices of Mental Retardation, Human Development, and Mental Health and Substance Abuse. Each Office shall designate its own Community Residential Development Fund Coordinator.

2. Interested/potential applicants shall request application packets from the Community Residential Development Fund Coordinator of the appropriate program office. The determination of which program office is appropriate will be based on the client population the applicant plans to serve. Those serving the mentally retarded will apply to the Office of Mental Retardation, those serving the mentally ill/emotionally disturbed and the autistic through the Office of Mental Health and Substance Abuse, and those serving the physically handicapped through the Office of Human Development. These Offices can be contacted at the following address: Office of Mental Retardation, 721 Government St. 3rd Floor, Baton Rouge, LA 70802; Office of Mental Health and Substance Abuse, 655 N. 5th St., Baton Rouge, LA 70802; Office of Human Development, 1755 Florida Blvd., Baton Rouge, LA 70802.

3. The application packet will be mailed or delivered within ten working days of receipt of request.

4. For FY 1981-82, the applications will be due into the appropriate program offices by March 1, 1982.

5. If the service provider anticipates operating expenses to be reimbursed through the Title XIX (Medicaid) Program, a simultaneous application shall be made to the State Office of Comprehensive Health Planning and the local Health Systems Agency. This will place the provider in compliance with Section 1122 of the Social Security Act which provides for review of all new health care facilities which are reimbursed through Medicare, Medicaid, and Maternal and Child Health programs. Three (3) copies of the application, along with a questionnaire enclosed in the application packet, shall go to the State Office of Comprehensive Health Planning and twenty-five copies, along with the same questionnaire, shall go to the local Health Systems Agency. Policy and guidelines for Section 1122 are included in the application packet. Both the State Office of Comprehensive Health Planning and the local Health Systems Agency will accept the same application form as the Community Residential Development Fund.

6. The evaluation process, including an on-site inspection of the proposed facility by the program office and the Office of Licensing and Regulation, will be completed by April 2, 1982. The program offices will be responsible for evaluating the application/proposals. During the evaluation process, applicant organizations may be called for an interview by the appropriate program office.

7. Following the evaluation process, the program offices will prioritize the applications according to the stated criteria for evaluation. The prioritized applications will be forwarded to the Office of the Secretary of DHHR for final approval. The Office of the Secretary of DHHR will notify the program offices by April 23, 1982 of those applicants approved for the funding.

8. Applicants will be notified as to the final decision by April 30, 1982 through the appropriate program offices.

9. The agreements will be signed and the funds obligated by June 30, 1982.

#### E. CRITERIA FOR EVALUATING APPLICATIONS:

The program offices of Mental Retardation, Mental Health and Substance Abuse, and Human Development will be responsible for the evaluation and prioritization of applications/proposals. Each Office shall review those applications/proposals for the client population they are legislatively charged to serve. The following criteria will be utilized in evaluating applications by each of the program offices.

1. The experience of the applicant with similar programs and populations;

2. Need for the program for the clientele/geographical area;

3. The adequacy of programmatic components and services to be offered;

4. The degree of coordination between the proposed program and the necessary support services;

5. Demonstration of understanding of the principles behind the development of community residential programs;

6. Documentation that the program is the least restrictive setting for the clients to be served (for example, substitute family care for infants would be a more appropriate least restrictive environment than a community home for infants);

7. The proposed site has been reviewed by the appropriate program office and the Office of Licensing and Regulation to assure that it is or can be brought into compliance with licensing and certification standards;

8. The facility (house, apartment, duplex, etc.) must fit into the neighborhood where it will be established. (Labels, signs, or other distinguishing features which could draw attention to the program and its clients are prohibited.);

9. The site is separated from the location of the day programs in which the residents engage;

10. The site is not within 1000 feet of another facility

serving handicapped persons or another congregate living setting;

11. Access to and from the site should be convenient for its residents, staff, and others;

12. The soundness, justifiability and practicability of the applicant organization's budget request;

13. Documented financial need based upon the submitted financial solvency statement;

14. Operational funds have been committed by DHHR or another appropriate source;

15. How the proposed facility would fit into DHHR's current program priorities (for example, the placement of Gary W. classmates); and

16. The applicants commitment to the project as evidenced through at least a 10% cash or real property or in kind match as well as the amount of funds requested under the Community Residential Development Fund.

#### F. REPAYMENT PROCEDURE:

1. Repayment of the loan shall commence upon completion of the first year of operation and shall be made in equal payments during each month thereafter for the next sixty (60) months. Such payments are due by the last day of the month and are considered delinquent thereafter. Delinquent payments are subject to a monthly interest penalty computed in accord with the rate paid on the past previous sale of U.S. Treasury Bills prior to but covering the same period of time as the delinquency. Loan payments that are delinquent by more than two months may cause the entire principal to be due and payable as outlined in Section F.2. of these rules. The repayment checks should be made out to the Community Residential Development Fund. For purposes of rate setting, the Department of Health and Human Resources will allow costs met through the Community Residential Development Fund to be considered as reimbursable costs.

2. If the service provider which has received a loan under this fund ceases to accept appropriate clients, provide adequate care and maintenance to clients, or files papers of bankruptcy, the remaining unpaid portion of the loan shall be due and payable within a one-year period from the date on which the Department has notified the provider that the program has ceased to provide care or that the provider has filed bankruptcy proceedings. In addition to the remaining unpaid portion of the loan, an interest penalty shall also be due and payable on that portion of the loan which has been repaid. The interest penalty shall be computed beginning with the month in which the loan was finalized. The rate shall be that of the last previous sale of U.S. Treasury Bills prior to but with the same length of maturity as the time over which the loan had been repaid. If repayment had taken place over a longer period of time than the maximum maturity date of U.S. Treasury Bills, the one year Bill rate shall be utilized. The amount of the principal and interest shall constitute a lien in favor of the State against all real and personal property of the organization. The lien shall be perfected by the appropriate officer of the department by executing and acknowledging a statement of the name of the organization and the amount due on the loan and a copy of the promissory note which shall be recorded by the department with the clerk of the district court in the parish where the organization is located. If the organization has filed a petition for bankruptcy, the department shall file and enforce the lien in the bankruptcy proceedings. Otherwise, the lien shall be enforced in a manner prescribed by law. All funds received by the department from the enforcement of this lien shall be deposited in the Community Residential Development Fund in the state treasury.

3. If the private, nonprofit organization is unable to continue to provide the specified services due to the termination of their lease by the lessor or to natural disaster they may be granted a period of grace of up to one year in order to reestablish their program. During this period of grace the repayment formula as



described in R.S. 46:2394, shall be suspended until such time as the program is reestablished. If after the maximum one-year grace period the organization is unable to reestablish the program, the defaulting provisions of this section, as outlined in R.S. 46:2395, will go into effect.

#### G. THE ANNUAL STATEMENT:

The private, non-profit organizations receiving loans under this fund shall submit to the appropriate DHHR program offices an annual statement setting forth the residential services they have provided during the year together with such other information as the department shall require. Those requirements for each organization include:

1. An accounting of expenditures made during the year for both start-up and ongoing operational expenses;
2. A listing of personnel connected with the program during that year of operation complete with resumes and job descriptions;
3. The number of clients served and the nature of their disabilities;
4. A listing of the types of day programs utilized by clients during the year (i.e. Day Developmental Training Services, Sheltered Workshops, Day Hospital, College, Competitive Employment, etc.);
5. A description of the coordination that occurred with other agencies and services in the community/area;
6. Identifying gaps in services in the organizations' community for the client-type served;
7. Identifying problems encountered, if any, during the year (examples include such elements as zoning, neighborhood opposition, client difficulties with law enforcement, accessing existing resources, safety issues).

The annual statement (six in all for each organization) shall be submitted within sixty (60) days upon completion of each year of service.

Interested persons may submit written comments on the proposed rule through February 5, 1982 to the Assistant Secretary of the Offices listed above. These Assistant Secretaries are responsible for responding to inquiries about the proposed rule.

George A. Fischer  
Secretary

### RULE

#### Department of Natural Resources Office of Conservation

##### AMENDMENT TO STATEWIDE ORDER NO. 29-B

Amendment concerning the underground injection control of salt water disposal wells, enhanced recovery injection wells, and liquid hydrocarbon storage wells.

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Pursuant to power delegated under the laws of the State of Louisiana, and particularly Title 30 of the Louisiana Revised Statutes of 1950, Sections 30:4 C(1)(2)(3)(6)(8)(9)(10)(14)(16), and I; and after a public hearing held under Docket No. UIC-1 in Baton Rouge, Louisiana, on September 23, 1981, following publication of notice and notice thereof as required by the Louisiana Administrative Procedure Act, Title 49, Sections 951 through 968 of the Louisiana Revised Statutes of 1950, as amended, the following rules and regulations are promulgated by the Commissioner of Conservation as being reasonably necessary to govern disposal wells which inject (into the sub-surface) fluids which are brought to the surface in connection with conventional oil or natural gas production, for enhanced recovery of oil and natural gas, and for storage of hydrocarbons which are liquid at standard temperature and pressure (Class II) and otherwise carry out the provisions of the laws of this State.

Section XV of Statewide Order 29-B, as amended effective November 1, 1967, provides for the prevention of endangerment of underground sources of drinking water (fresh water) by the disposal of produced salt water into disposal (injection) wells. In response to the minimum requirements mandated by the Safe Drinking Water Act (P.L. 93-523), Section 1425, the Commissioner has amended Section XV and has made the following findings:

#### FINDINGS

The Commissioner of Conservation finds as follows:

1. That rules and regulations should be amended or established to govern injection wells used for the injection of fluids brought to the surface in connection with conventional oil or natural gas production, for enhanced recovery of oil and natural gas, and for storage of hydrocarbons which are liquid at standard temperature and pressure (Class II) as well as to regulate the surface and storage and surface facilities at the injection site and that Section XV, Paragraphs 1 through 18 below are reasonable and will carry out the purpose and intent of the laws of this State.

#### ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

1. Statewide Order No. 29-B, Section XV, is hereby amended as follows:

##### SECTION XV - Pollution Control

##### 1. Permits Required:

A. Permits are required for wells which inject fluids:

1) Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection.

2) For enhanced recovery of oil and natural gas; and

3) For storage of hydrocarbons which are liquid at standard temperature and pressure.

B. Sub-surface injection or disposal by use of a well as described in paragraph 1 (A) above is prohibited unless authorized by permit or rule. This authorization shall be conditioned upon the applicant taking necessary or corrective action to protect underground sources of drinking water as specified by the Commissioner. "Underground source of drinking water (USDW)" means an aquifer or its portion:

a)1) which supplies any public water system; or

2) which contains a sufficient quantity of ground water to supply a public water system; and

i) currently supplies drinking water for human consumption; or

ii) contains fewer than 10,000 mg/1 total dissolved solids; and

b) which is not an "exempted aquifer" (see Section 20.08 of Statewide Order 29-N-1.)

C. Existing enhanced recovery, saltwater disposal, and liquid hydrocarbon storage wells are authorized by rule and are not required to reapply for a new permit. However, they are subject to the provisions of paragraph 10 (C) of this amendment.

D. The provisions and requirements of this Section shall apply to underground injection by Federal agencies or any other person whether or not occurring on property owned or leased by the United States.

##### 2. Disposal of produced salt water:

A. Produced salt water shall be disposed of into subsurface formations not productive of hydrocarbons, except:

1) It may be disposed of in pits where such method and pits have been approved by the Commissioner of Conservation.

2) It may be disposed of in tidally affected waters, brackish waters or any other waters unsuitable for human consumption or agricultural purposes.

B. Produced salt water shall not be disposed of into a zone producing or productive of hydrocarbons unless such disposal is approved by the Commissioner of Conservation after a public hearing or unless prior approval has been granted to use the proposed zone for salt water disposal.

##### 3. Application Requirements for New Enhanced Recovery Injec-

tion and New Salt Water Disposal Wells:

A. Each application for the approval of a new enhanced recovery injection well or disposal well shall be filed on Form MD-10R and shall be verified by a duly authorized representative of the operator. The original and one (1) copy of the application and two (2) complete sets of attachments shall be furnished to the Commissioner. An application for the approval of an injection well which is a part of a proposed enhanced recovery operation may be consolidated with the application for the approval of the enhanced recovery project (see paragraph 4 of this amendment).

B. The application for the approval of an enhanced recovery injection or disposal well or wells shall be accompanied by:

1) A map showing the disposal well or enhanced recovery project area for which a permit is sought and the applicable area of review (for individual wells -  $\frac{1}{4}$  mile radius; for enhanced recovery projects - the project area plus a circumscribing area the width of which is  $\frac{1}{4}$  mile) and the following information:

a) Within the area of review, the map must show the number or name and location of all existing producing wells, injection wells, abandoned wells and dry holes.

b) Identification of the surface owner of the land on which the enhanced recovery injection or disposal is to be located within the area of review.

c) Identification of each operator of a producing leasehold within the area of review.

d) The map may also show surface bodies of water, mines (surface and subsurface), quarries and other pertinent surface features including residences and roads, and faults if known or projected.

e) Only information on file with the Office of Conservation and pertinent information known to the applicant is required to be included on this map.

2) If the well has been drilled, a copy of the Well History and Work Resume Report (WH-1) and any available electric or radioactive log of the well. A descriptive statement of the proposed zone to be used for injection or disposal. The approximate depth of said zone in the case of undrilled wells along with an electric or radioactive log of a nearby well, if available.

3) A schematic diagram of the well showing:

a) the total depth, drilled out depth of plugged-back depth of the well.

b) the depth of the top of the injection or disposal interval.

c) the geological name of the injection or disposal zone.

d) the depths of the tops and bottoms of the casing and amount of cement used to cement each string of casing. (Every well used for injection shall be cased, cemented, and tested in accordance with paragraphs 7 and 9 of this order.)

e) the size of the casing and tubing, and the depth of the packer.

f) the depth of the base of the deepest USDW.

4) Information showing that injection into the proposed zone will not initiate fractures through the overlying strata which could enable the injection fluid or formulation fluid to enter an underground source of drinking water. This requirement will be satisfied upon proper demonstration by the applicant that the pressure in the well at the depth of injection shall not exceed 75 percent of the pressure needed to fracture the formation.

5) Proposed operating data:

a) Daily injection rates and pressures.

b) Geologic names, depths, and location of injection fluid sources.

c) Qualitative and quantitative analysis of water from two or more existing water wells within one-quarter mile of proposed enhanced recovery injection or disposal well or wells. Give location of said water wells and date(s) samples were taken, or statement why samples were not submitted.

d) Qualitative and quantitative analysis of representative sample of water to be injected.

e) Geological name of injection zone and vertical distance separating top of injection zone from base of the deepest USDW, and a geological description of each major separating bed including individual bed thickness.

f) Geological name, if known, and depth of the base of the

deepest USDW.

4. Application Requirements for Enhanced Recovery Projects:

A. An enhanced recovery project shall be permitted only by order of the Commissioner after notice and public hearing.

B. The application for a permit authorizing an enhanced recovery project shall contain the following:

1) The names and addresses of the operator or operators of the project.

2) In addition to the information on the map required in Paragraph 3B(1) of this amendment, show the lease, group of leases, unit or units included within the proposed project;

3) The common source or sources of supply in which all wells are currently completed;

4) The name, description and depth of each common source of supply to be affected;

5) A log of a representative well completed in the common source or sources of supply;

6) A description of the existing or proposed casing programs for injection wells, and the proposed method of testing all casing;

7) A description of the injection medium to be used, its source or sources and the estimated amounts to be injected daily;

8) For a project within an allocated pool, a tabulation showing recent gas-oil ratios and oil and water production tests for each of the producing oil and/or gas wells;

9) The proposed plan of development of the area included within the project;

10) A schematic diagram of existing and/or proposed injection well(s) as set out in Paragraph 3 B (3) of this amendment;

C. A copy of the application shall be mailed to each operator offsetting the project as shown on the application within five days after the application is filed. An affidavit of compliance with this rule shall be filed on or before the hearing.

5. Permit Notice Requirements

A. Applications for salt water disposal, enhanced recovery wells or projects, and other Class II facilities shall be advertised in the official state journal.

B. Notice requirements for commercial salt water facilities can be found in Paragraph 13 of the Amendment to Statewide Order 29-B (Section XV) entitled "Off-site Disposal of Drilling Mud and Salt Water" dated July 20, 1980.

C. Public Hearings

1) If any person protests the application for a saltwater disposal or other Class II facility by filing written comments with the Commissioner within 15 days following publication of notice, the application shall be set for public hearing at the election of the applicant or the Commissioner.

2) All enhanced recovery well or project applications shall be approved only after a 30 day comment period and public hearing. The notice of hearing shall be mailed out to each interested owner and to each interested party.

D. The Commissioner may administratively approve or deny the application for a Class II well other than an enhanced recovery well or project, after review, without a public hearing if there are no comments received during the application comment period. If the Commissioner denies administrative approval, the operator shall have a right to a public hearing on the decision.

E. Response to Comments

1) At the time that any final permit is issued, following a public hearing, the Commissioner shall issue a response to comments. This response shall briefly describe and respond to all significant comments on the permit application raised during the public comment period, or during any hearing.

2) The response to comments shall be available to the public.

6. Duration of Permits

A. Permits authorizing injection into enhanced recovery injection wells and disposal wells shall remain valid for the life of the well, unless revoked by the Commissioner for just cause.

B. A permit granting underground injection may be modified, revoked and reissued, or terminated during its term for cause. This may be at the request of any interested person or at the

Commissioner's initiative. All requests shall be in writing and shall contain facts or reasons supporting the request.

C. A permit may be modified, revoked and reissued, or terminated after notice and hearing, if:

1) There is a substantial change of conditions in the enhanced recovery injection well or the disposal well operation, or there are substantial changes in the information originally furnished.

2) Information as to the permitted operation indicates that the cumulative effects on the environment are unacceptable, such as pollution of USDW's.

3) There are substantial violations of the terms and provisions of the permit.

4) The operator has misrepresented any material facts during the permit issuance process.

#### 7. Transfer of Permits

A permit authorizing an enhanced recovery injection well or disposal well shall not be transferred from one operator to another without the approval of the Commissioner (Form MD-10-R-A).

#### 8. Construction Requirements For New Wells

A. Each new enhanced recovery injection well or disposal well shall be completed, equipped, operated and maintained in a manner that will prevent endangerment of USDW's or damage to sources of oil or gas and will confine injected fluids to the interval or intervals approved.

B. The casing and cementing program shall conform to the following requirements:

1) Surface casing set through the base of the deepest USDW and cemented back to the surface in accordance with Section V B(1) of this order.

2) Long string casing shall be cemented above the injection zone in accordance with Section V D (3) of this Order.

C. Tubing and Packer. New wells drilled or existing wells converted for disposal after the effective date of this rule shall be equipped with tubing set on a mechanical packer. Packers shall be set no higher than 150 feet above the top of the disposal zone.

D. Pressure Valves. The wellhead shall be equipped with above ground pressure observation valves on the tubing and for each annulus of the well; said valves will be equipped with 1/2-inch female fittings. Operators of existing wells shall comply with this requirement by no later than six months after adoption of this amendment.

E. Well History. Within 20 days after the completion or conversion of a disposal well, the owner or operator shall file in duplicate to the Commissioner a completed form WH-1.

#### 9. Monitoring and Reporting Requirements

A. The operator shall monitor injection pressure and injection rate of each enhanced recovery injection well or disposal well on a monthly basis with the results reported annually on Form SWD-1R-2.

B. The operator shall report on Form SWD-1R-2 any casing annulus pressure monitoring used in lieu of pressure testing and any other casing annulus pressure test performed.

C. All reports submitted to the Office of Conservation shall be signed by a duly authorized representative of the operator.

D. The operator of an enhanced recovery injection well or disposal well shall, within 30 days, notify the Commissioner of the date upon which injection or disposal commenced.

E. The operator shall request permission from the Commissioner for suspension of injection if an injection well or project is to be removed from service for a period of six months or more and give reasons or justification for such suspension of injection. Said permission shall not exceed one year. After one year, the well or well(s) in a project shall be plugged and abandoned as outlined in Section XIX of this Order. The operator may request a hearing for

an extension exceeding one year. Wells required for standby service, provided they meet all requirements for wells in active service, are exempt from the plugging requirements of this paragraph.

F. The operator shall, within 30 days notify the Commissioner of the date injection into an enhanced recovery injection well, enhanced recovery injection project or disposal well is terminated permanently and the reason therefore; at which time the permit authorizing the well or project shall expire. Notification of project injection termination must be accompanied by an individual well status report for all project injection wells.

G. Mechanical failures or downhole problems which indicate an enhanced recovery injection well or disposal well is not, or may not be, directing the injected fluid into the permitted or authorized injection zone may be cause to shut-in the well. If said condition may endanger an USDW, the operator shall orally notify the Commissioner within 24 hours at (504) 342-5515. Written notice of this failure shall be submitted to the Office of Conservation within five days of the occurrence together with a plan for testing and/or repairing the well. Results of such testing and well repair shall be included in the annual monitoring report to the Commissioner. Any mechanical downhole well repair performed on the well not previously reported shall also be included in the annual report.

#### 10. Logging and Testing Requirements

##### A. New Wells

1) Before operating a new well drilled for enhanced recovery injection or salt water disposal, the casing outside the tubing shall be tested under the supervision of the Office of Conservation at a pressure not less than the maximum authorized injection pressure, or at a pressure of 300 psi, whichever is greater.

2) a) If open-hole logs of a nearby well were not run through the lowermost USDW, a new well shall be logged from the surface to the total depth before casing is set.

b) If such logs exist for a nearby well, the new well need only be logged electrically below the surface casing before the longstring is set.

3) After cementing the casing, a cement bond log, temperature survey, x-ray log, density log or some other acceptable test shall be run to assure there are no channels adjacent to the casing which will permit migration of fluids up the well bore from the disposal formation to the lowermost USDW. The casing program shall be designed for the lifetime of the well.

##### B. Converted Wells

Before operating an existing well newly converted to enhanced recovery injection or disposal, the casing outside the tubing shall be tested under supervision of the Office of Conservation at a pressure of 1000 psi or maximum authorized injection pressure, whichever is less, provided no testing pressure shall be less than 300 psi.

##### C. Existing Wells

1) An injection well has mechanical integrity if:

a) There is no significant leak in the casing, tubing or packer; and

b) There is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore.

2) One of the following methods must be used to evaluate the absence of significant leaks under paragraph c(1)(a) above:

a) Monitoring of annulus pressure; or

b) Pressure test with liquid; or

c) Records of monitoring showing the absence of significant changes in the relationship between injection pressure and injection flow rate for the following enhanced recovery wells:

i. Existing wells completed without a packer provided that a pressure test has been performed and the data is available and

provided further that one pressure test shall be performed at a time when the well is shut down and if the running of such a test will not cause further loss of significant amounts of oil or gas; or

ii. Existing wells constructed without a long string casing, but with surface casing which terminates at the base of the lowest USDW provided that local geological and hydrological features allow such construction and provided further that the annular space shall be visually inspected. For these wells, the Commissioner shall prescribe a monitoring program which will verify the absence of significant fluid movement from the injection zone into an USDW.

3) One of the following methods must be used to determine the absence of significant fluid movement under paragraph C(1)(b) above:

a) Cementing records demonstrating the presence of adequate cement to prevent such migration; or

b) The results of a temperature or noise log.

4) The Commissioner may approve a request for the use of a test to demonstrate mechanical integrity other than those listed in paragraphs C(2) and (3) above if the proposed test will reliably demonstrate the mechanical integrity for wells for which its use is proposed.

5) Each disposal and enhanced recovery well shall demonstrate mechanical integrity at least once every five years. The Commissioner will prescribe a schedule and mail notification to operators to allow for orderly and timely compliance with this requirement.

D. The operator shall notify the Commissioner at least 48 hours prior to the testing. Testing shall not commence before the end of the 48-hour period unless authorized by the Commissioner. The Commissioner may authorize or require alternative test or surveys as is deemed appropriate and necessary.

E. A complete record of all mechanical integrity pressure tests shall be made out, verified and filed in duplicate on the Form PLT#1 within 30 days after the testing.

11. Confinement of Fluids. If the operator or the Commissioner determines that the disposal operation is causing fluid to enter an unauthorized stratum or to escape to the land surface, the operator shall shut in the disposal well immediately and notify the Commissioner by telephone within 24 hours at (504) 342-5515. Injection into the disposal well shall not be resumed until the Commissioner has determined that the well is in compliance with all material permit conditions. If a certificate of compliance is not issued within 90 days, the permit shall be cancelled and the disposal well shall be plugged and abandoned in accordance with Section XIX of this Order.

12. Enhanced recovery injection wells and disposal wells shall be plugged in accordance with the provisions of the Commissioner's rules governing the plugging of oil and gas wells, as found in Section XIX of this Order.

13. Off-site Disposal of Drilling Mud and Salt Water.

See Amendment to Statewide Order 29-B, Off-site Disposal of Drilling Mud and Salt Water Generated from Drilling and Production of Oil and Gas Wells, July 20, 1980.

Amendment to Statewide Order 29-B, Section XV, Paragraph 13.2.b.1(b)

b. Documentation must be presented which shows that an impermeable barrier exists at least five feet below the base of the pit to prevent vertical movement of fluid contained therein plus sufficient impermeable material to prevent horizontal fluid movement from the pit. This can be analyzed borings within 100 feet of the pit(s) levee(s) by an independent and qualified laboratory to be evaluated by the Office of Conservation's Underground Injection Control (UIC) Division. This data should include (1) two borings per acre, (2) borings must be at least 10 feet below base of pit, (3) there must be at least five feet of clay or impermeable material

below the base of the pit, and (4) clay or impermeable material must be at least  $10^{-7}$  md permeability.

14. Liquid Hydrocarbon Storage Wells

A. Authorization for the use of salt dome cavities for storage of liquid hydrocarbons is provided in Statewide Order No. 29-M.

B. Authorization for all other liquid hydrocarbon storage wells will be granted by the Commissioner after notice and hearing, provided there is a finding that the proposed operation will not endanger USDW's.

15. A filing fee of \$100 shall be attached to each application for a salt water disposal well or enhanced recovery project.

16. Annular Disposal. The Commissioner may approve annular disposal of salt water for a period of one year. The applicant shall provide the Commissioner a radioactive tracer survey (accompanied by an interpretation of the survey by the company who performed the test) to prove that the injected fluid is entering the correct zone and there are no leaks in the casing. The applicant shall furnish the Commissioner an economic study of the well and the economics of alternative methods for disposal of the produced salt water.

17. Exceptions. The Commissioner may grant an exception to any provision of this amendment upon proof of good cause. The operator must show proof that such an exception will not endanger USDW's.

18. This Order shall supersede Section XV of Office of Conservation Statewide Order No. 29-B (effective November 1, 1967). Any existing special orders authorizing disposal of salt water under conditions which do not meet the requirements hereof shall be superseded by this Amendment and the operator shall obtain authority for such disposal after complying with the provisions hereof.

19. Effective Date.

This Amendment shall be effective on and after February 20, 1982.

R.T. Sutton  
Commissioner of Conservation

## COMMITTEE REPORT

### House of Representatives Natural Resources Committee Subcommittee on Oversight

Pursuant to the provisions of R.S. 49:968, the Oversight Subcommittee of the House of Representatives Natural Resources Committee met on February 8, 1982, and reviewed certain changes in state regulations proposed by the Office of Conservation, for which notice of intent was published in the January 20, 1982, Louisiana Register with the following results:

1) Amendment of the definition of "Gas" contained in Regulation No. 1 of the Office of Conservation, Department of Natural Resources - Approved by a vote of 5-0.

John N. John, III  
Vice Chairman  
Oversight Subcommittee

## RULE

### Department of Natural Resources Office of Conservation

#### STATEWIDE ORDER NO. 29 - N - 1 UNDERGROUND INJECTION CONTROL PROGRAM REGULATIONS for CLASS I, III, IV, AND V WELLS

Statewide Order adopting rules and regulations to regulate the disposal of waste products into the subsurface by means of an injection well, to regulate wells which inject for extraction of minerals or energy, or to regulate any other use of an injection well described herein, excluding wells regulated by Statewide Order 29-B.

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Pursuant to power delegated under the laws of the State of Louisiana, and particularly Title 30 of the Louisiana Revised Statutes of 1950, Sections 30:1D, 4C(16), and 4.1; and after a public hearing held under Docket No. UIC-1 in Baton Rouge, Louisiana, on September 23, 1981, following publication of notice and notice thereof as required by the Louisiana Administrative Procedure Act, Title 49, Sections 951 through 968 of the Louisiana Revised Statutes of 1950, as amended, the following rules and regulations are promulgated by the Commissioner of Conservation as being reasonably necessary to govern injection wells used for the injection of waste or waste products into the subsurface (Class I, IV), wells which inject for extraction of minerals or energy (Class III), or any other use of an injection well described herein (Class V), excluding wells regulated by Statewide Order 29-B (Class II).

#### FINDINGS

The Commissioner of Conservation finds as follows:

1) That rules and regulations should be established to govern waste disposal wells used for the injection of waste or waste products into the subsurface (Class I, IV), wells which inject for extraction of minerals or energy (Class III), or any other use of an injection well described herein (Class V), excluding wells regulated by Statewide Order 29-B (Class II, and that Sections 10.0 through 80.0 below are reasonable and will carry out the purpose and content of the laws of this State:

13) "Disposal well" means a well used for the disposal of waste into a subsurface stratum.

14) "Drilling mud" means heavy suspension used in drilling an "injection well" introduced down the drill pipe and through the drill bit.

15) "Effective date" means the date that the Louisiana State UIC Program is approved by the Environmental Protection Agency.

16) "Emergency permit" means a UIC permit issued in accordance with Part 80.

17) "Exempted aquifer" means an "aquifer" or its portion that meets the criteria of the definition of "underground source of drinking water" but which has been exempted according to the procedures set forth in Section 20.08.

18) "Existing injection well or project" means an "injection well or project" other than a "new injection well or project".

19) "Experimental technology" means a technology which has not been proven feasible under the conditions in which it is being tested.

20) "Facility or activity" means any facility or activity (including land or appurtenances thereto) that is subject to these regulations.

21) "Fault" means a surface or zone of "rock" fracture along which there has been displacement.

22) "Flow rate" means the volume per time unit given to the flow of fluid substance which emerges from an orifice, pump, turbine or passes along a conduit or channel.

23) "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas or any other form or state.

24) "Formation" means a body of rock characterized by a degree of lithologic homogeneity which is prevailing, but not necessarily, tabular and is mappable on the earth's surface or traceable in the subsurface.

25) "Formation fluid" means "fluid" present in a "formation" under natural conditions as opposed to introduced fluids, such as "drilling muds."

26) "Generator" means any person, by site location, whose act or process produces hazardous waste identified or listed in the Louisiana Hazardous Waste Management Program.

27) "Ground water" means water below the land surface in a zone of saturation.

28) "Hazardous waste" means a hazardous waste as defined in the Louisiana Hazardous Waste Management Program.

29) "Hazardous Waste Management (HWM) facility" means all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing or disposing of "hazardous waste."

30) "Injection well" means a well into which "fluids" are being injected other than fluids associated with active drilling operations.

31) "Injection zone" means a geological "formation", group of formations or part of a formation receiving fluids through a "well."

32) "Ionizing radiation" means any electromagnetic or particulate radiation capable of producing ions, directly or indirectly, in its passage through matter. It includes any or all of the following; alpha rays, beta rays, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons, and other atomic particles; but not sound or radiowaves, or visible, infrared or ultraviolet light.

33) "Lithology" means the description of rocks on the basis of their physical and chemical characteristics.

34) "Major facility" means any Class I or IV hazardous waste injection well "facility or activity."

35) "Manifest" means the shipping document originated and signed by the "generator" which contains the information required by the Hazardous Waste Management Program.

36) "New injection well" means a "well" which began injection after the Louisiana Underground Injection Control program is approved and the applicable (Office of Conservation) rules and regulations are promulgated.

37) "Owner or operator" means the owner or operator of any facility or activity subject to regulation under the UIC program.

38) "Packer" means a device lowered into a well to produce a fluid tight seal within the casing.

39) "Permit" means an authorization, license, or equivalent control document issued by the Commissioner to implement the requirements of these regulations. "Permit" includes, but it is not limited to, area permits and emergency permits. "Permit" does not include UIC authorization by rule or any permit which has not yet been the subject of final agency action, such as a "draft permit."

40) "Person" means an individual, association, partnership, corporation, municipality, state or federal agency, or an agent or employee thereof.

41) "Plugging" means the act or process of stopping the flow of water, oil or gas into or out of a formation through a borehole or well penetrating that formation.

42) "Plugging record" means a systematic listing of perma-

ment or temporary abandonment of water, oil, gas, test, exploration, and waste injection wells.

43) "Pressure" means a total load or force per unit area acting on a surface.

44) "Project" means a group of wells in a single operation.

45) "Public waste system" means a system for provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals. Such term includes (a) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (b) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

46) "Radiation" means any electromagnetic or ionizing radiation including gamma rays and X-rays, alpha and beta particles, high-speed electrons, neutrons, protons and other nuclear particles; but not sound waves. Unless specifically stated otherwise, these regulations apply only to ionizing radiation.

47) "Radioactive material" means any material, whether solid, liquid, or gas, which emits radiation spontaneously.

48) "Radioactive waste" means any waste which contains "radioactive material" for which no use or reuse is intended and which is to be discarded.

49) "RCRA" means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (P.L. 94-580 as amended by P.L. 95-609, 42 U.S.C. 6901 et seq.)

50) "Schedule of compliance" means a schedule of remedial measures included in a "permit," including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the Act and these regulations.

51) "Site" means the land or water area where any "facility or activity" is physically located or conducted including adjacent land used in connection with the facility or activity.

52) "Sole or principal source aquifer" means an aquifer which is the sole or principle drinking water source for an area and which, if contaminated, would create a significant hazard to public health.

53) "State" means the State of Louisiana.

54) "Stratum (plural Strata)" means a single sedimentary bed or layer, regardless of thickness, that consists of generally the same kind of rock material.

55) "Surface casing" means the first string of casing to be installed in the well, excluding conductor casing.

56) "Total dissolved solids" means the total dissolved filterable solids as determined by use of the method specified in the 14th edition, pp. 91-92, of 'Standard Methods for the Examination of Water and Waste Water.

57) "UIC" means the Louisiana State Underground Injection Control Program.

58) "Underground injection" means a "well injection."

59) "Underground source of drinking water (USDW)" means an "aquifer" or its portion;

a) 1) which supplies any public water system; or

2) which contains a sufficient quantity of ground water to supply a public water system; and

i) currently supplies drinking water for human consumption; or

ii) contains fewer than 10,000 mg/l total dissolved solids; and which is not an "exempted aquifer."

60) "USDW" means "Underground Source of Drinking Water."

61) "Well" means a bored, drilled or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension.

62) "Well injection" means the subsurface emplacement of

fluids through an injection well.

63) "Well plug" means a fluid tight seal installed in a borehole or well to prevent movement of fluids.

64) "Well stimulation" means several processes used to clean the well bore, enlarge channels, and increase pore space in the interval to be injected thus making it possible for wastewater to move more readily into the formation, and includes 1) surging, 2) jetting, 3) blasting, 4) acidizing, or 5) hydraulic fracturing.

65) "Workover" means to perform one or more of a variety of remedial operations on an injection well such as cleaning, perforation, change tubing, deepening, squeezing, plugging back, etc. (see Section 50.08 (B)).

## PART 20 — General Provisions

20.01 Applicability. The rules and regulations of this section apply to all owners and operators of proposed and existing Class I, III, IV, and V injection wells in the State of Louisiana.

20.02 Prohibition of Unauthorized Injection. Any underground injection, except as authorized by a permit or rule, is prohibited after the effective date of these regulations. Construction of any well required to have a permit under these regulations is prohibited until the permit has been issued.

20.03 Classification of injection wells.

### A. Class I

1) Wells used by generators of hazardous wastes or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation containing, within one-fourth mile radius of the well bore, an underground source of drinking water;

2) Other industrial and municipal disposal wells which inject fluids beneath the lowermost formation containing an underground source of drinking water within one-fourth mile radius of the well bore.

### B. Class II. Wells which inject fluids:

1) Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection.

2) For enhanced recovery of oil and natural gas; and

3) For storage of hydrocarbons which are liquid at standard temperature and pressure.

C. Class III. Wells which inject for extraction of minerals or energy, including:

1) Mining of sulfur by the Frasch process;

2) In situ production of uranium or other metals. This category includes only in-situ production from ore bodies which have not been conventionally mined. Solution mining of conventional mines such as stopes leaching is included in Class V.

3) Solution mining of salts or potash.

### D. Class IV

1) Wells used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous wastes or radioactive wastes into a formation which within one-fourth mile of the well contains an underground source of drinking water.

2) Wells used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous wastes or radioactive waste above a formation which within one-fourth mile of the well contains an underground source of drinking water.

3) Wells used by generators of hazardous wastes or by owners or operators of hazardous waste management facilities, to dispose of hazardous wastes which cannot be classified under



paragraphs (A)(1) or (D)(1) and (2) of this section (e.g., wells used to dispose of hazardous wastes into or above a formation which contains an aquifer which has been exempted pursuant to Section 20.08).

E. Class V. Injection wells not included in Class I, II, III, or IV. Class V wells include:

a) Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump;

2) Cesspools, including multiple dwelling, community or regional cesspools, or other devices that receive wastes, which have an open bottom and sometimes have perforated sides (see paragraph F. of this section).

3) Cooling water return flow wells used to inject water previously used for cooling;

4) Drainage wells used to drain surface fluid, primarily storm runoff, into a subsurface formation;

5) Dry wells used for the injection of wastes into a subsurface formation;

6) Recharge wells used to replenish the water in an aquifer;

7) Salt water intrusion barrier wells used to inject water into a USDW to prevent the intrusion of salt water into the USDW;

8) Sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined out portions of subsurface mines, whether what is injected is radioactive or not;

9) Septic system wells used to inject the waste or effluent from of multiple dwelling, business establishment, community or regional business establishment septic tank (see paragraph F of this section).

10) Subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of an USDW;

11) Injection wells associated with the recovery of geothermal energy for heating, aquaculture and production of electric power;

12) Radioactive waste disposal wells other than Class IV;

13) Wells used for solution mining of conventional mines such as stopes leaching;

14) Injection wells used for in situ recovery of lignite, coal, tar sands, and oil shale;

15) Wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts;

16) Injection wells used in experimental technologies

F. Specific exclusions. The following are not covered by these regulations:

1) Individual or single family residential or non-residential cesspools, septic systems or similar waste disposal systems if such systems (a) are used solely for the disposal of sanitary waste, and (b) have the capacity to serve fewer than 20 persons a day.

2) Injection wells located on a drilling platform or other site that is beyond the State's territorial waters.

3) Any dug hole which is not used for emplacement of fluids underground.

20.04 Prohibition of Movement of Fluid into Underground Sources of Drinking Water.

A. No authorization by permit or rule shall allow the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of the Louisiana Drinking Water Regulations, Chapter VIII Of the State Sanitary Code or may otherwise adversely affect the health of persons. The applicant for a permit shall have the burden of showing that the requirements of this paragraph are met.

B. For Class I and III wells, if any water quality monitoring of an USDW indicates the movement of any contaminant into the USDW, except as authorized under Section 50, the Commissioner shall prescribe such additional requirements for construction, corrective action, operation, monitoring, or reporting (including closure of the injection well) as are necessary to prevent such movement. In the case of wells authorized by permit, these additional requirements shall be imposed by modifying the permit in accordance with Section 70.03, or the permit may be terminated under Section 70.05 if cause exists, or appropriate enforcement action may be taken if the permit has been violated. In the case of wells authorized by rule, see Section 20.05(A).

C. If at any time the Commissioner learns that a Class V well may cause a violation of the Louisiana Drinking Water Regulations, Chapter VIII of the State Sanitary Code or may be otherwise adversely affecting the health of persons, he shall:

1) Require the injector to obtain a permit;

2) Order the injector to take such actions (including, where required, closure of the injection well) as may be necessary to prevent the violation or adverse effect; or

3) Take enforcement action.

D. Notwithstanding any other provision of this section, the Commissioner may take emergency action upon receipt of information that a contaminant which is present in or likely to enter a public water system may present an imminent and substantial endangerment to the health or safety of persons.

20.05 Authorization of Underground Injection by Rule.

A. The Commissioner may authorize underground injection by rule as outlined in this paragraph.

1) Injection into existing Class I and III wells or Class III projects may be authorized by rule for up to five years from the effective date of the Louisiana UIC program. Except for commercial Class I wells in Section 20.06, all such wells must apply for a permit within four years of the effective date and receive a permit within five years of the effective date. The Commissioner will establish a schedule for repermitting prior to the effective date.

a) Rules under paragraph (A)(1) of this section shall specify that the authorization to inject shall expire:

i) Upon the effective date of the permit or permit denial, if a permit application has been filed in a timely manner as specified in Section 30.02;

ii) If a permit application has not been filed in a timely manner as specified in Section 30.02;

iii) Unless a complete permit application is pending, not later than five years after the effective date.

b) Notwithstanding the prohibition in Section 20.02, rules under paragraph (A)(1) of this section authorizing Class III wells or projects in existing fields or projects may allow them to continue normal operations until permitted, including construction, operation, and plugging and abandonment of wells provided the owner or operator maintains compliance with all applicable requirements.

c) Rules under paragraph (A)(1) of this section shall require compliance no later than one year after authorization with the following requirements applicable to permittees, except the terms "permit" and "permittee" shall be read to include rules and those authorized by rule:

i) Requirements for commercial wells injecting hazardous waste accompanied by a manifest: 20.06;

ii) Financial responsibility: 40.03;

iii) Notice of abandonment: 40.12(G).

iv) 24-hour reporting on non-compliance: 40.12(F);

v) Operating, monitoring, and reporting requirements (except mechanical integrity): 50.06, 50.07, and 50.08 (Class I) and 50.26, 50.27 and 50.28 (Class III);

vi) Plugging and abandonment: 50.10, 50.30;

vii) Recordkeeping requirements: 50.11, 50.32; and  
viii) Exemption from rule where authorized by temporary permit: 80.02.

2) a) Injection into existing Class IV wells as defined in 20.03(D)(1) may be authorized for a period not to exceed six months after approval or promulgation of the UIC program. Such rules shall apply the requirements of Section 20.06(C).

b) Injection into existing Class IV wells as defined in 20.03(D)(2) and (3) may be authorized until six months after approval or promulgation of a UIC program incorporating criteria and standards under Part 50, Subpart C applicable to Class IV injection wells. Such rules shall apply the requirements of Section 20.06(C).

3) Injection into Class V wells may be authorized by rule until requirements under future regulations become applicable.

B.) Requiring a permit.

1) The Commissioner may require any Class I, III, or V injection well or project authorized by a rule to apply for and obtain a UIC permit. Cases where UIC permits may be required include:

a) The injection well is not in compliance with any requirements of the rule: (Note: Any underground injection which violates any rule under this section is subject to appropriate enforcement action.)

b) The injection well is not or no longer is within the category of wells and types of wells operations authorized in the rule.

c) The protection of USDWs requires that the injection operation be regulated by requirements, such as for corrective action, monitoring and, reporting, or operation, which are not contained in the rule.

2) The Commissioner may require the owner or operator authorized by a rule to apply for UIC permit by sending the owner or operator a letter containing a brief statement of the reasons, an application form, a statement setting a time for the owner or operator to file the application, and a statement that upon the effective date of the UIC permit the rule no longer applies to the activities regulated under the UIC program.

3) Any owner or operator authorized by a rule may request to be excluded from the coverage of the rule by applying for a UIC permit. The owner or operator shall submit an application under Section 30.02 with reasons supporting the request, to the Commissioner. The Commissioner may grant any such request.  
20.06 Requirements for Commercial Wells Injecting Hazardous Waste Accompanied by a Manifest.

A. Applicability. The regulations in this section apply to all generators of hazardous waste, and to owners or operators of all commercial hazardous waste management facilities, using any class of well to inject hazardous wastes accompanied by a manifest.

B. Authorization. The owner or operator of any commercial injection well that is used to inject hazardous wastes accompanied by a manifest or delivery document shall apply for authorization to inject as specified in Section 30.02 within six months after the effective date of the Louisiana UIC Program.

C. Requirements. In addition to requiring compliance with the applicable requirements of this Part and Part 50, the Commissioner shall, for each facility meeting the requirements of paragraph (B) of this section, require that the owner or operator comply with the applicable requirements of the Louisiana Hazardous Waste Management program.

20.07 Elimination of Class IV Wells.

The following activities are prohibited:

A. The construction of any Class IV well for the injection of hazardous waste directly into an underground source of drinking water.

B. The injection of hazardous waste directly into an underground source of drinking water through a Class IV well that was

not in operation prior to the effective date of this Part.

C. Any increase in the amount of hazardous waste or change in the type of hazardous waste injected into a well injecting hazardous waste directly into an USDW.

D. The operations of any Class IV well injecting hazardous waste directly into an USDW after six months following approval of the State's UIC program.

E. The prohibition applicable to Class IV wells does not apply to injections of hazardous wastes into aquifers or portions thereof which have been exempted pursuant to Section 20.08. 20.08 Identification of Underground Sources of Drinking Water and Exempted Aquifers.

A. The Commissioner may identify (by narrative description, illustrations, maps, or other means) and shall protect, except where exempted under paragraph (B) of this section, as an underground source of drinking water, all aquifers or parts of aquifers which meet the definition of an "underground source of drinking water." Even if an aquifer has not been specifically identified by the Commissioner, it is an underground source of drinking water if it meets the definition.

B. After notice and opportunity for a public hearing the Commissioner may identify (by narrative description, illustrations, maps, or other means) and describe in geographic and/or geometric terms (such as vertical and lateral limits and gradient) which are clear and definite, all aquifers or parts thereof which the Commissioner proposes to designate as exempted aquifers if they meet the following criteria:

1) The aquifer does not currently serve as a source of drinking water; and

2) The aquifer cannot now and will not in the future serve as a source of drinking water because:

a) It is mineral, hydrocarbon or geothermal energy producing or can be demonstrated by a permit applicant as part of a permit application for a Class III operation to contain minerals or hydrocarbons that considering their quantity and location are expected to be commercially producible;

b) It is situated at a depth or location which makes recovery of water for drinking water purposes economically or technologically impractical;

c) It is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or

d) It is located over a Class III well mining area subject to subsidence or catastrophic collapse; or

3) The total dissolved solids content of the ground water is more than 3000 and less than 10,000 mg/l and it is not reasonably expected to supply a public water system.

C. For Class III wells, the Commissioner shall require an applicant for a permit, which necessitates an aquifer exemption under paragraph (A) of this section, to furnish the data necessary to demonstrate that the aquifer is expected to be mineral or hydrocarbon producing. Information contained in the mining plan for the proposed project, such as a map and general description of the mining zone, general information on the mineralogy and geochemistry of the mining zone, analysis of the amenability of the mining zone to the proposed mining method, and a time-table of planned development of the mining zone shall be considered by the Commissioner in addition to the information required in the well or area permit application.

#### Part 30—Permit Application Requirements

30.01 Applicability. The rules and regulations of this part apply to all Class I and III injection well or project applications required to be filed with the Department of Natural Resources (Office of Conservation) for authorization under La. R.S. 1950 Title 30.

30.02 Application Required



A) Permit application. New applicants, permittees with expiring permits, and any person required to have a permit shall complete, sign, and submit an application in triplicate to the Commissioner as described in this section. Persons currently authorized with interim status under the Resource Conservation and Recovery Act (RCRA) or authorized by rule shall apply for permits when required by the Commissioner (see paragraph (B) of this section).

B. Time to apply. Any person who performs or proposes an underground injection for which a permit is or will be required shall submit an application to the Commissioner as follows:

1) For existing Class I or III wells or projects no later than four years after inauguration of the UIC program and according to the schedule of repermitting established by the Commissioner.

2) For existing Class I commercial facilities injecting hazardous waste, within six months of the effective date of the UIC program.

3) For new Class I injection wells, a reasonable time before construction is expected to begin.

4) For new Class III injection wells, except new wells covered by an existing area permit, a reasonable time before construction is expected to begin.

30.03 Who applies? It is the duty of the owner of a facility or activity to submit an application for permit. When a facility is owned by one person and operated by another, it is the operator's duty to obtain a permit.

30.04 Signature Requirements for applications.

A) All permit applications shall be signed as follows:

1) For a corporation: by a principal executive officer of at least the level of vice-president, or a duly authorized representative of that person if the representative performs similar policy-making functions for the corporation. A person is a duly authorized representative only if:

a) The authorization is made in writing by a principal executive officer of at least the level of vice-president.

b) The authorization specifies either an individual or a position have responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

c) The written authorization is submitted to the Commissioner.

2) For partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.

B. If an authorization under paragraph (A) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the signature requirements must be submitted to the Commissioner prior to or together with any reports, information or applications to be signed by an authorized representative.

C. Certification. Any person signing a document under paragraph (A) shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

30.05 Application Contents for Class I wells. All applicants for Class I permits shall provide the following information to the Commissioner, using the application form provided:

A. Administrative Information

1) The name, mailing address, and location of the facility for which the application is submitted.

2) Ownership status as federal, state, private, public, or other entity.

3) The operator's name, address and telephone number.

4) A brief description of the nature of the business associated with the facility.

5) The activity or activities conducted by the applicant which require the applicant to obtain a permit under these regulations.

6) Up to four SIC Codes which best reflect the principal products or services provided by the facility.

7) A listing of all permits or construction approvals which the applicant has received or applied for under any of the following programs and which specifically affect the legal or technical ability of the applicant to undertake the activity or activities to be conducted under the permit filed herefor:

a) The Louisiana Hazardous Waste Management Program.

b) This or any other Underground Injection Control Program.

c) NPDES Program under the Clean Water Act.

d) Prevention of Significant Deterioration (PSD) Program under the Clean Air Act.

e) Nonattainment Program under the Clean Air Act.

f) National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act.

g) Ocean Dumping Permit under the Marine Protection Research and Sanctuaries Act.

h) Dredge or Fill Permits under Section 404 of the Clean Water Act.

i) Other Relevant Environmental Permits, including, but not limited to any State permits issued under the Louisiana Coastal Resources Program, the Louisiana Surface Mining Program or the Louisiana Natural and Scenic Streams System.

8) Jurisdiction

a) Whether the facility is located on Indian lands or other lands under the jurisdiction or protection of the federal government.

b) Whether the facility is located on state waterbottoms or other lands owned by or under the jurisdiction or protection of the State.

B. Maps and Related Information for New and Existing Wells

1) One or more maps, preferably USGS topographic map(s), with a scale of 1:24,000 showing the property boundaries of the facility, each injection well for which a permit is sought and the area of review as described in Section 50.02.

a) The map(s) must show the section, township and range of the area in which the activity is located and any parish, city or municipality boundary lines within one mile of the injection well.

b) Within the area of review of the map(s) must show the name and/or number and location of all injection wells, producing wells, abandoned wells, dry holes, surface bodies of water, springs, mines (surface and subsurface), quarries, public water systems, water wells (public and private) and other pertinent surface features including residences and roads.

c) The map(s) should also show faults if known or projected.

d) Only information of public record is required to be included on the map(s); however, the applicant is required to undertake a diligent search to locate all water wells not listed in the public record.

2) Generalized maps and cross sections illustrating the regional geology and hydrology.

3) Maps and cross-sections to the necessary scale to detail

the local geology and hydrology. (Two mile radius of well minimum)

4) Any other information required by the Commissioner to evaluate the proposed well.

C. Technical information for new wells.

1) A tabulation of data on all wells within the area of review which penetrate the proposed injection zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the Commissioner may require.

2) Proposed operating data:

a) Average and maximum daily rate and volume of the injection fluid;

b) Average and maximum injection pressure; and

c) Source and an analysis of the chemical, physical, and biological characteristics of the injection fluid.

3) Proposed information testing program to obtain an analysis of the physical and chemical characteristics of the receiving formation;

4) Proposed stimulation program;

5) Proposed injection procedures (including storage and pre-injection treatment of the waste stream, and well use schedule);

6) Schematic or other appropriate drawings of the surface (well head and related appurtenances) and subsurface construction details of the system;

7) Plans (including maps) for meeting the monitoring requirements of Section 50.07.

8) Construction procedures including a cementing and casing program, logging procedures, deviation checks, and a drilling, testing, and coring program.

9) Contingency plans to cope with all shut-ins or well failures so as to prevent the migration of the contaminating fluids into underground sources of drinking water;

10) A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug or abandon the well as required by Sections 50.10 and 40.03;

11) For wells within the area of review which penetrate the injection zone but are not properly completed or plugged, the corrective action proposed to be taken under Section 50.03.

12) Calculation of the pressure increase in the proposed injection zone for a time period equal to the expected life of the well, preferably using Matthews and Russell, 1967 (*Pressure Build-up and Flow Tests in Wells*, American Institute of Mining, Met. Eng. Monograph, Vol. 1.)

13) Calculation of the expected waste front travel using a model acceptable to the Commissioner. A conservative value can be calculated by using the following formula:

$$r = \sqrt{\frac{v}{\pi b \phi}}$$

Where  $r$  = radial distance of wastewater front from well  
 $v$  = cumulative volume of injected wastewater  
 $b$  = effective reservoir thickness  
 $\phi$  = average effective porosity

(Warner, D. L. and Lehr, J. H., *An Introduction to the Technology of Subsurface Wastewater Injection*, Robert S. Kerr Environmental Research Laboratory (EPA) Research Report, 1977)

14) Any other information required by the Commissioner to evaluate the proposed well.

D. Technical information for existing wells.

1) A tabulation of data on all wells within the area of review which penetrate the injection zone, (see paragraph (C)(1) of this section);

2) Operating data as required in paragraph (C)(2) of this section;

3) Formation testing results if performed prior to well operation;

4) Stimulation program;

5) Description of injection procedures (including storage and pre-injection treatment of the waste stream and well use schedule);

6) Schematic or other appropriate drawings of the surface (well head and related appurtenances) and subsurface construction details of the system;

7) Monitoring equipment as required in Part 50;

8) Contingency plans as required in paragraph (C)(9) of this section;

9) A plugging and abandonment certificate as required in paragraph (C)(10) of this section.

10) Proposed corrective action as required in paragraph (C)(11) of this section;

11) Calculation of the pressure increase in the injection zone as required in paragraph (C)(12) of this section;

12) Calculation of the waste front travel as required in paragraph (C)(13) of this section;

13) Measurement of bottom hole pressure and temperature at the time of repermitting or during the next workover operation;

14) A graphic presentation of the well's operational history consisting of the following;

a) A plot of representative values of injection pressure and injection rate versus time, from date of initial injection to the present (indicate cumulative volume);

b) A plot of measured bottomhole pressure versus date if such measurements were made;

c) Indications of any workovers and associated problems, stimulations, waste stream changes and other events that would have a bearing on the well's performance, especially:

i) Any change of injection interval.

ii) Any other information the permittee or Commissioner may consider useful.

15) Copies of all logs and tests run during construction and subsequent operation of the well, including mechanical integrity tests.

16) A summary analysis of the data provided in paragraph (D)(15) of this section.

17) Any other information required by the Commissioner to evaluate the existing well.

30.06 Application Content for Class III wells.

Prior to the issuance of a permit for an existing Class III well or area to operate or the construction of a new Class III well the Commissioner shall consider the following information (provided on the application form):

A. Administrative Information

1) The name, mailing address, and location of the facility for which the application is submitted.

2) Ownership status as federal, state, private, public, or other entity.

3) The operator's name, address and telephone number.

4) A brief description of the nature of the business associated with the activity.

5) The activity or activities conducted by the applicant which require the applicant to obtain a permit under these regulations.

6) Up to four SIC Codes which best reflect the principal products or services provided by the facility.

7) A listing of all permits or construction approvals which the applicant has received or applied for under any of the following programs which specifically affect the legal or technical ability of the applicant to undertake the activity or activities to be conducted

by the applicant under the permit filed herefor:

- a) The Louisiana Hazardous Waste Management Program.
- b) This or any other Underground Injection Control Program.
- c) NPDES Program under the Clean Water Act.
- d) Prevention of Significant Deterioration (PSD) Program under the Clean Air Act.
- e) Nonattainment Program under the Clean Air Act.
- f) National Emission Standards for Hazardous Pollutants (NESHAPS) Preconstruction approval under the Clean Air Act.
- g) Ocean Dumping Permit under the Marine Protection Research and Sanctuaries Act.
- h) Dredge or Fill Permits under Section 404 of the Clean Water Act.
- i) Other Relevant Environmental Permits, including, but not limited to any State permits issued under the Louisiana Coastal Resources Program, the Louisiana Surface Mining Program or the Louisiana Natural and Scenic Streams System.

#### 8. Jurisdiction

- a) Whether the facility is located on Indian lands or other lands under the jurisdiction or protection of the federal government.
- b) Whether the facility is located on state waterbottoms or other lands owned by or under the jurisdiction or protection of the State.

#### B. Maps and Related Information

1) A topographic or other map extending one mile beyond the property boundaries, depicting the facility and each well where fluids are injected underground; and those wells, springs, or surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area;

2) The section, township and range of the area in which the activity is located and any parish, city or municipality boundary lines within one mile of the activity location;

3) A map showing the injection well or project area for which the permit is sought and the applicable area of review. Within the area of review, the map must show the number, or name, and location of all existing producing wells, injection wells, abandoned wells and dry holes, public water systems and water wells. The map may also show surface bodies of water, mines (surface and subsurface), quarries, and other pertinent surface features including residences and roads, and faults if known or projected. Only information of public record and pertinent information known to the applicant is required to be included on this map;

4) Maps and cross sections indicating the vertical limits of all underground sources of drinking water within the area of review, their position relative to the injection formation, and the direction of water movement, where known, in every underground source of drinking water which may be affected by the proposed injection;

5) Generalized map and cross sections illustrating the regional geologic setting;

6) Maps and cross sections detailing the geologic structure of the local area; and

7) Any other information required by the Commissioner to evaluate the proposed well or project.

#### C. Technical information for new wells.

1) A tabulation of data reasonably available from public records or otherwise known to the applicant on all wells within the area of review which penetrate the proposed injection zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the Commissioner may require. In cases where the information would be repetitive and the wells are of similar age, type, and construction, the Commissioner may elect to only require data on a representative number of wells.

#### 2) Proposed operating data:

- a) Average and maximum daily rate and volume of fluid to be injected;
- b) Average and maximum injection pressure; and
- c) Qualitative analysis and ranges in concentrations of all constituents of injected fluids. The applicant may request confidentiality.

If the information is proprietary an applicant may, in lieu of the ranges in concentrations, choose to submit maximum concentrations which shall not be exceeded. In such a case the applicant shall retain records of the undisclosed concentrations and provide them upon request to the Commissioner as part of any enforcement investigation.

3) Proposed formation testing program to obtain the information required by Section 50.24(C) and (D);

4) Proposed stimulation program;

5) Proposed injection procedure;

6) Schematic or other appropriate drawings of the surface and subsurface construction details of the system;

7) Plans (including maps) for meeting the monitoring requirements of Section 50.27;

8) Expected changes in pressure, native fluid displacement, and direction of movement of injection fluid;

9) Contingency plans to cope with all shut-ins or well failures so as to prevent the migration of the contaminating fluids into underground sources of drinking water;

10) A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug or abandon the well as required by Section 50.30 and 40.03;

11) For wells within the area of review which penetrate the injection zone but are not properly completed or plugged, the corrective action proposed to be taken under Section 50.23

30.07 Recordkeeping of Application Information. The applicant shall keep records of all pertinent data used to complete the permit applications and any supplemental information submitted under these regulations for a period of at least three years from the date the application is signed.

30.08 Confidentiality of Information. Information obtained by any rule, regulations, order, or permit term or condition adopted or issued hereunder, or by any investigation authorized thereby, shall be available to the public, unless nondisclosure is requested in writing and such information is determined by the Commissioner to require confidentiality to protect trade secrets, processes, operations, style of work, apparatus, statistical data, income, profits, losses, or in order to protect any plan, process, tool, mechanism, or compound; provided that such nondisclosure shall not apply to information that is necessary for use by duly authorized officers or employees of state or federal government in carrying out their responsibilities under these regulations or applicable federal or state law. If no claim is made at the time of submission, the Commissioner may make the information available to the public without further notice.

Claims of confidentiality for the following information will be denied: 1) the name and address of any permit applicant or permittee, and 2) information which deals with the existence, absence, or level of contaminants in drinking water.

30.09 Filing Fee. Each application shall be accompanied by a filing fee of \$100 for each well.

#### PART 40—Legal Permit Conditions

40.01 Applicability. The rules and regulations of this part set forth legal conditions for all Class I, III, IV and V well permits.

40.02 Signatories. All reports required by permits and other information requested by the Commissioner shall be signed as in applications by a person described in Section 30.04.

40.03 Financial responsibility. The permit shall require the permittee to maintain financial responsibility and resources to close, plug, and abandon the underground injection wells in a manner prescribed by the Commissioner. The permittee must show evidence of financial responsibility to the Commissioner by the submission of a surety bond, or other adequate assurance, such as financial statements or other materials acceptable to the Commissioner.

40.04 Duty to Comply. The permittee must comply with all conditions of a permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, or permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application if the Commissioner determines that such noncompliance endangers underground sources of drinking water. The permittee need not comply with the provisions of his permit to the extent and for the duration such noncompliance is authorized in a (temporary) emergency permit under Part 80.

40.05 Duty to Reapply. If the permittee wishes to continue an activity regulated by a permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

40.06 Duty to Halt or Reduce Activity. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

40.07 Duty to Mitigate. The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment such as the contamination of underground sources of drinking water resulting from noncompliance with this permit.

40.08 Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of his permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operation staffing and training, and adequate laboratory process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

40.09 Inspection and Entry. Inspection and entry shall be allowed as prescribed in Louisiana R.S. of 1950, Title 30, Section 4.

40.10 Compliance. Compliance with a permit during its terms constitutes compliance, for purposes of enforcement, with the Act and these regulations.

40.11 Property Rights. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege or servitude.

40.12 Notification Requirements.

A. Planned changes. The permittee shall give notice to the Commissioner as soon as possible of any planned physical alterations or additions to the permitted facility which may constitute a major modification of the permit.

B. Notice of Well Completion.

1. A new injection well may not commence injection until construction is complete, a notice of completion has been submitted to the Commissioner, and except for wells authorized by area permit or rule, the Commissioner has inspected or otherwise reviewed the injection well and finds it is in compliance with the conditions of the permit.

2. The Commissioner shall inspect the well within ten working days of the notice of completion required in paragraph B(1) above.

3. If the permittee has not received notice from the Commissioner of his intent to inspect or review the well or if the Commissioner has not inspected or otherwise reviewed the new

injection well within ten working days of the notice of completion in paragraph B(1) above, prior inspection or review is waived and the permittee may commence injection.

C. Anticipated noncompliance. The permittee shall give advance notice to the Commissioner of any planned changes in the permitted facility or activity which may result in non-compliance with permit requirements.

D. Transfers. A permit is not transferable to any person except after notice to the Commissioner. The Commissioner may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary. (See part 70)

E. Compliance schedules. Report of compliance or non-compliance with, or any progress reports on, interim and final requirements contained in any compliance schedule in these regulations shall be submitted to the Commissioner no later than 14 days following each schedule date.

F. Twenty-four hour reporting.

1) The permittee shall report to the Commissioner any noncompliance which may endanger health or the environment. Any information pertinent to the noncompliance shall be reported by telephone at (504) 342-5515 within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances and shall contain a description of the noncompliance and its cause; the period of non-compliance, including exact dates and times, and if the non-compliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the non-compliance.

2) The following additional information must be reported within the 24-hour period provided above:

a) Any monitoring or other information which indicates that any contaminant may cause an endangerment to a USDW.

b) Any noncompliance with a permit condition or malfunction of the injection system which may cause fluid migration into or between USDWs.

G. The permittee shall notify the Commissioner at such times as the permit requires before conversion or abandonment of the well or in the case of area permits before closure of the project.

H. Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (E) and (F) of this section, at the time quarterly reports are submitted. The reports shall contain the information listed in paragraphs (F) of this section.

I. Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Commissioner, it shall promptly submit such facts or information.

40.13 Duration of Permits.

A. UIC permits for Class I and Class V wells shall be effective for a fixed term not to exceed ten years. Permits for Class III wells shall be issued for a period up to the operating life of the facility. The Commissioner shall review each issued Class III well or area permit at least once every five years to determine whether it should be modified, revoked and reissued, terminated, or a minor modification made.

B. The term of a permit shall not be extended by modification beyond the maximum duration specified in this section.

C. The Commissioner may issue, for cause, any permit for a duration that is less than the full allowable term under this section.

40.14 Schedules of Compliance. The permit may, when appropriate, specify a schedule of compliance leading to compliance with the Act and these regulations.

A. Time for compliance. Any schedules of compliance under this section shall require compliance as soon as possible but not later than three years after the effective date of the permit.

B. Interim dates. Except as provided in paragraph (B)(2) of this section, if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

1) The time between interim dates shall not exceed one year.

2) If the time necessary for completion of any interim requirements (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

C. Reporting. The permit shall be written to require that progress reports be submitted no later than 30 days following each interim date and the final date of compliance.

40.15 Additional Conditions. The Commissioner shall impose on a case-by-case basis such additional conditions as are necessary to protect underground sources of drinking water.

## PART 50—Technical Criteria and Standards

### Subpart A—Class I Wells

50.01 Applicability. This subpart establishes technical criteria and standards for regulation of Class I wells which possess a permit or are authorized by rule.

50.2 Area of Review.

A. The area of review for each Class I injection well shall be a fixed radius around the well of not less than two miles.

B. All known unplugged or improperly plugged and abandoned wells in the area of review which penetrate the injection zone are subject to the corrective action requirements of Section 50.03.

50.03 Corrective Action.

A. Coverage. Applicants for Class I injection well permits shall identify the location of all known wells within the area of review which penetrate the injection zone. For such wells which are improperly sealed, completed or abandoned, the applicant shall also submit a plan consisting of such steps or modifications as are necessary to prevent movement of fluid into underground sources of drinking water (“corrective action”). Where the plan is adequate, the Commissioner shall incorporate it into the permit as a condition. Where the Commissioner’s review of an application indicates that the permittee’s plan is inadequate (based on the factors in paragraph (C) of this section) the Commissioner shall require the applicant to revise the plan, prescribe a plan for corrective action as a condition of the permit under paragraph (B) of this section, or deny the application.

B. Requirements.

1) Existing injection wells. Any permit issued for an existing injection well requiring corrective action shall include a compliance schedule requiring any corrective action accepted or prescribed under paragraph (A) of this section to be completed as soon as possible.

2) New injection wells. No permit for a new injection well may authorize injection until all required correction action has been taken.

3) Injection pressure limitation. The Commissioner may require as a permit condition that injection pressure be so limited that pressure in the injection zone does not cause the movement of fluids into a USDW through any improperly completed or abandoned well within the area of review. This pressure limitation shall satisfy the corrective action requirement. Alternatively, such injection

pressure limitation can be part of a compliance schedule and last until all other required corrective action has been taken.

C. In determining the adequacy of corrective action proposed by an application for a well requiring such action and in determining the additional steps needed to prevent fluid movement into underground sources of drinking water, the following criteria and factors shall be considered by the Commissioner:

- 1) Nature and volume of the injected fluid;
- 2) Nature of native fluids or by-products of injection;
- 3) Potentially affected population;
- 4) Geology;
- 5) Hydrology;
- 6) History of the injection operation;
- 7) Completion and plugging records;
- 8) Abandonment procedures in effect at the time the well was abandoned, and;

9) Hydraulic connections with underground sources of drinking water.

50.04 Construction Requirements.

A. Siting. All Class I wells shall be sited in such a fashion that they inject into a formation which is beneath the lower most formation containing an underground source of drinking water within one quarter mile radius of the well bore.

B. Casing and cementing.

1) All Class I wells shall be cased and cemented to prevent the movement of fluids into or between USDWs.

2) Cementing shall be by the pump and plug or other method approved by the Commissioner and sufficient amount of cement shall be used to fill the annular space between the hole and casing and between casing strings to the surface of the ground.

3) The casing and cement used in the construction of each new injection well shall be designed for the life expectancy of the well.

4) Surface casing shall be set to a minimum subsurface depth determined by the Commissioner to properly protect underground sources of drinking water and cemented to the surface. If the long string or intermediate casing is to be perforated, the approved casing shall be set to a depth below the injection zone and cemented to the surface. If an approved alternate method is used, such as the setting of a screen, the casing shall be set to the top of the injection zone and cemented back to the surface.

5) In determining and specifying casing and cementing requirements, the following factors shall be considered:

- a) Depth to the injection zone;
- b) Injection pressure, external pressure, internal pressure, and axial loading;
- c) Hole size;
- d) Size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specification, and construction material);
- e) Corrosive effects of injected fluid, formation fluids, and temperatures;
- f) Lithology of injection and confining intervals; and
- g) Types and grades of cement.

C. Tubing and Packer.

1) All Class I injection wells shall inject fluids through tubing with either a packer set above the injection zone or a fluid seal system approved by the Commissioner. In determining and specifying requirements for tubing, packer or fluid seal system, the following factors shall be considered:

- a) Depth of setting;
- b) Characteristics of injection fluid;
- c) Injection pressure;
- d) Annular pressure;
- e) Rate, temperature, and volume of injected fluid; and
- f) Size of casing.

2) The use of other alternatives to a packer may be allowed with the written approval of the Commissioner. To obtain approval, the operator shall submit a written request to the Commissioner, which shall set forth the proposed alternative and all technical data supporting its use. The Commissioner shall approve the request if the alternative method will reliably provide a comparable level of protection to underground sources of drinking water. The Commissioner may approve an alternative method for an individual well or for general use.

3) A corrosion resistant fluid shall be placed under pressure into the tubing-long string casing annulus. The annulus pressure shall be monitored in accordance with Sections 50.07D and 50.09B.

D. Logs and Tests. Appropriate logs and other tests shall be conducted during the drilling and construction of new Class I wells. All logs and tests shall be interpreted by the service company which processed the logs or conducted the test, or by other qualified persons. A minimum of the following logs and tests shall be conducted:

1) Deviation checks on all holes constructed by first drilling a pilot hole, and then enlarging the pilot hole by reaming or another method. Such checks shall be at sufficiently frequent intervals to assure that avenues for fluid migration in the form of diverging holes are not created during drilling.

2) For surface casing;

a) Spontaneous potential, resistivity or gamma-resistivity, and caliper logs before the casing is installed; and

b) A cement bond, temperature, or density log after the casing is set and cemented.

3) For intermediate and long string casing:

a) Spontaneous potential, resistivity or gamma-resistivity, and caliper logs before the casing is installed;

b) A fracture finder log when applicable; and

c) A cement bond log, a gamma-ray (full hole) log, and an inclination survey after the casing is set and cemented.

4) All casing strings shall be pressure tested at conditions specified by the Commissioner and reported on form CSG.T.

5) If core data is not available from nearby wells full-hole cores shall be taken from selected intervals of the injection zone and lowermost confining zone; or, if full-hole coring is not feasible or adequate core recovery is not achieved, side-wall cores shall be taken at sufficient intervals to yield representative data for selected parts of the injection zone and lowermost confining zone. Core analysis shall include a determination of permeability, porosity, bulk density, and other necessary tests.

E. Injectivity Tests. After completion of the well, injectivity tests shall be performed to determine the well capacity and reservoir characteristics. Surveys shall be performed to establish preferred injection zones. Prior to performing injectivity tests, the bottom hole pressure, bottom hole temperature, and static fluid level shall be determined, and a representative sample of formation fluid shall be obtained for chemical analysis.

F. Construction Supervision. All phases of well construction and all phases of any well workover shall be supervised by a person who is knowledgeable and experienced in practical drilling engineering and who is familiar with the special conditions and requirements of injection well construction.

#### 50.05 Pre-operation Requirements.

In order to receive approval to start operation of a new well, the permittee must supply the following to the Commissioner within 30 days of well completion:

A. A completion report containing, at a minimum, the following:

1) The drilling and complete and accurate record of the depth, thickness, and character of the strata penetrated;

2) Casing and cement records;

3) Well logs;

4) Injectivity test data;

5) Measured bottomhole temperature and pressure;

6) Core sample testing results;

7) Formation fluid analysis;

8) Compatibility testing results;

9) Test data which provides a demonstration of mechanical integrity pursuant to Section 50.09;

10) A descriptive report interpreting the results of all logs and tests;

11) A revised formation pressure build-up calculation (Section 30.05(C)(12));

12) A revised waste front travel calculation (Section 30.05(C)(13)); and

13) Revised cross sections of the injection zone using pertinent data above.

B. For commercial Class I wells, written notification that a copy of the permit has been filed with the appropriate authorities where the well is located.

C. Written notification of the anticipated well start up date. Compliance with all pre-operation terms of the permit must occur and approval to start operation must be received from the Commissioner prior to beginning injection operations (see Section 40.12).

D. The Commissioner may give permission to commence injection for an interim period of 30 days following the inspection required in Section 50.12 (B)(2). Final permission to inject will be given only upon receipt and approval of the completion report required in paragraph (A) of this section.

#### 50.06 Operating Requirements.

A. Except during stimulation, injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case shall injection pressure initiate fractures in the confining zone or cause movement of injection or formation fluids into a USDW. This requirement shall be satisfied by proper demonstration that the pressure in the disposal well at the depth of injection shall not exceed 75% of the pressure needed to fracture the formations.

B. Injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited.

C. Unless an alternative to a packer has been approved by the Commissioner, the tubing-long string casing annulus shall be filled with a corrosion resistant fluid approved by the Commissioner. A positive pressure, also approved by the Commissioner, shall be maintained on the annulus to detect well malfunctions.

D. A protective barrier shall be maintained around the wellhead and related appurtenances during all normal in-service and out-of-service periods for protection against mechanical damage.

E. A sign shall be maintained on the protective barrier of each injection well identifying the well class (Class I) operator, well name and/or number, UIC permit number, and any other information required by the Commissioner.

F. Approval by the Commissioner shall be obtained before the permittee may begin any workover operation (see Section 50.08 (B)(1)). All fluids and materials (sand, etc.) removed from a well during any workover operation shall be contained and disposed of properly.

#### 50.07 Monitoring Requirements.

A. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

B. Records of monitoring information shall include:

1) The date, exact place, and time of sampling or

measurement;

2) The individual(s) who performed the sampling or measurements;

3) the date(s) analyses were performed;

4) The individual(s) who performed the analyses;

5) The analytical techniques or methods used; and

6) The results of such analyses.

C. Injection fluids shall be sampled and analyzed with a frequency sufficient to yield data representative of their characteristics.

D. Pressure gauges shall be installed and properly maintained on the injection tubing and on the annulus at the wellhead.

E. Continuous recording devices shall be installed and maintained in proper operating condition at all times to monitor and record injection tubing pressures, injection flow rates, injection volumes, tubing-long string casing annulus pressure, and any other specified data. The instruments shall be housed in weather-proof enclosures.

F. Any wells within the area of review selected for the observation of water quality, formation pressure, or any parameter, shall be monitored at a frequency sufficient to protect USDWs.

G. Mechanical integrity shall be demonstrated and reported according to the procedures, and at the frequency, specified in Section 50.09.

#### 50.08 Reporting Requirements.

A. Quarterly reports to the Commissioner.

1) This report shall include:

a) The physical, chemical, and other relevant characteristics of the injection stream;

b) Monthly average, maximum, and minimum values for injection pressure, flow rate and volume, cumulative volume, and annular pressure;

c) The results of any mechanical integrity tests performed during the quarter;

d) The results of any other well test performed during the quarter;

e) The results of monitoring prescribed in Section 50.07 (F); and

f) The results of any well workover performed during the quarter including minor well maintenance.

2) This report shall be filed four times a year within 30 days after the quarter end and if not received as required, the Commissioner may commence appropriate enforcement action.

B. Workover reports.

1) Notification of Workover. The permittee shall notify the Commissioner by telephone at (504) 342-5515 before commencing any workover operation which requires the use of a rig. In addition, the operator must obtain a work permit prior to any workover operation such as plug and abandon, deepen, perforate, squeeze, plugback, sidetrack, pull casing, pull tubing, or change zone or completion (disposal).

2) Completed Workover Report. The first quarterly report after the completion of a workover shall include the reason for the well workover and the details of all work performed.

3) Bottom Hole Pressure Report. During major workovers, the bottom hole pressure shall be determined either by direct measurement by conventional techniques or by calculation using specified gravity of fluid in the well bore and the static fluid level as specified by the Commissioner.

#### 50.09 Mechanical Integrity Testing.

A) Mechanical integrity of Class I injection wells shall be defined as:

1) No significant leak(s) in the casing, tubing or packer, and

2) No significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore.

B) One of the following tests must be used to demonstrate the absence of significant leaks in paragraph (A)(1) above:

1) A fluid pressure test of the annular space witnessed by an Office of Conservation representative, or

2) Review of the continuous monitoring records required in Section 50.07 by an Office of Conservation representative.

C) One of the following tests may be used to demonstrate absence of significant vertical fluid movement in paragraph (A)(2) above:

1) Radioactive tracer survey;

2) High resolution temperature survey;

3) Audio Log;

4) Or other test accepted by the industry may be allowed with prior written approval from the Commissioner.

D) Frequency of mechanical integrity tests.

1) Mechanical integrity tests under paragraph (B) of this section shall be performed on an alternative basis unless otherwise ordered by the Commissioner or his representative. The frequency of this mechanical integrity testing shall be quarterly for commercial Class I wells and semi-annually for on-site Class I wells.

2) For new wells, mechanical integrity tests under paragraph (C) of this section shall be performed annually during the first two years of the well permit period and no less than once every five years thereafter. For existing wells, mechanical integrity tests under paragraph (C) shall be performed at the time of repermitting and no less than once every five years thereafter.

E) The Commissioner or his representative reserves the right to specifically require more frequent integrity testing as well as the right to specify the method of testing in specific instances.

F) Except during workovers or routine maintenance, any well which is not operational shall conform to the mechanical integrity requirements of this section and shall sustain a positive pressure on the annulus during the period of non-use. When an operator plans to take a well out of operation, he shall submit a plan to the Commissioner to assure the mechanical integrity of the well during non-use. If a well cannot meet the mechanical integrity requirements of this section, the operator shall submit a plan to the Commissioner within thirty (30) days of the test, to properly bring the facility into compliance. If a plan is not submitted within thirty (30) days or if the plan is considered inadequate, the operator will be given six (6) months to plug and abandon the well as required in Section 50.10.

#### 50.10 Plugging and Abandonment.

A) Prior to plugging and abandoning a Class I well, the permittee shall submit to the Commissioner a plan of plugging and abandonment which will include location, depth of plugs, type of cement and the general procedure for plugging. After receipt of this information, the Commissioner may approve, modify or deny the plan of abandonment; the Commissioner additionally may require the applicant to revise the plan.

B) Any Class I permit shall include conditions to ensure that plugging and abandonment of the well will not allow the movement of fluids either into an underground source of drinking water or from one USDW to another.

#### 50.11 Recordkeeping Requirements.

A) The permittee shall keep complete and accurate records of:

1) The monitoring required by the permit, including:

a) Continuous records of surface injection pressures,

b) Continuous records of the tubing-long string annulus pressures,

c) Continuous records of injection flow rates,

d) Monthly total volume of injected fluids.

2) All periodic well tests, including but not limited to:

a) Injection fluid analyses,

b) Bottom hole pressure determinations, and

c) Mechanical integrity.



B) The permittee shall retain records for all information resulting from any monitoring activities for a period of at least three (3) years from the date of the sample or measurement. This period may be extended by request of the Commissioner at any time.

C) In addition to (B) above, the permittee shall retain all records concerning the nature, composition, and volume of injected fluids until three (3) years after completion of any plugging and abandonment procedures. The Commissioner may require the owner or operator to deliver the records to the Office of Conservation at the conclusion of the retention period.

D) All records shall be made available for review upon request from a representative of the Commissioner.

#### 50.12 Waiver of requirements.

A) When injection does occur into, through, or above an underground source of drinking water, the Commissioner may authorize a Class I well with less stringent requirements for area of review, construction, mechanical integrity, operation, monitoring and reporting than required in this subpart, to the extent that the reduction in requirements will not result in an increased risk of movement of fluids into an USDW.

B) When reducing requirements under this Section, the Commissioner shall issue an order explaining the reasons for the action.

50.13 Additional Requirements. The Commissioner may prescribe additional requirements for Class I wells in order to protect underground sources of drinking water.

50.14-50.20 (Reserved).

### Subpart B—Class III Wells

50.21 Applicability. This subpart establishes criteria and standards for regulation of Class III wells or projects which possess a permit or are authorized by rule.

#### 50.22 Area of review

A. For individual Class III wells the area of review shall be a fixed radius around the well of not less than one-fourth mile.

B. For wells in a Class III project the area of review shall be the project area plus a circumscribing area the width of which is not less than one-fourth mile.

#### 50.23 Corrective Action

A. Coverage. Applicants for Class III injection well permits shall identify the location of all known wells within the injection well's area of review which penetrate the injection zone. For such wells which are improperly sealed, completed, or abandoned, the applicant shall also submit a plan consisting of such steps or modifications as are necessary to prevent movement of fluid into underground sources of drinking water ("corrective action"). Where the plan is adequate, the Commissioner shall incorporate it into the permit as a condition. Where the Commissioner's review of an application indicates that the permittee's plan is inadequate (based on the factors in paragraph (C) below) the Commissioner shall require the applicant to revise the plan, prescribe a plan for corrective action as a condition of the permit or deny the application.

##### B. Requirements

1) Existing injection wells. Any permit issued for an existing injection well requiring corrective action shall include a compliance schedule requiring any corrective action accepted or prescribed under paragraph (A) of this section to be completed as soon as possible.

2) New injection wells. No permit for a new injection well may authorize injection until all required corrective action has been taken.

3) Injection pressure limitation. The Commissioner may require as a permit condition that injection pressure be so limited that pressure in the injection zone does not cause the movement of fluids into a USDW through any improperly completed or abandoned well within the area of review. This pressure limitation shall

satisfy the corrective action requirement. Alternatively, such injection pressure limitation can be part of a compliance schedule and last until all other required corrective action has been taken.

C. When setting corrective action requirements for Class III wells the Commissioner shall consider the overall effect of the project on the hydraulic gradient in potentially affected USDWs, and the corresponding changes in potentiometric surface(s) and flow direction(s) rather than the discrete effect of each well. If a decision is made that corrective action is not necessary based on the determinations above, the monitoring program required in Section 50.27 shall be designed to verify the validity of such determination.

D. In determining the adequacy of corrective action proposed by the applicant under paragraph (A) above and in determining the additional steps needed to prevent fluid movement into underground sources of drinking water, the following criteria and factors shall be considered by the Commissioner:

- 1) Nature and volume of injected fluid;
- 2) Nature of native fluids or by-products of injection;
- 3) Potentially affected population;
- 4) Geology;
- 5) Hydrology;
- 6) History of the injection operation;
- 7) Completion and plugging records;
- 8) Abandonment procedures in effect at the time the well was abandoned; and
- 9) Hydraulic connections with underground sources of drinking water.

#### 50.24 Construction Requirements

A. All new Class III wells shall be cased and cemented to prevent the migration of fluids into or between underground sources of drinking water. The Commissioner may waive the cementing requirement for new wells in existing projects or portions of existing projects where he has substantial evidence that no contamination of underground sources of drinking water would result. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors shall be considered.

- 1) Depth to the injection zone;
- 2) Injection pressure, external pressure, internal pressure, axial loading, etc.;
- 3) Hole size;
- 4) Size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specification, and construction material);
- 5) Corrosiveness of injected fluids and formation fluids;
- 6) Lithology of injection and confining zones; and
- 7) Type and grade of cement.

B. Appropriate logs and other tests shall be conducted of new Class III wells. A descriptive report interpreting the results of such logs and tests shall be prepared by a knowledgeable log analyst and submitted to the Commissioner. The logs and tests appropriate to each type of Class III well shall be determined based on the intended function, depth, construction, and other characteristics of the well, availability of similar data in the area of the drilling site and the need for additional information that may arise from time to time as the construction of the well progresses. Deviation checks shall be conducted on all holes where pilot holes and reaming are used, unless the hole will be cased and cemented by circulating cement to the surface. Where deviation checks are necessary they shall be conducted at sufficiently frequent intervals to assure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.

C. Where the injection zone is a water bearing formation, the following information concerning the injection zone shall be



determined or calculated for new Class III wells or projects:

- 1) Fluid pressure;
- 2) Fracture pressure; and
- 3) Physical and chemical characteristics of the formation fluids;

D. Where the injection formation is not a water bearing formation, the information in paragraph (C)(2) of this section must be submitted.

E. Where the injection is into a formation which contains water with less than 10,000 mg/1 TDS monitoring wells shall be completed into the injection zone and into any underground sources of drinking water above the injection zone which could be affected by the mining operation. These wells shall be located in such a fashion as to detect any excursion of injection fluids, process by-products, or formation fluids outside the mining area or zone. If the operation may be affected by subsidence or catastrophic collapse the monitoring wells shall be located so that they will not be physically affected.

F. Where injection is into a formation which does not contain water with less than 10,000 mg/1 TDS, no monitoring wells are necessary in the injection stratum.

G. Where the injection wells penetrate an USDW in an area subject to subsidence or catastrophic collapse an adequate number of monitoring wells shall be completed into the USDW to detect any movement of injected fluids, process by-products or formation fluids into the USDW. The monitoring wells shall be located outside the physical influence of the subsidence or catastrophic collapse.

H. In determining the number, location, construction and frequency of monitoring of the monitoring wells the following criteria shall be considered:

- 1) The population relying on the USDW affected or potentially affected by the injection operation;
- 2) The proximity of the injection operation to points of withdrawal of drinking water;
- 3) The local geology and hydrology;
- 4) The operating pressures and whether a negative pressure gradient is being maintained;
- 5) The nature and volume of the injected fluid, the formation water, and the process by-products; and
- 6) The injection well density.

#### 50.25 Pre-operation requirements.

Prior to granting approval for the operation of an individual Class III well, except for wells drilled under an area permit, the Commissioner shall consider the following information:

- A. All available logging and testing data on individual wells; representative logs on Class III projects;
- B. A satisfactory demonstration of mechanical integrity for all new wells and for all existing salt solution wells;
- C. The results of the formation testing program;
- D. The status of corrective action on defective wells in the area of review;
- E. The proposed operating data; and
- F. The proposed injection procedures.

#### 50.26 Operating Requirements. Operating requirements prescribed shall, at a minimum, specify that:

A. Except during well stimulation injection pressure at the wellhead shall be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case shall injection pressure initiate fractures in the confining zone or cause the migration of injection or formation fluids into an underground source of drinking water; and

B. Injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited.

#### 50.27 Monitoring Requirements. Monitoring requirements shall, at a minimum, specify:

A. Monitoring of the nature of injected fluids with sufficient frequency to yield representative data on its characteristics. Whenever the injection fluid is modified to the extent that the analysis required by Section 30.06(C)(2)(c) is incorrect or incomplete, a new analysis shall be provided to the Commissioner.

B. Monitoring of injection pressure and either flow rate or volume semi-monthly, or metering and daily recording of injected and produced fluid volumes as appropriate.

C. Demonstration of mechanical integrity pursuant to Section 50.29 at least once every five years during the life of the well for salt solution mining.

D. Monitoring of the fluid level in the injection zone semi-monthly, where appropriate and monitoring of the parameters chosen to measure water quality in the monitoring wells required by Section 50.24(E), semi-monthly.

E. Quarterly monitoring of wells required by Section 50.24(G).

F. All Class III wells may be monitored on a field or project basis rather than an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well are not required provided the owner/operator demonstrates that manifold monitoring is comparable to individual well monitoring.

#### 50.28 Reporting Requirements. Reporting requirements shall, at a minimum, include:

A. Quarterly reporting to the Commissioner on required monitoring;

B. Results of mechanical integrity and any other periodic test required by the Commissioner reported with the first regular quarterly report after the completion of the test; and

C. Monitoring may be reported on a project or field basis rather than individual well basis where manifold monitoring is used.

#### 50.29 Mechanical Integrity.

A. An injection well has mechanical integrity if:

- 1) There is no significant leak in the casing, tubing, or packer; and
- 2) There is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore.

B. One of the following methods must be used to evaluate the absence of significant leaks under paragraph (A)(1) of this section:

- 1) Monitoring of annulus pressure; or
- 2) Pressure test with liquid or gas.

C. One of the following methods must be used to determine the absence of significant fluid movement under paragraph (A)(2) of this section:

- 1) For Class III wells where the nature of the casing precludes the use of the logging techniques prescribed at (C)(3) of this paragraph, cementing records demonstrating the presence of adequate cement to prevent such migration; or
- 2) The results of a temperature or noise log;
- 3) For Class III wells where the Commissioner elects to rely on cementing records to demonstrate the absence of significant fluid movement, the monitoring program prescribed by Section 50.27 shall be designed to verify the absence of significant fluid movement.

D. The Commissioner may allow the use of a test to demonstrate mechanical integrity other than those listed in paragraphs (B) and (C)(2) of this section.

E. In conducting and evaluating the tests enumerated in this section or others to be allowed by the Commissioner, the owner or

operator and the Commissioner shall apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Commissioner, he shall include a description of the test(s) and the method(s) used. In making his evaluation, the Commissioner shall review monitoring and other test data submitted since the previous evaluation.

#### 50.30 Plugging and Abandonment.

A. Any Class III permit shall include conditions to ensure that plugging and abandonment of the well will not allow the movement of fluids either into an underground source of drinking water or from one underground source of drinking water to another. Any applicant for a UIC permit shall be required to submit a plan for plugging and abandonment. Where the plan meets the requirements of this section, the Commissioner shall incorporate it into the permit as a condition. Where the Commissioner's review of an application indicates that the permittee's plan is inadequate, the Commissioner shall require the applicant to revise the plan, prescribe the conditions meeting the requirements of this paragraph, or deny the application. For purposes of this paragraph, temporary intermittent cessation of injection operations is not abandonment.

B. The permittee shall notify the Commissioner at such time as the permit requires before conversion or abandonment of the well or in the case of area permits before closure of the project.

C. Prior to the abandoning Class III wells, the well shall be plugged with cement in a manner which will not allow the movement of fluids either into or between underground sources of drinking water. The Commissioner may allow Class III wells to use other plugging materials if he is satisfied that such materials will prevent movement of fluids into or between underground sources of drinking water.

D. Placement of the cement plugs shall be accomplished by one of the following:

- 1) The Balance Method;
- 2) The Dump Bailer Method; or
- 3) The Two-Plug Method.

E. The well to be abandoned shall be in a state of static equilibrium with the mud weight equalized top to bottom, either by circulating the mud in the well at least once or by a comparable method prescribed by the Commissioner, prior to the placement of the cement plug(s).

F. The plugging and abandonment plan required in paragraph (A) above shall, in the case of a Class III project which underlies or is in an aquifer which has been exempted under Section 20.08 also demonstrate adequate protection of USDWs. The Commissioner shall prescribe aquifer cleanup and monitoring where he deems it necessary and feasible to insure adequate protection of USDWs.

#### 50.31 Area or Project Permit Authorization.

A. The Commissioner may issue a permit on an area basis, rather than for each well individually, provided that the permit is for injection wells:

1) Described and identified by location in permit application(s) if they are existing wells, except that the Commissioner may accept a single description of wells with substantially the same characteristics;

2) Within the same well field, facility site, reservoir, project, or similar unit in the State;

- 3) Operated by a single owner or operator; and
- 4) Used to inject other than hazardous waste.

B. Area permits shall specify:

1) The area within which underground injections are authorized, and

2) The requirements for construction, monitoring, reporting, operation, and abandonment, for all wells authorized by the permit.

C. The area permit may authorize the permittee to construct and operate, convert, or plug and abandon wells within the permit area provided:

1) The permittee notifies the Commissioner at such time as the permit requires;

2) The additional well satisfies the criteria in paragraph (A) of this section and meets the requirements specified in the permit under paragraph (B) of this section; and

3) The cumulative effects of drilling and operation of additional injection wells are considered by the Commissioner during evaluation of the area permit application and are acceptable to the Commissioner.

D. If the Commissioner determines that any well constructed pursuant to paragraph (C) of this section does not satisfy any of the requirements of paragraphs (C)(1) and (C)(2) of this section the Commissioner may modify the permit under Section 70.03, terminate under Section 70.05, or take enforcement action. If the Commissioner determines that cumulative effects are unacceptable, the permit may be modified under Section 70.03.

#### 50.32 Recordkeeping Requirements.

a. The permittee shall keep complete and accurate records of:

- 1) All monitoring required by the permit; and
- 2) All periodic well tests.

B. The permittee shall retain records of all information resulting from any monitoring activities for a period of at least three (3) years from the date of the sample or measurement. This period may be extended by request of the Commissioner at any time.

C. In addition to (B) above, the permittee shall retain all records concerning the nature and composition of injected fluids until after three (3) years after completion of any plugging and abandonment procedures. The Commissioner may require the owner or operator to deliver the records to the Office of Conservation at the conclusion of the retention period.

D. All records shall be made available for review upon request from a representative of the Commissioner.

#### 50.33 Waiver of requirements by Commissioner.

A. When injection does not occur into, through, or above an underground source of drinking water, the Commissioner may authorize a Class III well or project with less stringent requirements for area of review, construction, mechanical integrity, operation, monitoring, and reporting than required in this subpart to the extent that the reduction in requirements will not result in an increased risk of movements of fluids into an underground source of drinking water.

B. When reducing requirements under this section, the Commissioner shall issue an order explaining the reasons for the action.

50.34 Additional Requirements. The Commissioner may prescribe additional requirements for Class III wells or projects in order to protect USDWs.

50.35-50.40 (Reserved)

#### Subpart C—Class IV Wells

50.41-50.60 (Reserved)

#### Subpart D—Class V Wells

50.61 Applicability. This subpart sets forth technical criteria and standards for the regulation of all underground injection practices not regulated in Subparts A, B, and C.

A. Generally, wells covered by this Subpart inject nonhazardous fluids into or above formations that contain underground sources of drinking water. It includes all wells listed in Section 20.03(E) but is not limited to those types of injection wells.

B. It also includes wells not covered in Class IV that inject radioactive materials listed in the Louisiana Radiation Regulations (October 20, 1980), Part D (Standards for Protection Against

## PART 60—Permitting Process

**60.01 Applicability.** This part contains procedures for issuing all UIC “permits” other than “emergency (temporary) permits.” UIC authorizations by rule are not “permits” and are covered by specific provisions in Section 20.05.

### 60.02 Application Submission and Review

A. Any person required to have a UIC permit shall submit an application to the Office of Conservation, UIC section, as outlined in Part 30.

#### B. Check for completeness

1) The Commissioner shall not issue a permit before receiving an application form and any required supplemental information which are completed to his satisfaction.

2) Each applicant for a permit submitted for a new UIC injection well will be reviewed for completeness by the Commissioner and the applicant will be notified of the Commissioner’s decision within 30 days of its receipt. Each application for a permit submitted for an existing injection well will be reviewed for completeness and the applicant will be notified of the Commissioner’s decision within 60 days of receipt. Upon completing the review, the Commissioner shall notify the applicant in writing whether the application is complete.

3) For each application for a new Class I injection well or a new Class III well or project, the Commissioner shall, no later than the date the application is ruled complete, prepare and mail to the applicant a project decision schedule. The schedule shall specify target dates by which the Commissioner intends to:

a) Prepare a draft permit;

b) Give public notice;

c) Complete the public comment period, including any public hearing; and

d) Issue a final permit.

#### C. Incomplete Applications.

1) If the application is incomplete, the Commissioner shall list in the notification in paragraph (B)(2) above, the information necessary to make the application complete. When the application is for an existing UIC injection well, the Commissioner shall specify in the notice a date for submitting the necessary information. The Commissioner shall notify the applicant that the application is complete upon receiving this information. The Commissioner may request additional information from an applicant only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.

2) If an applicant fails or refuses to correct deficiencies found in the application, the permit may be denied and, for existing wells, appropriate enforcement actions may be taken under the applicable statutory provision.

D. If the Commissioner decides that a site visit is necessary for any reason in conjunction with the processing of an application, he shall notify the applicant, state the reason for the visit, and a date shall be scheduled.

### 60.03 Draft Permits.

A. Once an application is complete, the Commissioner shall prepare a draft permit or deny the application.

B. The applicant may appeal the decision to deny the application in a letter to the Commissioner who may then call a public hearing through Section 60.07(A).

C. If the Commissioner prepares a draft permit, it shall contain the following information where appropriate:

1) All conditions under parts 40 and 50;

2) All compliance schedules under Section 40.14;

3) All monitoring requirements under applicable sections in Part 50.

D. All draft permits prepared under this section may be accompanied by a fact sheet (Section 60.04), and shall be publicly noticed (Section 60.05), and made available for public comment (Section 60.06).

### 60.04 Fact Sheet

A. A fact sheet shall be prepared for every draft permit for all major UIC facilities or activities and for every draft permit which the Commissioner finds is the subject of wide-spread public interest or raises major issues. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permits. The Commissioner shall send this fact sheet to the applicant and, on request, to any other person.

B. The fact sheet shall include, when applicable:

1) A brief description of the type of facility or activity which is the subject of the draft permit;

2) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being injected.

3) A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions.

4) Reasons why any requested variances or alternatives to required standards do or do not appear justified;

5) A description of the procedures for reaching a final decision on the draft permit including:

a) The beginning and ending dates of the comment period under Section 60.06 and the address where comments will be received;

b) Procedures for requesting a hearing and the nature of that hearing; and

c) Any other procedures by which the public may participate in the final decision.

6) Name and telephone number of a person to contact for information.

C. A copy of the fact sheet shall be mailed to all persons identified in Section 60.05(C)(1)(a),(b), and (c).

### 60.05 Public Notice of Permit Actions and Public Comment Period.

#### A. Scope

1) The Commissioner shall give public notice that the following actions have occurred:

a) A draft permit has been prepared under Section 60.03;

b) A hearing has been scheduled under Section 60.07.

2) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied under Part 70. Written notice of that denial shall be given to the requester and to the permittee.

3) Public notices may describe more than one permit or permit action.

#### B. Timing

1) Public notice of the preparation of a draft permit required under paragraph (A) of this section shall allow 30 days for public comment.

2) Public notice of a public hearing shall be given 30 days before the hearing. (Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined).

C. Methods. Public notice of activities described in paragraph (A)(1) of this section shall be given by the following methods:

1) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his rights to receive notice for any classes and categories of permits):

a) The applicant;

b) Any other agency which the Commissioner knows has issued or is required to issue a permit for the same facility or activity

(including EPA);

c) Federal and State agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation, the State Archeological Survey and Antiquities Commission, and other appropriate government authorities, including any affected States; and

d) Persons on a UIC mailing list.

2) For Class I permits, publication of a notice in a daily or weekly newspaper within the area affected by the facility or activity.

3) In a manner constituting legal notice to the public under State law; and

4) Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other form or medium to elicit public participation.

D. Content.

1) All public notices. Public notices issued under this Part shall contain the following information;

a) Name and address of the Division of the Office of Conservation processing the permit action for which notice is being given;

b) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

c) A brief description of the business conducted at the facility or activity described in the permit application;

d) Name, address, and telephone number of a person from whom interested persons may obtain copies of the draft permit, and the fact sheet, and further information concerning the application; and

e) A brief description of the comment procedures required by Section 60.06 and the time and place of any hearing that will be held, including a brief statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision.

f) Any additional information considered necessary or proper.

2) Public notices for hearings. In addition to the general public notice described in paragraph (D)(1) of this section, the public notice of a hearing under Section 60.07 shall contain the following information:

a) Reference to the date of previous public notices relating to the permit;

b) Date, time, and place of the hearing; and

c) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

60.06 Public Comments and Requests for Public Hearings. During the public comment period provided under Section 60.05 any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in Section 60.08.

60.07 Public Hearings.

A) The Commissioner shall hold a public hearing whenever he finds, on the basis of requests, a significant degree of public interest in (a) draft permit(s). The Commissioner also may hold a public hearing at his discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision. Public notice of the hearing shall be given as specified in Section 60.05.

B. Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set

upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under Section 60.05 shall automatically be extended to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.

C. A tape recording or written transcript of the hearing shall be made available to the public.

60.08 Response to Comments.

A. At the time that any final permit is issued the Commissioner shall issue a response to comments. This response shall:

1) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

2) Briefly describe and respond to all significant comments on the draft permit or the permit application raised during the public comment period, or during any hearing.

B. The response to comments shall be available to the public.

60.09 Permit Issuance and Effective Date.

A. After closure of the public comment period, including any public hearing, under Section 60.05 on a draft permit, the Commissioner shall issue a final permit decision within 30 days.

B. A final permit decision shall become effective on the date of issuance.

C. Approval or the granting of a permit to construct a Class I or III well shall be valid for a period of one (1) year and if not begun in that time, the permit shall be null and void. The permittee may request an extension of this one year requirement; however, the Commissioner shall approve the request for extenuating circumstances only.

## PART 70—Permit Modification, Revocation and Reissuance, Termination, Transfer or Renewal

70.01 Applicability. The rules of this part set forth the standards and requirements for applications and actions concerning modification, revocation and reissuance, termination, transfer and renewal of permits.

70.02 Permit Actions

A. The permit may be modified, revoked and reissued, or terminated for cause.

B. The permittee shall furnish to the Commissioner, within thirty (30) days, any information which the Commissioner may request to determine whether cause exists for modifying, revoking and reissuing, or terminating a permit, or to determine compliance with the permit. The permittee shall also furnish to the Commissioner, upon request, copies of records required to be kept by the permit.

C. The Commissioner may, upon his own initiative or at the request of any interested person, review any permit to determine if cause exists to modify, revoke and reissue, or terminate the permit for the reasons specified in Sections 70.03, 70.04 and 70.05. All requests shall be in writing and shall contain facts or reasons supporting the request.

D. If the Commissioner decides the request is not justified, he shall send the person making the request a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings.

E. If the Commissioner decides to modify or revoke and reissue a permit under Sections 70.03, 70.04, or 70.05, he shall prepare a draft permit under Section 60.03 incorporating the proposed changes. The Commissioner may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the Commissioner shall require, if

necessary, the submission of a new application.

#### 70.03 Modification or Revocation and Reissuance of Permits.

A. The following are causes for modification and may be causes for revocation and reissuance of permits.

1) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

2) Information. The Commissioner has received information pertinent to the permit. Permits for Class I or V wells may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. For area or project permits (50.31) cause shall include any information indicating that cumulative effects on the environment are unacceptable.

3) a) New regulations. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued and conformance with the changed standards or regulations is necessary for the protection of the health or safety of the public or the environment. Permits for Class I or V wells may be modified during their terms when:

i) The permit condition requested to be modified was based on a promulgated regulation or guideline; and

ii) There has been a revision, withdrawal, or modification of that portion of the regulation or guideline on which the permit condition was based, and

iii) A permittee requests modification within ninety (90) days after Louisiana Register notice of the action on which the request is based.

b) When standards or regulations on which the permit was based have been changed by withdrawal of standards or regulations or by promulgation of amended standards or regulations which impose less stringent requirements on the permitted activity or facility and the permittee requests to have permit conditions based on the withdrawn or revised standards or regulations deleted from his permit, the permit may be modified as a minor modification without providing for public comment.

c) For judicial decisions, a court of competent jurisdiction has remanded and stayed Office of Conservation regulations or guidelines and all appeals have been exhausted, if the remand and stay concern that portion of the regulations or guidelines on which the permit condition was based and a request is filed by the permittee to have permit conditions based on the remanded or stayed standards or regulations deleted from his permit.

4) Compliance schedules. The Commissioner determines good cause exists for modification of a compliance schedule, such as an Act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonable available remedy.

B. Cause for modification or revocation and reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit:

1) Cause exists for termination under Section 70.05, and the Commissioner determines that modification revocation and reissuance is appropriate.

2) The Commissioner has received notification of a proposed transfer of the permit and the transfer is determined not to be a minor modification (see Section 70.04(D)). A permit may be modified to reflect a transfer after the effective date. (Section 70.06(B)(2)) but will not be revoked and reissued after the effective date except upon the request of the new permittee.

C. Facility siting. Suitability of an existing facility location will not be considered at the time of permit modification or revoca-

tion and reissuance unless new information or standards indicate that continued operations at the site pose a threat to the health or safety of persons or the environment which was unknown at the time of permit issuance. A change of injection site or facility location may require modification or revocation and issuance as determined to be appropriate by the Commissioner.

D. If a permit modification satisfies the criteria of this section, a draft permit must be prepared and other applicable procedures must be followed.

#### 70.04 Minor Modification of Permits.

Upon the consent of the permittee, the Commissioner may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section without issuing a draft permit and providing for public comment. Minor modifications may only:

A. Correct typographical errors;

B. Require more frequent monitoring or reporting by the permittee;

C. Change an interim compliance date in a schedule of compliance, provided the new date does not interfere with attainment of the final compliance date requirement.

D. Allow for a change in ownership or operational control of a facility where the Commissioner determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Commissioner (see Section 70.06).

E. Change quantities or types of fluids injected which are within the capacity of the facility as permitted and, in the judgment of the Commissioner, would not interfere with the operation of the facility or its ability to meet conditions prescribed in the permit, and would not change its classification;

F. Change construction requirements or plans approved by the Commissioner provided that any such alteration shall comply with the requirements of this Part and Part 50. No such changes may be physically incorporated into construction of the well prior to approval; or

G. Amend a plugging and abandonment plan which has been updated under Section 50.07(F).

#### 70.05 Termination of Permits

A. The Commissioner may terminate a permit during its term or deny a permit renewal application of Section 70.07 for the following causes.

1) Noncompliance by the permittee with any condition of the permit.

2) The permittee's intentional failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time, or

3) A determination that the permitted activity endangers the health or safety of persons or the environment which activity cannot be regulated to acceptable levels by permit modification and can only be regulated to acceptable levels by permit termination.

B. If the Commissioner decides to terminate a permit, he shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under Section 60.03.

C. The Commissioner may alternatively decide to modify or revoke and reissue a permit for the causes in paragraph (A) of this section (see Section 70.03(B)(1)).

#### 70.06 Transfers of Permits

A. A permit may be transferred to a new owner or operator upon approval by the Commissioner.

B. The current permittee shall submit an application for transfer at least 30 days before the proposed transfer date. The

application shall contain the following:

- 1) Name and address of the transferee;
- 2) Date of proposed transfer; and
- 3) A written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between them. The agreement should also demonstrate to the satisfaction of the Commissioner that the financial responsibility requirements of Section 40.03 will be met by the new permittee.

C. If the Commissioner does not notify the existing permittee and the proposed new permittee of his intent to modify or revoke and reissue the permit under Section 70.03(B)(2) the transfer is effective on the date specified in the agreement mentioned in paragraph (B)(3) of this section.

D. If no agreement described in paragraph (B)(3) of this section is provided, responsibility for compliance with the terms and conditions of the permit and liability for any violation will shift from the existing permittee to the new permittee on the date the transfer is approved.

E. If a person attempting to acquire a permit causes or allows operation of the facility before approval by the Commissioner, it shall be considered a violation of these rules for operating without a permit or other authorization.

#### **PART 80—Emergency or Temporary Permits**

80.01 Applicability. The provisions for this part set the standards applicable to emergency or temporary permits for all Class I, III, IV, and V wells.

80.02 Coverage. Notwithstanding any other provisions of this Part, the Commissioner may temporarily permit a specific underground injection which has not otherwise been authorized by rule or permit if an imminent and substantial endangerment to the health of persons will result unless a temporary emergency permit is granted. The permittee need not comply with the provisions of the permit to the extent and for the duration that non-compliance is authorized in a temporary emergency permit.

80.03 Requirements for Issuance.

A. Any temporary permit under this part shall be for no longer term than required to prevent the hazard.

B. Notice of any temporary permit under this section shall be published in accordance with Section 60.05 within 10 days of the issuance of the permit.

C. The temporary permit under this section may be either oral or written. If oral, it must be followed within five calendar days by a written temporary emergency permit.

D. The Commissioner shall condition the temporary permit in any manner he determines is necessary to ensure that the injection will not result in the movement of fluids into an underground source of drinking water.

80.04 Duration. A temporary permit shall not exceed a maximum of '90' days.

2. That the Rules and Regulations provide for environmental safety, protection and nonendangerment of underground sources of drinking water.

#### **ORDER**

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. From and after the effective date hereof, all applicants and operators of Class I, III, IV, or V facilities shall comply with the provisions of Finding No. 1 hereof and cognizance is taken of Finding No. 2 hereof.

This Order shall be effective as of February 20, 1982.

R. T. Sutton  
Commissioner of Conservation

#### **COMMITTEE REPORT**

##### **House of Representatives Natural Resources Committee Subcommittee on Oversight**

Pursuant to the provisions of R.S. 49:968, the Oversight Subcommittee of the House of Representatives Natural Resources Committee met on January 19, 1982, and reviewed certain changes in state regulations proposed by the Environmental Control Commission, for which notices of intent were published in the November 19, 1981, and December 17, 1981, *Louisiana Register* with the following results:

1) Addition of a new Subsection 23.4.1.1 to Section 23.4.1 of the Louisiana Air Quality Regulations - approved by a vote of 5-0.

2) Addition of a new Section 23.4.4 to the Louisiana Air Quality Regulations - approved by a vote of 5-0.

3) Amendment of Section 17.13 of the Louisiana Air Quality Regulations - approved by a vote of 5-0.

J. Chris Ullo  
Acting Chairman  
Oversight Subcommittee

#### **RULE**

##### **Department of Natural Resources Office of Environmental Affairs Environmental Control Commission**

Under the authority of the Environmental Affairs Act, L.R.S. 30:1066 (1) and (7) and 1084 B (1) and in accordance with the provisions in L.R.S. 49:951 et seq., the Louisiana Environmental Control Commission adopted revisions to the Louisiana Air Quality Regulations at their January 28, 1982 hearing. Preceding final adoption of the revisions by the Commission, they were forwarded and found acceptable by the Joint Committee on Natural Resources.

The Commission adopted revisions to Section 23.4.4 which relaxes the opacity standard from 20 percent to 40 percent and Section 23.4.1.1 which requires owners or operators to conduct source tests of recovery furnaces semi-annually over a period of two years and annually thereafter. The Commission also adopted a revision to Section 17.13 which requires reports on emission rates be submitted annually instead of semi-annually.

Persons requesting copies and/or further information or wishing to comment on the revisions listed below may contact Mr. Gus Von Godungen, Office of Environmental Affairs, Box 44066, Baton Rouge, Louisiana 70804, or phone (504) 342-1206.

##### **Louisiana Air Quality Regulations Revisions**

Add a new Section 23.4.4 reading as follows:

##### **23.4.4 Opacity Limitation**

The emission of smoke from the recovery furnace shall be controlled so that the shade or appearance of the emission is not darker than 40 percent average opacity as to obscure vision to a degree equivalent to the above (See Table 4) except that emitted may have an average opacity in excess of 40 percent for not more than one six-minute period in any 60 consecutive minutes.

Add a new Section 23.4.1.1 reading as follows:

##### **23.4.1.1 Compliance**

Owners or operators shall conduct source tests of recovery furnaces pursuant to the provision in Table 4 to confirm particulate emissions are less than that specified in Section 23.4.1. The results shall be submitted to the Division as specified in Section 17.12 and 8.5.1. The testing should be conducted as follows:

1. Four tests at six month intervals within 24 months of promulgation of this regulation and
2. One test annually thereafter.

\*\*\*

Revise Section 17.13 of the Air Quality Regulations to read as follows:

17.13 Reports must be made to the Department annually. The report is to be submitted to the Department by March 1 of each year (for the period January 1 to December 31 of the previous year). The report should include all data applicable to the emission source or sources which may be required under Sections 6.10.2, 8.5.1, 17.12 or 17.11 of these regulations. In any event, data should confirm the facility remained in compliance for the year or achieved the prescribed milestones to ultimately achieve compliance.

B. Jim Porter  
Assistant Secretary

## RULES

### Department of Revenue and Taxation Petroleum, Beverage and Tobacco Tax Section

By virtue of the authority granted the Secretary of Revenue and Taxation under the provision of R.S. 47:1511, the following rules and regulations relative to the enforcement of the Louisiana Special Fuels Tax Law (R.S. 47:800-815) are hereby promulgated. The regulations become effective March 1, 1982.

I. No interstate user of special fuels who has operations in Louisiana shall commence operations without first procuring a license for that purpose from the Secretary of Revenue and Taxation, together with a surety bond guaranteeing the payment of any and all taxes, penalties, and interest due. The name and address shown on the cab doors must be in agreement with the name and address on the surety bond and the monthly tax report. In a lease agreement, the surety bond and monthly report shall be required of whoever furnishes the fuel. The name and address of the user must be on both cab doors and the vehicle must have a working odometer or hub meter at all times.

II. Every interstate user must keep satisfactory records of:

A. The miles traveled in all operations within and outside the State of Louisiana.

B. The fuel purchased and used in propelling motor vehicles both within and outside the State of Louisiana.

1. Purchases of special fuels from licensed dealers (service stations and truck stops) must be recorded on special fuels invoices and the original submitted with user report when applying for a refund or upon request.

2. Copies of invoices recording bulk purchases from suppliers must be submitted with quarterly user report. Gallons purchased from suppliers must be shown by invoice on the user's tax report in addition to total gallons removed from bulk storage facilities and placed in fuel supply tanks of motor vehicles.

3. Special fuels invoices showing odometer reading and license number, together with other required information must be carried in the cab of the truck as evidence of the source of the tax-paid fuel in the fuel supply tank of the vehicle.

4. The totalizer meter reading on the measuring device of any tax-paid bulk storage tank maintained by all users in the State of Louisiana and the inventory of tax-paid fuel on hand must be recorded at the beginning of operations on the first day of every month.

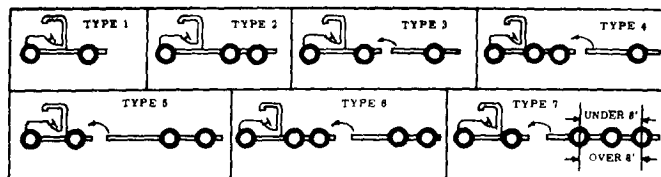
III. Miles per gallon are to be determined by:

A. The total miles traveled divided into the total gallons placed in the fuel supply tanks of the motor vehicles.

1. Entire operations as a whole in all states or
2. Computed by vehicle.

B. Miles per gallon factor will be set by the Secretary of Revenue and Taxation if records are not complete. The factor set by the Secretary is based on the number of axles on the vehicle.

	Diesel	LPG
Type 1	5 MPG	5 MPG
Type 2	5 MPG	5 MPG
Type 3	5 MPG	5 MPG
Type 3	5 MPG	5 MPG
Type 4	5 MPG	3 MPG
Type 5	5 MPG	3 MPG
Type 6	4 MPG	2½ MPG
Type 7	4 MPG	2½ MPG



IV. Reports and supporting schedules must accurately reflect the miles traveled, gallons put in vehicle, gallons purchased and gallons consumed in all states in which the user operates, together with all other information as follows:

A. Business Master File number must be indicated by user requesting refund.

B. User license number must be shown in proper space.

C. Name and address (must agree with name and address indicated on surety bond and on cab doors of vehicles).

D. Type of fuel consumed must be indicated and separate reports submitted for diesel fuel and LPG.

E. Purchase information:

1. Each bulk purchase must be listed and supported by a copy of the purchase invoice.

2. Purchases from service stations or truck stops must be listed in total by station.

3. Gallons removed from tax-paid storage must be shown and added to service station purchases to arrive at gallons placed in fuel supply tanks in Louisiana.

F. Quarterly beginning and ending inventories must be shown to determine withdrawals from storage.

G. Any user requesting a refund must furnish complete information concerning other states in which he operates.

H. Tax report must be signed by an authorized agent as being true and accurate. Any evidence of the submission of a refund claim that is fraudulent either by information included on report or any supporting evidence will result in the entire claim for refund being voided at the Secretary's discretion. Any person found guilty of filing a fraudulent claim shall be fined up to \$1,000 or imprisonment not to exceed two years, or both, at the discretion of the Court.

V. Refunds are permitted whenever a bonded interstate user of special fuels pays tax to another state on fuel exported from Louisiana and is bonded and files reports in all states in which he operates in accordance with the requirements of these states. The user's exportation of tax-paid fuel must exceed the importation in order to qualify for a refund. Refunds will be reduced according to special fuels tax owed, and not remitted to another state as required. Certified copies of user reports to other states must be supplied upon request as supporting evidence of payments to those states.

VI. Users requesting a refund must submit the Quarterly User's Report of Special Fuels indicating the states in which they operate and where user reports are filed as required. Miles



traveled, gallons consumed and gallons purchased for each state in which they operate must be shown, together with copies of fuel purchase invoices from suppliers and original invoices of fuel purchased from Louisiana dealers to verify tax-paid special fuels purchased in Louisiana. Tax-paid purchases of special fuels must be delivered by a supplier into the properly marked bulk storage facilities of the user or purchased from a licensed dealer (service station or truck stop) of special fuels.

VII. Users requesting a refund must submit the originals of the special fuels invoices which record the purchase of special fuels from a service station or truck stop with the Quarterly User's Report of Special Fuels. An "original invoice" means the first or top sheet of an invoice, bearing the original inked imprint, issued by a seller to a purchaser covering the product or products sold, except where the use of a credit card is authorized, the name and address may be carbon-imprinted. Invoices from service stations or truck stops should be submitted within the current quarter. Any invoices dated 30 days prior to the beginning of the current quarter will be disallowed. Invoices recording purchases of special fuels in bulk must also accompany the Quarterly User's Report of Special Fuels as evidence of the source of the tax-paid special fuels. Transactions shall be recorded indelibly without any alterations. Any erasures, changes, or corrections on invoices, such as change in date, gallonage, or name may result in prosecution or rejection of the entire claim. When corrections are necessary, these shall be certified to by the dealer in an affidavit. Any incomplete invoice will be disallowed. The original invoice shall be dated, serially numbered and provide spaces for the following information:

A. The name and address of the dealer must be pre-printed or mechanically imprinted.

B. Name and address of user recorded on invoice must agree with name and address indicated on bond and cab doors of vehicles.

C. Odometer or hub meter reading and license number.

D. Number of gallons of special fuels purchased, together with price per gallon and total price of gallons purchased.

VII. Properly filed claim for refund must be submitted with the Quarterly User's Report of Special Fuels. Any claim for refund not submitted within six months of the date that the report is due will be disallowed. Refund claims for users who have bulk purchases will be approved and returned to the users who in turn will forward the original approved refund certificate to their suppliers for credit. The supplier will attach these approved refund certificates to his Supplier's Monthly Report of Special Fuels as a deduction. No refunds will be made for less than two dollars. In no case will the refund exceed the gallons paid to other states unless user can prove that some operations in some other states do not affect Louisiana. Refunds may be less than the gallons paid to other state because reports to some states may be computed on a different basis from that required in Louisiana.

The official copy of the Regulations is on file at 330 North Ardenwood Drive, Baton Rouge, Louisiana. Copies may be obtained on request from the Petroleum, Beverage and Tobacco Tax Section, Department of Revenue and Taxation, 330 North Ardenwood Drive, Box 201, Baton Rouge, Louisiana 70821.

Shirley McNamara  
Secretary

## **RULE**

### **Department of Revenue and Taxation Tax Commission**

The Louisiana Tax Commission has adopted rules, regulations and guidelines relating to the assessment of real and personal property.

The following topics are included:

- A. Constitutional and Statutory Guides to Property Taxation
- B. Definitions Pertaining to Real and Personal Property
- C. Personal Property Report Forms
- D. Guidelines for Ascertaining the Fair Market Value of Loan and Finance Company Personal Property
- E. Guidelines for Ascertaining the Fair Market Value of Watercraft
- F. Guidelines for Ascertaining the Fair Market Value of Oil and Gas Property.
- G. Guidelines for Ascertaining the Fair Market Value of Drilling Rigs and Related Equipment
- H. Guidelines for Ascertaining the Fair Market Value of Pipelines
- I. Guidelines for Ascertaining the Fair Market Value of Aircraft
- J. Guidelines for Ascertaining the Fair Market Value of Inventory
- K. Guidelines for Ascertaining the Fair Market Value of Leasehold Improvements
- L. Guidelines for Ascertaining the Fair Market Value of Leased Equipment
- M. Guidelines for Ascertaining the Fair Market Value of Insurance Companies
- N. Guidelines for Ascertaining the Fair Market Value of Office Furniture and Equipment, Machinery and Equipment, and Other Assets Used in General Business Activity
- O. Guidelines for Application, Classification and Assessment of Land Eligible to be Assessed at Use Value.

A complete copy of the rules and regulations as adopted by the Commission is on file in the office of the *Louisiana Register*.

J. Reginald Coco, Jr.  
Chairman

## **RULE**

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

WHEREAS, the ultimate goal of the Louisiana Hunter Education Program is the reduction of hunting accidents, and  
WHEREAS, the Hunter Safety Program is rapidly expanding in Louisiana, and

WHEREAS, it is presently in all parishes of the State, including the public school system of 25 parishes, and in other parishes through youth camps, 4-H, junior deputy programs, boy clubs, boy scouts and our district offices, and

WHEREAS, we are under mandate by resolution of the Louisiana State Legislature to study mandatory Hunter Safety training for Louisiana, and

WHEREAS, live firing is a mandatory part of our Hunter Safety Program in accordance with our federal aid project agreement, and

WHEREAS, there are no public shooting ranges in our State, and

WHEREAS, we emphasize sport hunting as a tool of wildlife management and support private ownership of legal firearms, and



WHEREAS, we promote better marksmanship both for safety and clean kills, and

WHEREAS, we have some 36 wildlife management areas either owned or leased by the Louisiana Department of Wildlife and Fisheries which can provide safe shooting areas, and

WHEREAS, these areas are supervised and patrolled by Department personnel, and

WHEREAS, funds for the needed ranges are available through Pittman-Robertson Funding and by the use of Departmental personnel and equipment for construction;

THEREFORE, BE IT RESOLVED, that the Louisiana Wildlife and Fisheries Commission goes on record this date supporting the use of small designated areas located in Departmentally controlled wildlife management areas for Hunter Safety Education classes including supervised shooting for training purposes and other supervised activities such as zeroing rifles and patterning shotguns.

BE IT FURTHER RESOLVED, that the Commission regulations governing the use of wildlife management areas be amended to allow firearm educational activities include shooting on the designated areas effective immediately upon proper publication in the *Louisiana Register*.

Jesse J. Guidry  
Secretary

## Notices of Intent

### NOTICE OF INTENT

#### Department of Commerce Cemetery Board

##### (La. R.S. 8:1 through 904, both inclusive)

In accordance with applicable provisions of the Administrative Procedure Act, R.S. 49:951 et seq., the Louisiana Cemetery Board intends to amend and supplement its rules and regulations by renumbering Part 6 entitled "Construction, Divisibility", to read "8" instead of "6"; to add a new part, to be numbered Part 6 relating to cemetery care funds and in particular to implement the authority and responsibility of the Board vested in it by R.S. 8:451 through 467, both inclusive, and to implement the authority of the Board pursuant to R.S. 8:302 in requiring surveys, maps and plats when and if lands or mausoleums or other burial facilities are acquired, or are to be developed, sold or used for cemetery purposes, and to add a new part, to be numbered Part 7 relating to and setting forth the qualifications of applicants for a certificate of authority.

The proposed amendments will be available for public inspection between the hours of 8:30 a.m. and 5 p.m. on any working day after February 20, 1982 at the office of the Board, 210 Veterans Memorial Boulevard, Suite 103, Metairie, Louisiana 70005.

Interested persons may submit their views and opinions up to 15 days following publication of this Notice of Intent to Ms.

Frances C. Mayeaux, Administrative Director, Louisiana Cemetery Board, 210 Veterans Memorial Boulevard, Suite 103, Metairie, Louisiana 70005, or in writing to her.

Frances C. Mayeaux  
Administrative Director

### Fiscal and Economic Impact Statement For Administrative Rules

#### Rule Title: R.S. 8:1 through 904, both inclusive)

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)

These Rules will not result in any costs or savings to the Agency.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

These Rules will not affect revenue collections in any manner.

#### III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)

Adoption of these Rules will incur minimal administrative costs to Cemetery Authorities. Cemetery Authorities will be required to make quarterly deposits to the perpetual care trust funds thus enlarging the funds. Since Cemetery Authorities receive the earnings from fund investments, with which to maintain their cemeteries, the larger the fund becomes, the more income it will generate, to the benefit of the cemetery authority and, in turn, to the public, which has been guaranteed that the cemetery grounds will be maintained.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

No anticipated effect on competition and/or employment among effected groups.

Frank B. Stewart, Jr.  
Secretary/Treasurer

Mark C. Drennen  
Legislative Fiscal Officer

### NOTICE OF INTENT

#### Department of Commerce Office of Financial Institutions

Under authority granted by R.S. 6:902B, the Commissioner of Financial Institutions intends to adopt the following rule for the purpose of providing a means by which state chartered savings and loan associations may have authority consistent with that granted federal associations by Federal Home Loan Bank Board Rules and Regulations 545.6-2(a)(4), 545.6-3, and 545.6-4(c), published in the Federal Register, Volume 46, No. 205, pages 51896 and 51897, dated October 23, 1981.

#### PROPOSED RULE

Notwithstanding any limitations set forth in LRS 6:701, et seq., state chartered savings and loan associations are hereby authorized to make adjustable interest rate partially amortized balloon payment loans; adjustable rate simple interest home improvement loans; and reverse annuity mortgages, as outlined in Federal Home Loan Bank Board Regulations 545.6-2(a)(4), 545.6-3, and 545.6-4(c), which was published on pages 51896 and 51897, Volume 46, of the Federal Register dated October 23, 1981.

For the information and guidance of state chartered savings and loan associations, the Federal Regulations referred to above are outlined below:

§ 545.6-2 Other residential real estate loans.

(a) Home Loans.

\*\*\*\*\*

(4) Loans without full amortization.

(i) Balloon-payment loans.

(a) Nonamortized loans (loans which no principal payments are made until the end of the term) shall not exceed 90 percent of value, subject to the limitations of subparagraph (a)(1) of this section, and loans that are partially amortized shall not exceed 95 percent of value, subject to the limitations of subparagraphs (a)(1) and (a)(2) of this section. Interest on balloon-payment loans shall be payable at least semiannually.

(b) An association making a balloon-payment loan secured by property occupied or to be occupied by the borrower must include the following notice in each loan application form and in each loan contract:

THIS LOAN IS PAYABLE IN FULL AT THE END OF \_\_\_\_\_ YEARS [and/or MONTHS]. YOU MUST REPAY THE ENTIRE PRINCIPAL BALANCE OF THE LOAN AND UNPAID INTEREST THEN DUE. THE LENDER IS UNDER NO OBLIGATION TO REFINANCE THE LOAN AT THAT TIME. YOU WILL THEREFORE BE REQUIRED TO MAKE PAYMENT OUT OF OTHER ASSETS YOU MAY OWN, OR YOU WILL HAVE TO FIND A LENDER WILLING TO LEND YOU THE MONEY AT PREVAILING MARKET RATES, WHICH MAY BE CONSIDERABLY HIGHER OR LOWER THAN THE INTEREST RATE ON THIS LOAN. IF YOU REFINANCE THIS LOAN AT MATURITY, YOU MAY HAVE TO PAY SOME OR ALL CLOSING COSTS NORMALLY ASSOCIATED WITH A NEW LOAN, EVEN IF YOU OBTAIN REFINANCING FROM THE SAME LENDER.

In addition, at the time an association commits itself to make a balloon-payment loan to a loan applicant, the association must inform the applicant of the principal loan balance that will be due at maturity of the loan, if known, assuming timely payments of principal and interest during the loan term.

(c) The interest rate on a partially-amortized balloon-payment loan may be adjusted periodically, pursuant to subparagraphs (b)(1), (b)(3), (b)(4) and paragraphs (c), (d), (e), and (f) of § 545.6-4a of this Part, provided that the initial monthly payment is sufficient to amortize a loan with the same principal balance and interest rate over a period not exceeding 40 years. Interest-rate adjustments may be implemented through changes to the principal loan balance only if the monthly payment is adjusted at least every five years to a level that would have been sufficient, based on the amortization schedule used to establish the initial monthly payment, to fully amortize the loan.

(d) At least 45 but not more than 90 days prior to maturity of a balloon-payment loan for which the notice set out in subparagraph (b) must be given, the association must notify the borrower of the maturity date, the balance due at maturity (assuming all scheduled periodic payments due between the notification and maturity are made), and whether and under what conditions the association will refinance the loan.

\*\*\*\*\*

§ 545.6-3 Home Improvement Loans.

An association may invest in loans, with or without security, for residential real property alteration, repair or improvement, or for equipping or furnishing residential real property, with installments payable at least quarterly, the first installment due no later than 120 days from the date the loan is made and the final installment due no later than 20 years and 32 days from such date. Installments shall be substantially equal except to the extent that the loan complies with one of the mortgage plans authorized under § 545.6-2(a)(4)(i), 545.6-4 or 545.4a of this Part.

§ 545.6-4 Alternative mortgage instruments.

\*\*\*\*\*

(c) Reverse-annuity mortgage.

(1) Description. This instrument provides periodic payments to homeowners based on accumulated equity. The payments are made monthly directly by the lender, or are made through the purchase of an annuity from an insurance company. The loan becomes due on a specified date after disbursement of the entire principal amount of the loan or when a specified event occurs, such as sale of the property or death of the borrower. The interest rate on this instrument may be fixed, or may be adjusted periodically pursuant to subparagraphs (b)(1), (b)(3), (b)(4) and paragraphs (c), (d), (e), and (f) of § 545.6-4a of this Part. Interest-rate adjustments may be implemented through changes to the principal loan balance.

(2) Requirements.

(i) Loan applicants shall not be bound for seven days after the loan commitment is made.

(ii) Associations shall obtain a statement signed by the borrower acknowledging disclosure of all contractual contingencies which could force a sale of the home.

(iii) If the loan instrument provides that the interest rate will be adjusted more frequently than the payment to the borrower will be adjusted, the payment to the borrower, then, in addition to the notification of payment adjustment required pursuant to paragraph (e) of § 545.6-4a of this Part, the association must also send the borrower a notification of each rate adjustment within the time period and with the disclosure required by paragraph (e) of § 545.6-4a.

(iv) The loan instrument shall provide for prepayment in whole or in part without penalty at any time during the loan term.

(v) If payments are to be made to the borrower through purchase of an annuity, the association shall use an insurance company authorized to engage in such business and supervised by the state in which it is incorporated.

(3) Disclosure.

Each prospective borrower shall receive written materials explaining the type of mortgage being offered and its specific terms, including:

(i) a general description of reverse-annuity mortgages;

(ii) if refinancing is not guaranteed, a prominent notice indicating that a large payment (and the elements of which it is comprised) will be due at the end of the loan term;

(iii) schedule and explanation of payments to the borrower and whether property taxes and insurance are to be deducted;

(iv) schedule of outstanding debt over time;

(v) repayment date or event (such as sale of home or death of one or more mortgagors) which causes loan to become due;

(vi) method of repayment and schedule, if any;

(vii) all contractual contingencies, including lack of home maintenance and other default provisions, which may result in forced sale of the home;

(viii) interest rate, annual percentage rate, and total interest payable on the loan;

(ix) effective interest rate and interest earned or expected to be earned on purchased annuities, based on standard mortality tables;

(x) name and address of insurance company issuing a purchased annuity;

(xi) initial loan fees and charges;

(xii) description of prepayment features and refinancing features, if any;

(xiii) inclusion of a statement that such mortgages have tax and estate-planning consequences and may affect levels of, or eligibility for, certain government benefits, grants, or pensions, and that applicants are advised to explore these matters with appropriate

ate authorities; and

(xiv) an example of the operation of the type of reverse-annuity mortgage offered to the applicant.

If the loan contract permits periodic adjustment of the loan interest rate, the disclosure provided the prospective borrower must parallel the disclosure required by § 545.6-4a(f) of this Part, and must include such of the information set out above as is available at the time of disclosure.

Interested persons may submit written comments on the proposed rule through March 5, 1982, 4:30 p.m., to the following address: Hunter O. Wagner, Jr., Commissioner, Office of Financial Institutions, Box 44095, Capitol Station, Baton Rouge, Louisiana 70804.

Mr. Wagner is the person responsible for responding to inquiries about the proposed rule.

Hunter O. Wagner, Jr.  
Commissioner of Financial Institutions

### **Fiscal and Economic Impact Statement For Administrative Rules**

#### **Rule Title: Balloon and Reverse Annuity Mortgages**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)**

The implementation of this rule will not increase or decrease the operating budget of this department in any manner.

##### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)**

The adoption of this rule will encourage state chartered savings and loan associations to retain their state charter and continue to pay semi-annual assessments into the general fund.

##### **III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)**

This rule will enhance the profitability of state chartered savings and loan associations during the periods when the cost of funds are volatile. It will encourage them to make more funds available for home mortgage loans and home improvement loans. The reverse annuity mortgage instrument could make more funds available to individuals who have accumulated considerable equity in their homes.

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

This rule grants state chartered savings and loan associations parity to compete for investments on the same basis as federal associations.

Hunter O. Wagner, Jr.  
Commissioner

Mark C. Drennen  
Legislative Fiscal Officer

### **NOTICE OF INTENT**

#### **Board of Elementary and Secondary Education**

1. The Board directed that the Performance Standards for Second Grade Skills Test to be administered in Spring of 1982 as submitted by the Department and approved by the State Board of Elementary and Secondary Education, October 9, 1981 to be advertised as a Notice of Intent. The State Department of Education recommended that a performance standard of 75 percent of 60 test items in mathematics and 75 percent of 60 test items in language arts be approved.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., March 5, 1982, at the following address: State Board of Elementary and Secondary Education, Box 44064, Capitol Station, Baton Rouge, LA 70804.

James V. Soileau  
Executive Director

### **Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Performance Standard**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)**

The Legislature appropriated \$2,146,854 for remediation of qualified students for the summer school session of 1982. A request for \$4,251,000 to be added to the minimum foundation is included in the 1982-83 Department's proposed budget. Further, the 1982-83 budget request included \$2,462,463 for the summer school session of 1983.

##### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)**

There is no estimated effect on revenue collections.

##### **III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)**

The Local Education Agency will provide local administrative and financial support as well as use of facilities during the summer program. It will increase the cost to the LEAs as the number of teachers increases. This remediation effort will require additional review and evaluation by the Department through the use of new forms and required documentation.

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

The state will employ 327 additional teachers during 1982-83 school year to provide remediation. The employment of approximately 680 teachers will be extended during summer session of 1982 and 960 during the summer session of 1983.

Hugh Peck

Director, Research and Development

Mark C. Drennen

Legislative Fiscal Officer

### **NOTICE OF INTENT**

#### **Department of Education Educational Employees Professional Improvement Program**

Notice is hereby given that the State Committee for the Louisiana Educational Employees Professional Improvement Program (R.S. 17:3601-R.S. 17: 3661) intends to adopt as final rule at its March 16, 1982 meeting, *Bulletin, 1619* (Revised 1982). This publication in its entirety may be examined during regular business hours at the Louisiana Register, 1500 Riverside N., Baton Rouge, La.

The State Committee for the Louisiana Educational Employees Professional Improvement Program will accept written comments until 4:30 p.m., March 8, 1982, at the following address: Robert G. Crew, Director of the Bureau of Continuing Education, Box 44064, Baton Rouge, Louisiana 70804. In-

interested persons will be afforded reasonable opportunity to submit views or comments at the March 16 meeting.

Robert C. Rice, Chairman  
State Committee for the Louisiana  
Educational Employees Professional  
Improvement Program

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: PIPS**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)  
\$69,773,491 will be needed to fund the Professional Improvement Program for 1982-83 (see attached).
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)  
There is no effect.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)  
Benefits of \$69,365,095 will be provided to the estimated 33,000 approved participants in the Professional Improvement Program. Costs of \$408,396 will be needed by the State Department of Education for the administration of the program (see attached).
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
The Professional Improvement Program should not only retain experienced teachers in the classrooms of our schools but also serve to attract new, qualified personnel into our educational system.

Geo. B. Benton  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Division of Administration  
Property Control Section**

The Property Control Section intends to revise the State Property Control Regulations as follows:  
Section III

3.1 Those agencies which receive written permission from the Commissioner to utilize their own data processing facilities for inventory control shall coordinate through the Louisiana Information Processing Authority and complete the following conversion programs for transferring the agency master file information into the State Property Control Inventory Control System AM07.

4.1 All state agencies shall utilize the inventory classification code system in Section V of this manual for the coded numbers which identify each item of inventory. Those agencies currently not utilizing the State Property Control Inventory Classification Code system shall convert the times on the agency inventory master file to the classification code utilized by all other state agencies. This conversion shall be coordinated by the Louisiana Information Processing Authority between the agency and the State Property Control Section.

Written Comments or questions on the proposed regulations should be directed to Mr. Dan Pickens, Property Control Section, Box 44095, Baton Rouge, LA 70804, phone LINC 421-6856.

Dan Pickens  
Inventory Control Manager

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Regulations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)  
There will be a one time cost of approximately \$125 which will be for printing and mailing.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)  
It is estimated that there will be no increase in revenue.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)  
There will be a small additional cost to the agency and a small saving for the Property Control Section.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
There will be no effect on competition and employment.

Phillip B. Collins  
Director

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Office of the Governor  
Office of Elderly Affairs**

In accordance with Louisiana Revised Statutes 49:951 et. seq., the Administrative Procedure Act, notice is hereby given that the Office of Elderly Affairs intends to adopt policies and procedures for implementing programs under the Older Americans Act and for the operation of state-funded senior centers.

These policies are being established in accordance with the federal regulations, as stated in the *Federal Register*, Volume 45, Number 63, Monday, March 31, 1980, Page 21149, Subsection 1321.15(b) "State Agency Policies." The regulations require the State Agency to develop and follow written policies to carry out its functions and set forth the manner in which the policies must be adopted.

Copies of the complete Manual of proposed policies and procedures, or any portions thereof, may be obtained from the Office of Elderly Affairs (address below). The Manual contains the following sections: Introduction, Development and Maintenance of the Policy Manual; Summary of the Older Americans Act; State Agency on Aging Responsibilities; Area Agency on Aging Responsibilities; Service Provider Responsibilities; Uniform Service Requirements; and Uniform Administrative Requirements.

Information concerning the proposed action may be obtained by writing: Ms. Betty Nelond, Planning Officer, Governor's Office of Elderly Affairs, 4528 Bennington Avenue, Box 80374, Baton Rouge, Louisiana 70898-0374.

Interested persons may submit written comments or offer amendments to the proposed rules to the Office of Elderly Affairs any time prior to March 15, 1982.

All comments will be reviewed by a task force composed of representatives of each of the State Aging Organizations which will make recommendations to the Executive Director prior to adoption of the policies and procedures which will become effective July 1, 1982.

Larry Kinlaw  
Director

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Policy Manual**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)**

These policies will not affect the Office of Elderly Affairs' implementation costs. The agency was recently reorganized to facilitate more effective management of existing resources.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)**

There will be no effect on revenue collections.

**III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)**

These policies will affect older Louisianians, area agencies, social and nutrition service providers, including senior centers, long term care facilities, Senior Community Service Employment program sponsors and professional contractees. They will provide guidelines for more effective coordination and use of community resources in planning and providing services to older Louisianians. Consistent observance of these policies will lead to the development of comprehensive and coordinated delivery systems, the elimination of duplication and overlapping functions, the integration of social and nutrition services and strengthening the role of area agencies on aging.

The proposed rule provides that the distribution of State funds to senior centers be based on demonstrated need approved by the Office of Elderly Affairs and the Joint Legislative Committee on the Budget. This would alter the present formula distribution of these funds and could change the funding amounts provided to individual parishes.

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

Competition among providers is expected to increase. All Office of Elderly Affairs contracts and subcontracts will be awarded on a competitive basis. Applicants must demonstrate sound administrative and fiscal responsibility to receive funding; and must conform to Standards for a Merit System for Personnel Administration.

Area agencies must subcontract with service providers to provide all services under the area plan unless the State Agency determines direct delivery by the area agency is necessary to assure an adequate supply of a given service. Profit making organizations must demonstrate clear superiority in providing a service before receiving an award (subcontract) from an area agency.

The proposed action will ensure more effective coordination and use of community resources in planning and providing services for Older Louisianians.

Larry Kinlan  
Director

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Human Resources  
Board of Examiners of Psychologists**

The Louisiana State Board of Examiners of Psychologists advertises its intent to adopt a procedure for due process for Ethics Violations.

**ETHICS VIOLATIONS**

**I. Applicability**

A. Unethical conduct shall be determined on the basis of the provisions of the Rules and Regulations of the Louisiana State Board of Examiners of Psychologists, *Ethical Standards of Psycho-*

*logists*, and other provisions included in the Louisiana Revised Statutes 37:2350 - 37:2368, specifically if a psychologist:

1. Has been convicted of a felony or any offense involving moral turpitude; or

2. Is using any narcotic or any alcoholic beverage to an extent or in a manner dangerous to himself, any other person or the public, or to an extent that such use impairs his ability to perform the work of a professional psychologist with safety to the public; or

3. Has impersonated another person holding a license as a psychologist or allowed another person to use his/her license; or

4. Has used fraud or deception in applying for a certificate or in taking an examination provided for in the Act; or

5. Has accepted commissions or rebates or other forms of remuneration for referring clients to other persons; or

6. Has allowed his/her name or certificate issued under the Act to be used in connection with any person or persons who perform psychological services outside of the area of their training, experience or competence; or

7. Has willfully or negligently violated the Ethical Code subscribed to by the State Board of Examiners; or

8. Has willfully or negligently violated any of the provisions of the Act.

B. These procedures shall apply only in the consideration of alleged violations by licensed psychologists.

NOTE: The Board will answer complaints regarding the ethical practices of non-licensed persons by making referrals elsewhere when appropriate; for example, to better business bureaus, professional associations, agencies, private legal counsel, or the district attorney of the appropriate judicial district.

C. Complaints may be initiated by any citizen of the state, another licensed psychologist, or by the Board on its own initiative.

**II. Procedures for Processing Complaints and Inquiries**

A. Upon receipt of complaints or inquiries, the Board will forward its complaint form, which must be satisfactorily completed before the Board takes further immediate action.

1. Anonymous letters of complaint against individuals shall not be recognized as a basis for formal action.

2. If a complaint form is not filed with the Board, no further action is taken unless sufficient information can be clearly determined from written material received by the Board.

3. If the information is insufficient, the Board may request further information by either written correspondence or an informal hearing.

B. All complaints received shall be assigned a sequentially ordered complaint code number which shall be utilized in all official references.

C. At its next regularly scheduled meeting, the Board shall officially receive and act upon all complaints and inquiries received.

D. Upon receipt of the complaint form, the Board shall determine if the complaint refers to an ethical issue.

E. Whenever possible in the judgement of the Board, the identity of all parties to a complaint shall be revealed.

F. The Board shall inform the complainant of the initial determination.

**III. Conduct of an Informal Inquiry/Hearing**

**A. Informal inquiry procedures**

1. The licensee shall be given adequate prior notice of the informal inquiry and possible hearing of the issues to be discussed. Adequate notice includes:

a. Informing the licensee in writing that a complaint has been filed,

b. A short and plain statement of the nature of the complaint,

c. A reference to the particular sections of the statutes,

rules, and/or ethical standards of the Board which appear to have been involved.

d. Copies of the law and the rules and regulations of the Board, and

e. A request for the licensee's cooperation in obtaining a full understanding of the circumstances which lead to the allegation.

2. The licensee is requested to provide, within 30 days, a written statement giving the licensee's view of the situation which is the subject of the complaint so that the Board may be cognizant of all relevant aspects of the case.

3. Evaluating the findings of the informal inquiry

Upon receipt of a reply from the licensee, the Board shall review the information and determine if a violation may have occurred, and if so, what standard(s) have been violated.

a. If the determination of the Board is that the complaint has no basis in fact, the Board shall so indicate in its proceedings and the complainant and licensee shall be so notified.

b. If the determination of the Board is that the issues raised by the complainant would constitute a violation of standards, the Board shall then determine whether;

(1) Further investigation by correspondence is indicated,

(2) Further investigation by an informal hearing is indicated, or

(3) Institution of formal hearing procedures is indicated.

B. Informal hearing procedures

The Board shall conduct informal hearings in executive session in accordance with the following:

1. It is expected that the licensee not have an attorney or other advisors present.

2. Witnesses may be called, but are not placed under oath and no subpoenas are issued.

3. Statements made at the informal hearing may not be introduced at a formal hearing unless all parties consent.

4. No transcript of the informal hearing is made.

C. Evaluating the findings of the informal hearing

1. If the Board decides that the subject of the complaint is a violation of the standards, and the disciplinary proceedings are warranted, the Board shall then determine whether:

a. The violation merits informal disposition or

b. A formal hearing will be held.

2. The Board, in determining for informal disposition, shall order actions such as:

a. A settlement between the person making the complaint and the licensee. This settlement shall be written, signed by the licensee and the complainant and submitted to the Board within 30 days of the informal hearing.

b. A consent order describing the disciplinary action which will be taken. A consent order shall be signed by the licensee, the chairman and the vice-chairman of the Board.

D. Refusal to respond or cooperate with the Board

1. If the licensee does not respond to the original inquiry within 30 days, a follow-up letter is sent to the licensee by registered or certified mail, return receipt requested.

2. If the licensee refuses to reply to the Board's inquiry or otherwise cooperate with the Board, the Board shall continue its investigation. The Board shall record the circumstances of the licensee's failure to cooperate and shall inform the licensee that the lack of cooperation may result in action which could eventually lead to suspension or revocation of license, or other appropriate legal action under the law.

E. Withdrawal of a complaint

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

F. If, at any point in the informal proceedings described above, the Board finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of the license may be ordered pending formal hearing proceedings for revocation or other disciplinary action. This formal hearing shall be promptly instituted.

#### IV. Conduct of a Formal Hearing

##### A. Initiating the Process

1. The Board initiates a formal hearing by issuing full notice of the hearing. A formal hearing may be the result of a complaint made by any manner specified in the informal procedures.

2. Once full notice of the formal hearing has been served, no Board member or officially designated hearing officer may communicate with any party to a formal hearing or to that party's representative concerning any issue of fact or law involved in that formal hearing.

##### 3. Full Notice

The written notice shall recite specific acts which the licensee is alleged to have committed and shall assert that those acts violate a statute or rule of the Board.

a. The notice shall include:

1) A statement of the date, time, place and nature of the hearing.

2) A statement of the legal authority and jurisdiction under which the hearing is to be held.

3) A reference to the particular sections of the statutes, rules or ethical standards involved.

4) A short and plain statement of the matters asserted which shall be the subject of the hearing.

5) A statement of the rights of the parties.

b. Notice shall be given to all parties 30 days in advance of the proceedings to allow a reasonable opportunity for preparation.

c. The notice shall be delivered by registered or certified mail, return receipt requested. If the licensee can not be found by this or other reasonable methods, the Board may hold a hearing in the licensee's absence.

NOTE: It is the licensee's obligation to keep the Board informed of his/her whereabouts.

d. The content of the notice limits the scope of the hearing and of the evidence which may be introduced.

e. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

##### 4. Designation of Hearing Officer

a. The hearing officer is responsible for ensuring that the hearing is orderly and fair and that it progresses in an expeditious manner. This officer is empowered to prepare written findings of fact and conclusions which shall be recommended to the Board.

b. The Board shall designate a hearing officer by affirmative vote of three of its members.

c. The hearing officer shall be unbiased and qualified to preside over the case. A designated hearing officer shall withdraw when that officer can not accord a fair and impartial hearing or consideration.

d. Any party may request the disqualification of a hearing officer on the ground of inability to give a fair and impartial hearing by filing an affidavit (which states the specific grounds) within three days of receipt of notice of the designation of the hearing officer. The issue shall be determined promptly by the Board.

e. The hearing officer shall not be a current member of the Board.

##### B. 1. Discovery

a. Depositions and interrogatories of witnesses may be

taken and shall be admissible in the proceedings.

b. Evidence which was not made available to both parties at least five days in advance may be barred from introduction.

c. Evidence not within the scope of the notice may be excluded.

d. When the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

e. Documentary evidence in possession of the Board may be received in the form of copies or excerpts, or by incorporation by reference.

f. Official notice may be taken of generally recognized technical or scientific psychological facts. However, parties shall be afforded an opportunity to contest the material so noticed.

#### 2. Subpoenas

a. The Board, or its designated hearing officer, may sign and issue subpoenas when requested in writing by any party to a contested case.

b. The information called for by a subpoena shall be reasonable and shall relate to the matter under consideration.

c. Investigative subpoenas are issued at the discretion of the hearing officer.

d. If the person fails to comply with a subpoena, the Board may apply to the judge of the appropriate district court for an attachment as for a contempt.

#### 3. Motions

a. A request to the Board or the hearing officer by a party for a particular action should be made in the form of a motion.

b. A motion may be made before, during or after a hearing.

c. All motions must be made at an appropriate time.

d. Motions made before or after the hearing shall be made in writing. Motions made during the course of the hearing may be made orally.

e. Motions are directed to the hearing officer who shall dispose of them appropriately.

f. A party may not submit written proposed findings of fact.

g. The hearing officer may refer a motion to the Board.

#### C. Formal Hearing Procedures

##### 1. Conduct of the Hearing

a. The members of the Board shall be present for the hearing.

b. The hearing will be conducted in accordance with the Administrative Procedure Act, La. R.S. 49:955-966.

1) Opportunity shall be afforded all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

2) Objections to evidentiary offers may be made and shall be noted in the record.

##### 2. Order of Proceedings

a. The hearing officer calls the session to order, identifies the case, subject of the case and cites the authority for holding the hearing.

b. The hearing officer asks the parties to identify themselves and their counsel.

c. All testimony shall be given under oath, such oath to be administered by the hearing officer.

d. Customary order of the proceedings should be followed at the discretion of the hearing officer.

##### 3. Evidence

a. In determining the admissibility of evidence, the hearing officer must follow the rules governing administrative hearings in Louisiana.

b. Constitutional guarantees of due process give the licensee a right to a decision based on evidence presented at the

hearing. The hearing officer, preparing the recommended decision, shall only consider evidence presented at the hearing or officially noted in the record.

#### D. The Final Decision of the Board

1. The Board must determine whether the facts in the case support the charges brought against the licensee. It must determine whether the charges are a violation of La. R.S. 37:2350-68, the Ethical Standards of Psychologists or other rules and regulations of the Board.

2. The Board accepts a proposed order from the hearing officer setting forth the findings of facts and conclusions of the hearing. The Board may adopt such findings and conclusions in whole or in part. Any Board members not present at the hearing must review the record prior to such decision.

3. The decision must be accompanied by a statement of the reasons for the decision and must dispose individually of each issue of fact or law necessary from the hearing officer.

4. The Board's decision shall be based on the evidence and the proposed decision from the hearing officer.

5. The vote of the Board must be recorded and made a part of the decision.

6. The Board determines the sanctions appropriate and consistent with law.

7. The final decision shall be delivered to each party by registered or certified mail, return receipt requested.

8. The final decision shall be delivered within 30 days of the close of the hearing.

#### E. Appeal of Board Decision

1. A petition by a party for reconsideration or hearing must be in writing and filed with the Board within 10 days after the receipt of the Board's final decision. The petition must set forth the grounds for the rehearing which must be one of the following:

a. The Board's decision is clearly contrary to the law and the evidence;

b. There is newly discovered evidence, which was not available to the licensee at the time of the hearing and which may be sufficient to reserve the Board's action;

c. There is a showing that issues not previously considered ought to be examined in order to dispose of the case properly; or

d. It would be in the public interest to further consider the issues and the evidence.

2. If a petition for reconsideration is denied, a party may proceed to seek judicial review of the decision.

3. Judicial review may be initiated by filing a petition in the appropriate district court within 30 days after mailing of notice of the final decision of the hearing or rehearing.

#### F. Case Record

1. A complete case record must be maintained for each formal hearing.

2. The record must be retained until the time for any appeal has expired, or until the appeal has been concluded.

3. The case record shall be composed of all material officially noted.

4. A transcript of the record shall be maintained.

#### G. Notification of Final Actions

Upon either completion of the final decision, expiration of the time for any appeal, or conclusion of appeals, the Board shall notify the following of its actions:

1. All licensed psychologists;

2. All affected parties; and

All affected professional organizations.

Interested persons may submit written comments on the proposed Regulation until 4:30 p.m., March 6, 1982, at the following address: Arthur L. Rosenkrantz, Ph.D., Chairman, Louisiana State Board of Examiners of Psychologists, Box 14782, Baton Rouge, LA 70898.



**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Ethics Violations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)  
There will be no implementation costs to the agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)  
There will be no effect on revenue collections.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)  
There will be no costs to affected groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
Competition and employment may be effected if a psychologist's license is revoked by the Board because of violation of this rule.

Arthur L. Rosenkrantz  
Chairman

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Human Resources  
Board of Examiners of Psychologists**

The Louisiana State Board of Examiners of Psychologists advertises its intent to adopt a policy to establish as the passing criterion on the EPPP written examination the 25th percentile, based on the national norms of all doctoral candidates taking that particular form of the examination.

Interested persons may submit written comments on the proposed Regulation until 4:30 p.m., March 6, 1982, at the following address: Arthur L. Rosenkrantz, Ph.D, Chairman, Louisiana State Board of Examiners of Psychologists, Box 14782, Baton Rouge, LA 70898.

Arthur L. Rosenkrantz  
Chairman

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Passing Score for Written Examination**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)  
There will be no costs to the agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)  
There will be no revenues collected.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)  
There will be no costs to the state.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
The effect on competition and employment will be that licensing will depend, in part, on whether a candidate for licensure passes the examination.

Arthur L. Rosenkrantz  
Chairman

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Human Resources  
Board of Veterinary Medicine**

The Louisiana Board of Veterinary Medicine will hold a public hearing on Wednesday, March 10, 1982, commencing at 8:30 a.m. at 851 North 6th Street, Baton Rouge, Louisiana, for the purpose of receiving public comment and/or questions upon the proposed amended rule of the Louisiana Board of Veterinary Medicine, relating to national examinations.

Immediately following the public hearing, the Louisiana Board of Veterinary Medicine will hold a meeting for the purpose of considering the adoption of the proposed amended rule concerning national examinations.

Interested persons may submit written data on or before the public hearing and meeting. Address written comments or requests for further information or copies of the proposed rule to Ms. Gayle Williamson, Louisiana Board of Veterinary Medicine, Box 15191, Baton Rouge, Louisiana 70895. (504/925-9538)

Proposed Rule:  
EXAMINATIONS [R.S. 37:1521]

**Subsection A**

The Louisiana Board of Veterinary Medicine hereby adopts the examination prepared by the National Board of Veterinary Medical Examiners (hereafter referred to as the "National Examination"), and requires that all applicants for licensure to practice veterinary medicine in the State of Louisiana shall pass the National Examination in addition to any and all State Examinations (herein defined as such written examinations, oral interviews and/or practical demonstrations as the Board may request or require).

Notwithstanding the provisions of Subsection F of this Rule, any applicant for licensure to practice veterinary medicine in the State of Louisiana who has, for the five years immediately preceding such application, been a licensed veterinarian in another State, District or Territory of the United States shall not be required to take or pass the National Examination, but shall be required to meet all other criteria for licensure.

**Subsection B**

A passing score on the National Examination shall be deemed to be the correct answering of 70 percent of the questions contained on the examination, less one standard deviation. The standard deviation shall be based upon the so-called "Nationwide Criterion Group", as that group is defined by Professional Examination Service or such other firm, corporation or entity as may be charged by the National Board of Veterinary Medical Examiners with the duty of formulating, administering and grading the National Exam. The standard deviation shall be computed separately for each group of examinees taking the National Examination. The definition of the nationwide criterion group as applied by Professional Examination Service or such other person, firm or entity as may be charged by the National Board of Veterinary Medical Examiners with the formulation, administration and grading of the National Exam is hereby adopted by the Board, and the calculation of the standard deviation by Professional Examination Service or such other person, firm or entity as may be charged by the National Board of Veterinary Medical Examiners with the formulation, administration and grading of the National Exam, shall be conclusive.

**Subsection C**

A passing score on the State Examination shall be in deemed to be the correct answering of at least 70 percent of the questions contained on the State Examination.

**Subsection D**

The administration of the National Examination shall be in accordance with rules, practices, policies, or procedures pre-



scribed by the National Board of Veterinary Medical Examiners, or by the designees of the National Board of Veterinary Medical Examiners, or by any person or persons with whom the National Board of Veterinary Medical Examiners may have contracted to administer said exam. The National Exam may be administered by members of the Louisiana Board of Veterinary Medicine, or any of the agents, employees or designees of the Board.

#### Subsection E

The State Examination may be prepared, administered and graded by the members of the Louisiana Board of Veterinary Medicine, or may be prepared, administered and/or graded, in whole or in part, by any person, firm, corporation or other entity selected, requested or designated to do so by the Louisiana Board of Veterinary Medicine.

#### Subsection F

In order to receive a license to practice veterinary medicine in the State of Louisiana an applicant must pass both the National Examination and the State Examination.

#### Subsection G

A passing score on either required examination will be given effect for a period of two years. Should an applicant pass one of the required examinations but fail to pass the other required examination for a period of two years, such applicant will thereafter be required to pass both examinations, notwithstanding such applicant's previous passing of one of the required examinations.

#### Subsection H

The State Examination shall be administered on the fourth Saturday in May of each year at Baton Rouge, Louisiana, and shall continue from date to day thereafter until completed. The National Examination shall be administered at such dates, times and places as shall be required by the National Board of Veterinary Medical Examiners, or their agents, employees, or designees.

George M. Arnold  
President

### **Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Certification, and Procedures Fees**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)**

No additional costs or savings to the Agency is anticipated as a result of the proposed rules.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)**

No increase or decrease in Agency revenue collection is anticipated, etc.

#### **III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)**

No additional costs or benefits to affected groups is anticipated, etc.

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

No effect upon competition and employment is anticipated, etc.

George M. Arnold  
President

Mark C. Drennen  
Legislative Fiscal Officer

## **NOTICE OF INTENT**

### **Department of Health and Human Resources Office of Family Security**

The Department of Health and Human Resources, Office of Family Security proposes, effective April 1, 1982, to require all independent laboratories to bill the Medical Assistance Program their usual and customary charge not to exceed the lowest price charged to other customers, (i.e., general public, physicians, hospitals, and other independent laboratories). Providers will be required to certify in writing to the Medical Assistance Program that their billed amounts are in compliance with this policy.

Interested persons may submit written comments through March 6, 1982, to Mr. Michael S. Haddad, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, Louisiana 70804. Mr. Haddad is the person responsible for responding to inquiries about the proposed rule.

Geroge A. Fischer  
Secretary

### **Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Billing for Independent Laboratories**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)**

The estimated savings to the agency are as follows:

FY 81-82 \$4,675

FY 82-83 \$21,159

FY 83-84 \$23,942

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)**

There is no effect on revenue collections.

#### **III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)**

There are no estimated costs and benefits to affected groups.

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

There is no effect on competition and employment.

Michael S. Haddad  
Assistant Secretary

Mark C. Drennen  
Legislative Fiscal Officer

## **NOTICE OF INTENT**

### **Department of Health and Human Resources Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, proposes to implement programs for adult day health services, homemaker services, and habilitation services, effective April 1, 1982 under the Louisiana Medical Assistance Program (Title XIX).

Inclusion of these services in state Title XIX programs was made possible by the Omnibus Budget Reconciliation Act of 1981. The Department of Health and Human Services approved the Department of Health and Human Resource's waiver request to provide the above three types of home and community based services. These services are available to Title XIX eligible recipients on the conditions that (1) the individual would require Skilled Nursing Facility or Intermediate Care Facility services in the abs-

ence of the waived service and (2) that the waived service is less expensive than the institutional service.

The following is a brief description of each service: The Adult Day Health Services Program will provide direct care in a licensed facility during a portion of the 24-hour day for individuals who are physically and/or mentally impaired. The target group will include individuals who need direct professional medical supervision or personal care supervision.

The Homemaker Services Program will assist individuals and families to overcome specific barriers to maintaining, strengthening, and safeguarding functions in their own home through the services of homemakers and home health aides. These services will be provided in a crisis situation on a time limited or periodic basis by trained personnel.

The Habilitation Services Program will provide training opportunities for mentally retarded individuals according to individual abilities and needs. An Individual Habilitation Plan written for each participant will designate goals and objectives. The centers offer a minimum of six hours daily for participation in activities designed to develop social, personal, and employment skills.

Eligibility standards with respect to income and medical necessity are the same as for individuals who require long term care services. As these services are non-residential, an amount of the individual's income is protected for his subsistence and the subsistence of any dependents.

Providers will include many of the providers of the services who are currently funded under Title XX (Social Services). The services will be available on a statewide basis, except for adult day health services which are restricted under the waiver request to current Title XX providers in East Baton Rouge, Orleans, Ouachita, and Red River Parishes.

Payments to providers by the Department of Health and Human Resources on behalf of eligible recipients will be determined individually on the basis of costs associated with providing the services.

Interested persons may submit written comments through March 6, 1982, to Mr. Michael S. Haddad, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, Louisiana 70804. Mr. Haddad is the person responsible for responding to inquiries about the proposed rule.

George A. Fischer  
Secretary

#### **Fiscal and Economic Impact Statement For Administrative Rules**

#### **Rule Title: MAP Implementation of Adult Day Health Services, Homemaker Services, and Habilitation Services Programs.**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)**

The estimated implementation costs are \$1,583,634 for FY 81-82; \$7,364,375 for FY 82-83; and \$8,228,555 for FY 83-84. The cost for FY 81-82 was funded in the FY 81-82 budget and, therefore, does not represent additional funding needs.

##### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)**

There is no effect on revenue collections.

##### **III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)**

No costs or benefits to affected groups can be estimated at this time because statistics are not available to substantiate the number of eligible recipients who would choose

community based services rather than long term care services.

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

This proposed rule would create greater competition among providers of long term care services based on this provision of alternative services.

Michael S. Haddad  
Assistant Secretary

Mark C. Drennen  
Legislative Fiscal Officer

#### **NOTICE OF INTENT**

#### **Department of Health and Human Resources Office of Licensing and Regulation**

The Department of Health and Human Resources, Office of Licensing and Regulation, proposes to adopt a rule to implement the following new policies and guidelines for Section 1122 Capital Expenditure Review in accordance with 42 CFR, 100.6 (Rule A) 1. (38 FR 31381, November 13, 1973, as amended at 39 FR 32030, September 4, 1974)

##### **Introduction**

Section 1122 of the Social Security Act, as amended by Public Law 92-603, the Social Security Amendments of 1972, requires that a health facility which proposes to make a capital expenditure obtain prior approval by a designated planning agency in order to be reimbursed for expenses related to the capital expenditure under the Medicare, Medicaid, and Maternal and Child Health programs. The purpose of this provision is to assure that Federal funds are not used to support unnecessary capital expenditures by health care facilities.

##### **Responsible Agency**

The state agency designated to carry out the provisions of this law in Louisiana is the Division of Health Planning and Development (DHPD), which is the state agency organized under P.L. 93-641.

##### **Other Agencies**

In making its review of proposed capital expenditures DHPD will consult the Division of Licensing and Certification and any other appropriate state agency.

##### **Facilities Included**

For the purpose of this Section (1122), "health care facility" includes hospitals, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, kidney disease treatment centers including freestanding hemodialysis units, intermediate care facilities, and ambulatory surgical facilities but does not include Christian Science, sanitoriums, operated or listed and certified by the First Church of Christ, Scientists, Boston, Massachusetts.

##### **Expenditures Covered**

Capital Expenditures covered are those which are not properly chargeable as expenses of operation and maintenance and which (1) exceed \$100,000 or (2) change the bed capacity of the facility, or (3) substantially change the services of the facility. Any questions regarding applicability of expenditures to review should be directed solely to DHPD for an official determination.

When making a determination of the total amount of any capital expenditure discussed herein, DHPD shall consider the cost of studies, surveys, designs, plans, working drawings, specifications and other activities essential to the acquisition, improvement, expansion or replacement of the plant and equipment with respect to which such expenditure is made.

Proposals for the acquisition of facilities or equipment by lease or comparable arrangement or through donation may be subject to review under Section 1122. DHPD should be contacted

for a determination of applicability and assistance in computing amounts subject to Section 1122 review.

#### **Effective Date**

Any capital expenditure for which the obligation is incurred by or on behalf of a health care facility after December 31, 1972, is subject to review under these provisions.

#### **Exclusions**

1. An expenditure for which an obligation was incurred before January 1, 1973, is not subject to review requirements of Section 1122.

2. The statute permits an exception to any health care facility providing services as of December 18, 1970, which as of that date was committed to a formal plan of expansion or replacement as approved by the facility's board of trustees. This can only occur if the facility spent \$100,000 or more during the three-year period ending December 17, 1970, for preliminary items on the plan including payments for studies, surveys, designs, plans, working drawings, specifications and site acquisition. In such a case, Section 1122 shall not apply to capital expenditures made in conformity with that plan. The exception shall, however, not apply to capital expenditures which are not included in the plan.

#### **Election Not to Review**

The Division of Health Planning and Development may, at its option, elect not to review certain proposed capital expenditures which have been determined to be subject to review under Section 1122 of the Social Security Act. A decision to elect not to review shall be equivalent to a determination by DHPD that such expenditure is in conformity with applicable standards, criteria or plans.

In order to be eligible for election not to review, a proposal must meet all of the following criteria:

1. There will be no substantial change in services offered by the health care facility as a result of the proposed expenditure, except that proposals which substantially change a facility's services but cost less than \$100,000 may be considered for election not to review.

2. Proposals for the addition of beds will be considered for election not to review on a case-by-case basis, providing the addition can be undertaken in a manner consistent with cost-effectiveness and good quality of care. A full review will be required when (a) the proposed expenditure exceeds \$100,000 or (b) the bed complement of the facility will be increased by more than 10 percent of the total number of licensed beds.

3. Total costs of the proposal do not exceed \$1,000,000, except that proposals for the replacement of existing medical equipment, for the acquisition of non-medical equipment, for construction and/or renovations to achieve compliance with life safety codes or for the acquisition of a health care facility through purchase, lease or comparable arrangement will be considered for election not to review on case-by-case basis.

4. The proposed expenditure is not a discrete component of a larger capital expenditure or a part of a phased project, the total cost of which would disqualify that proposal from election not to review according to the criteria set forth in this section.

DHPD may, at its option, subject any proposal to full review, including proposals which meet all of the above criteria.

A person proposing a capital expenditure by or on behalf of a health care facility, which expenditure may qualify for election not to review according to the above criteria, should submit in writing to DHPD notice of intent to make the capital expenditure. After examining the information contained in such notification, and any additional information DHPD may request, a determination will be made by DHPD whether or not to elect not to review the proposed expenditure.

If DHPD determines that such proposals shall require full review, the applicant will be notified of such decision and will be supplied with appropriate application forms to provide information adequate for full review of the proposal.

#### **Review Procedures**

##### **A. Notification procedures**

1. Any person, agency, organization, or health care facility which process to make a capital expenditure subject to review under the provisions of Section 1122 of the Social Security Act should request an application from DHPD.

2. DHPD will promptly send a copy of this booklet and a questionnaire to the applicant.

3. The applicant should fill out the questionnaire in coordination with DHPD. When ready for submittal for review, the applicant must provide three copies of the application to DHPD. All copies submitted must be identical.

4. An application must be received by DHPD and determined to be completed at least 60 days prior to the date upon which the applicant expects to incur an obligation to make the expenditure. If DHPD determines that the application is incomplete, the applicant will be notified within 15 days of additional information needed.

5. The applicant must provide additional information as requested in Part A. 5., above, again with the provision that requested information be received by DHPD at least 60 days prior to the expected date of obligation to make the expenditure.

##### **B. Review procedures**

6. The review period will not exceed 90 days unless the applicant agrees to a longer time period. The review period will begin upon receipt by DHPD of a complete application. Procedures governing incomplete applications are found in Part A. 5. and A. 6. above.

7. DHPD will issue a press release of its receipt of the complete application.

8. DHPD will send copies of the application to the Division of Licensing and Certification and any other state agency deemed appropriate by DHPD.

9. The Division of Licensing and Certification and other state agencies from which comments have been requested will review the application and send their recommendations to DHPD.

10. Findings and recommendations pursuant to Part B. 11 above will be received by DHPD no later than 60 days after start of the review period. In the case of an application which specifies that an obligation to make the capital expenditure will be incurred 60 days after start of the review period, DHPD will coordinate with the Division of Licensing and Certification to establish a date by which findings and recommendations will be received by DHPD. Such date should allow sufficient time for the Division of Licensing and Certification review, as well as a period for consideration of those findings and recommendations by DHPD.

11. DHPD will then complete the review and send its findings and recommendations to the applicant, the Secretary of DHEW, the Division of Licensing and Certification, and the Secretary of the Department of Health and Human Resources of Louisiana. This step shall be completed not more than 90 days after the date DHPD has received the completed application unless the applicant has indicated an earlier date for obligation of the expenditure. However, a minimum of 60 days must be allotted for completion of the review. At an applicant's request or concurrence, the review period may be for a longer period of time as agreed.

12. DHPD will issue a news release of the final finding.

##### **C. Appeal procedures**

13. In the case of a negative recommendation by DHPD, the applicant may request an appeal which request must be made in writing and received by DHPD within 30 days after the applicant has received notice in writing of the notice of disapproval.

14. DHPD will notify the Hearing Officer for the State of Louisiana who is responsible for conduct of the appeal hearing.

15. The Hearing Officer will select a hearing date and notify DHPD, and the hearing shall be commenced within 30 days after

receipt of the request for a hearing by the applicant (or later, at the option of the person requesting the hearing).

16. DHPD will notify the applicant of the hearing date.

17. DHPD will issue a news release of the hearing.

18. As soon as possible, but not later than 45 days after the conclusion of the hearing, the Hearing Officer will notify the applicant, DHPD and the Regional Health Administrator (DHEW) of the appeal decision.

19. DHPD will issue a press release of the appeal decision.

#### **Evidence of Obligation; Termination of Approval**

Evidence of obligation to make the capital expenditure must be received by DHPD within one year after approval of the project, or the approval will expire.

As provided in the regulations, the one year approval period may be extended for up to six months at the discretion of DHPD.

A progress report to DHPD on the project is required six months after approval.

As provided in the regulations, an obligation to make a capital expenditure shall be incurred not more than one year following the date of approval. An obligation shall be deemed to have been incurred by or on behalf of health care facility or health maintenance organization:

a. When an enforceable contract is entered into by such facility or organization or by a person proposing such capital expenditure on behalf of such facility or organization for the construction, acquisition, lease or financing or a capital asset; or

b. Upon formal internal commitment of funds by such facility or organization for a force account expenditure which constitutes a capital expenditure; or

c. In the case of donated property, the date on which the gift is completed in accordance with applicable Louisiana law.

It is the sole responsibility of the proponent to keep DHPD informed of its progress during the one year approval period and to submit documentary evidence as proof that at least one of the above conditions has been fulfilled. The following conditions have been established regarding the acceptance of certain documents as proof of an obligation.

a. In the case of a construction contract, such document must be fully consummated and filed with a local clerk of court's office in accordance with applicable state law.

b. In the case of a purchase or lease arrangement, a purchase or lease agreement signed by lessor and lessee must be submitted.

c. In the case of a financial commitment, such commitment must be a documented binding commitment from a lending institution for permanent or interim financing accompanied by an acceptance signature from the proponent. (Loan guarantees do not fulfill the requirements set forth above).

d. In the case of bonds, an obligation is deemed to have been incurred whenever the bonds have been approved for sale or issuance by either an election or board action of an official public body acting on behalf of a health care facility.

#### **Effect of Negative Recommendation**

If DHPD recommends that the capital expenditure not be made, the Secretary of DHHS shall, in determining the Federal payments to be made under Titles XVIII and XIX of the Social Security Act to the health care facility, ordinarily exclude certain expenses related to such capital expenditure. However, if the Secretary, after submitting the matters involved to the National Advisory Council on Health Planning and Development and after taking into consideration the recommendations of DHPD and other reviewing agencies, determines that an exclusion of expenses for a capital expenditure would discourage the operation or expansion of a health care facility (or any facility of such an organization) which has demonstrated capability to provide comprehensive health care services efficiently, effectively, and econo-

mically or would otherwise be inconsistent with the effective organization and delivery of health services or the effective administration of Titles XVIII and XIX, he shall include such expenses in Federal payments under such titles.

#### **Effect of Failure to give Timely**

#### **Notice of Proposed Expenditure**

When DHPD has good cause to believe that an obligation for a capital expenditure has been incurred by or on behalf of a health care facility and that timely notice of at least 60 days was not provided, DHPD shall send written notification to such health care facility, the Secretary, and all other agencies deemed appropriate by DHPD of a proposed finding that an obligation for a capital expenditure subject to review has been incurred and that timely notice was not provided. Procedures for processing such a finding shall be according to Section 100.108 (a) of the regulations, and the policy on lack of timely notice as published January 26, 1977, in the Federal Register, Vol. 42, No. 17.

#### **Reconsideration of Disapproved Projects**

In the case of disapproved projects, the applicant will be entitled to a reconsideration by DHPD of its finding: (a) whenever there is a substantial change in existing or proposed health facilities or services of the type proposed in the area; or (b) upon a substantial change in the need for facilities or services of the type proposed in the area; or (c) at any time following the expiration of three years from the date of finding of the DHPD or of its last reconsideration of such finding pursuant to this paragraph, whichever is later.

If DHPD finds, after such reconsiderations, that the facilities or services provided by the capital expenditure involved are in conformity with the applicable standards, criteria, or plans, and so notifies the Secretary of DHEW, the Secretary will include, in determining future payments under Titles XVIII and XIX, expenses related to such capital expenditure. However, *such expenses will be included only for payments following the date of notification to the Secretary by DHPD of its reconsideration.*

#### **Criteria for Section 1122 Reviews**

In making recommendations concerning projects reviewed under Section 1122 of the Social Security Act, the review body or agency at each level designated in the review process shall consider, but not be limited to, the following criteria, as required under P.L. 93-641 and implementing rules and regulations:

I. The relationship of the health services being reviewed to the applicable Health Systems Plan and Annual Implementation Plan and the State Health Plan adopted pursuant to the provisions of P.L. 93-641.

II. The relationship of services reviewed to the long range development plan (if any) of the person providing or proposing such services.

III. The need that the population served or to be served by such services has for such services.

In considering the need for a proposed project, DHPD will review, but not be limited to, the following information:

A. The availability of similar facilities, services and institutional beds within the service area, including but not limited to:

1. Number of similar facilities, services and beds in the service area.

2. Ratio of institutional beds to the population, as a whole and where appropriate, to age groups.

3. Comparison of service area bed ratio with other health service areas in the state and other relevant areas.

4. Distribution of institutional beds, services, and facilities within the area.

B. Accessibility of the target population of the proposed project to existing and proposed facilities and services. (This would include physical and financial accessibility.)

C. Measures of utilization of existing facilities and services:

1. Admission rates per 1,000 persons.

2. Occupancy rate: Average Daily Census  
Number of beds
3. Length of stay (average): Census X 365  
Annual Admissions

4. Other appropriate utilization material.

D. Projects of utilization.

E. A delineation of the proposed service area.

F. Various projections of bed need.

G. The projected population growth or lack of growth of the proposed service area.

IV. The availability of alternative, less costly, or more effective methods of providing such services.

A. Potential availability of such services.

V. The immediate and long term financial feasibility of the proposal.

VI. The relationship of the services proposed to be provided to the existing health care system of the area in which such services are proposed to be provided.

DHPD will review, but not be limited to, the following information:

A. Documentation of coordination and/or linkage agreements between the applicant and existing or planned health care institutions and/or providers within the service area.

VII. The availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provision of the services proposed to be provided and the availability of alternative uses of such resources for the provision of other health services.

DHPD will review, but not be limited to, the following information regarding Health Care staffing:

A. Physicians

a. Availability in the services area

b. Projected availability in the service area

B. Nursing Personnel

a. Availability in the service area

b. Projected availability in the service area

c. Adequacy of proposed staffing according to required standards

C. Management and Other Personnel

a. Availability in the service area

b. Projected availability for the proposal

VIII. The relationship, including the organizational relationship, of the health services proposed to be provided to ancillary or support services.

IX. The special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. Such entities may include medical and other health professionals schools, multi-disciplinary clinics, and specialty centers.

X. The special needs and circumstances of health maintenance organizations for which assistance may be provided under Title XIII of the Act.

XI. The special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantage.

XII. In the case of a construction project —

A. The cost and methods of the proposed construction, including the costs and methods of energy provision; and

B. The probable impact of the construction project reviewed on the cost of providing health services by the person proposing such construction project.

The criteria adopted for reviews in accordance with the above may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed.

PLEASE BE ADVISED: An approval issued in accordance with Section 1122 of the Social Security Act in no way relieves an applicant of responsibility for fulfilling other state and/or federal requirements.

Notification of intent to make a capital expenditure subject to Section 1122 review should be addressed to the Division of Health Planning and Development. Also, questions in regard to applicability of Section 1122 to proposed expenditures or in regard to statewide review policies and procedures should be directed to Murray A. Forman, Director, Division of Health Planning and Development, 333 Laurel Street, Second Floor, Baton Rouge, Louisiana 70801.

Interested persons may submit written comments on the proposed Rule through March 6, 1982 at the following address: Mr. Jim Harris, Assistant Secretary, Office of Licensing and Registration, Box 3776, Baton Rouge, La. 70821.

George Fischer  
Secretary

### **Fiscal and Economic Impact Statement For Administrative Rules**

#### **Rule Title: Section 1122 Capital Expenditure Review**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)**

No anticipated fiscal impact to agency. It is assumed that no additional staff will be required by the Division of Health Planning and Development.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)**

None.

#### **III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)**

The review process will be easier and shorter for the applicant. However, there is no provision for testimony during public hearing for provider and consumer groups. At this point, it is impossible to assess the impact of this change on the effectiveness of the review process and on the resulting growth in health care facilities and services, whether needed or unneeded.

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

It is difficult to assess the impact of this change on competition and employment. The Division of Health Planning and Development will continue to have authority to approve and disapprove health care facility expansion but without benefit of testimony from the public.

Jim Harris  
Assistant Secretary

Mark C. Drennen  
Legislative Fiscal Officer

### **NOTICE OF INTENT**

#### **Office of Conservation Department of Natural Resources**

#### **Docket Number PL 82-31**

Pursuant to the provisions of La. R.S. 49:953, the Office of Conservation, Department of Natural Resources, gives notice that it proposes to adopt Regulation 16 of the Regulations of the

Commissioner of Conservation applicable to matters arising under the Natural Resources and Energy Act of 1973, as amended, at a hearing to be held in the Conservation Auditorium, First Floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana, at 9 a.m. on March 18, 1982.

The purpose of this regulation is to enable the Commissioner to gather energy end-use information pursuant to La. R.S. 30:546 A.(5). This data will be obtained from electrical power plants, natural gas distributors, natural gas transporters, and industries operating in Louisiana. The proposed regulation will read as follows:

“Regulation 16 - Governing Compilation and Publication of Information Pursuant to Sections 546 A.(5) and 550 of the Act.

a. This regulation shall apply to the gathering, analysis, maintenance and publication of information on intrastate natural gas pipelines, transporters, distributors, and users of natural gas, pursuant to Sections 546A.(5) and 550 of the Act.

b. All information required by this regulation shall be filed on forms provided by the Commissioner. Each natural gas transporter, gas distributor, power plant and industrial user shall, annually on or before April 1, file the information requested on the appropriate Commissioner of Conservation questionnaire required for transporters, distribution companies, power plants and industrial users. Persons receiving and filing these questionnaires in the past will be provided same before February 1. Other persons required by law and this regulation to file a questionnaire should submit their name, mailing address and type of business to the Louisiana Office of Conservation, Post Office Box 44275, Baton Rouge, Louisiana 70804, in order to facilitate timely distribution of the questionnaires.

c. This regulation shall not apply to any industrial user which consumes less than 10 million British Thermal Units (BTU's) of natural gas per day and which employs less than 10 permanent employees. Energy consumption shall be based on the daily average of the month of highest consumption.

d. All data gathered under this regulation shall be deemed public information and shall not be held confidential in whole or in part.”

All interested persons will be afforded a reasonable opportunity to submit data, views, or arguments, orally or in writing. Written comments prior to the hearing should be forwarded to; R. T. Sutton, Commissioner of Conservation, Box 44275, Baton Rouge, Louisiana 70804. RE: Docket No. PL 82-31.

All parties having interest in the aforesaid shall take notice thereof.

R. T. Sutton  
Commissioner

### **Fiscal and Economic Impact Statement For Administrative Rules**

#### **Rule Title: Enable Commissioner of Conservation to gather information concerning transportation**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)**

The annual cost of this rule is the printing of 800 copies of the energy end use questionnaires at 15¢ per copy and the mailing cost at 40¢ per copy or a total of \$440. This activity has been accomplished every year since 1975. Therefore, no additional costs will be incurred.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)**

There will be no effect on revenue collections.

#### **III. ESTIMATED COSTS AND BENEFITS TO AFFECTED**

#### **GROUPS - (Summary)**

Affected groups will incur the costs of annually completing one energy end use questionnaire. The average cost will be approximately one man-day per year per company.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY- MENT - (Summary)**

The implementation of this rule should have no effect on competition and employment.

R. T. Sutton  
Commicioneer

Mark C. Drennen  
Legislative Fiscal Officer

### **NOTICE OF INTENT Department of Public Safety Office of State Fire Marshal**

The Fire Marshal for the State of Louisiana intends to adopt the following amendment and re-enactment of L.A.C. 17:4:15 Paragraph K which shall read as follows:

K. No mattresses and pillows shall be permitted in cells, isolation rooms, detention rooms, and any other enclosed area of any prisons, jails or penal institutions in the state of Louisiana unless those mattresses and pillows meet the following requirements:

SPECIFICATION FOR FIRE RETARDANT MATTRESSES AND PILLOWS  
for use in Correctional Facilities

COVER: Fabric to be certified to meet the component requirements of the Department of Commerce Mattress Flammability Standard. Fabric to be completely impermeable to fluids. Must be high strength fabric to be tear and rip resistant. Must be resistant to staining and cleanable with standard mild detergents.

Cover must also meet or exceed the following test methods and requirements:

PROPERTY	TEST METHOD	REQUIREMENT
Total Weight	5041(1)	10.2 ± 5% oz./sq. yd.
Base Cloth	Table 1, Item 2	Special Treated Multifilament Nylon
Breaking Strength	5100	W 110 min F 110 min (grab, lbs.) 75 min (lbs./in.)
Breaking Strength Initial, Strip Method	5102	
Breaking Strength After Accelerated Weathering 500 hr. Exposure	5804, 5102	65 min (lbs./in.)
Tear Strength - Tongue Method	5134	W 32 min F 29 min
Hydrostatic Resistance	5512	Face 180 Reverse 180 (PSI)
Blocking, scale rating	5872	#2 max
Coating Adhesion	5970	30 min (lbs./2 inch)
Flame Resistance	5903	
After Flame & Glow Time		2 max (sec.)
No. of Specimens with zero Flame		2 min
Char Length		7 max (inch)
Bacteriostatic Activity	HTm 3.2.1	
After 24 hrs. % reduction		
Staph Aureus		98.0 min (gram positive)
Klebsiella Pneumoniae		85.0 min (gram negative)
Draize Primary Dermal Irritation Tests	Draize Index	
Abraded Skin	0	
Intact Skin	0	
Abrasion resistance	HTm 3.1.12	
Barnet Grit		80
Cycles		2,000
1% loss initial strength		15 max
Electrical Resistivity	NFPA NO. 56A	
Surface	1972	
Face	Para. 25433	Face 1x10 <sup>11</sup> max (ohms per sq.)
Reverse	Method 2	Reverse 1x10 <sup>11</sup>
Volume, ohms		
Extraction Resistance	HTm 3.1.18	3.0 max (% weight loss)
Soapy Water		
Antimicrobial Activity	HTm 3.1.2	Antimicrobial Agent(s) Integral Part of Fabric
Staining & Penetration Resistance	HTm 3.1.5	Tear Strength (lbs) min Warp 29 Fill 26
Alcohol Resistance		No Staining, Discoloration, or Penetration
Oil Resistance		
Crease Resistance	HTm 3.1.6	No Cracking or Flaking
Coating Resistance to Medicants, Excreta and soil	HTm 3.1.14	Resistance to Staining - Cleanable mild soap and water
Fabrication	HTm 3.1.15	Capable of being sewn & patched, seamed, or repaired with cement

Retesting After Washing  
Aging and Autoclaving

HTm 3.1.10

No sign of stiffness,  
brittleness. Coating  
not to be soft and/or  
tacky.

Compatibility with High  
Resilient Neoprene  
Foam

Page 5

10 max (% loss of initial  
weight)

Cover must be E.P.A. registered.

Cover must be compatible with the following cushioning material.

**CUSHIONING:** Cushioning must be permanently flame resistant of low smoke producing material. Must be germ resistant and non-allergenic. Must be odor and stain resistant, comfortable, flexible and highly resilient. Must be durable and exhibit resistance to solvents.

Cushioning material must meet or exceed the following test methods and requirements.

PROPERTY	TEST METHOD	REQUIREMENT
Density	ASTM-D-1564-71	6.5 ± 8.5 lbs./cf
Tensile Strength	ASTM-D-1564-71 Suffix T	5.0 psi Minimum
Ultimate Elongation	ASTM-D-1564-71	80% Minimum
Indentation Load	ASTM-D-2406-73	40 ± 10 lbs.
Deflection @ 25%	Method A	(3" thick sample)
Ratio (64%/25%)	ASTM-D-2406-73	3.0 Minimum
Compression Set @ 50% Deflection	Method A ASTM-D-1055-69	20% Maximum
Resistance to Deterioration	Method 19.1 ASTM-D-1055-69	
Indentation Load Change @ 25%	(by ASTM-D-573-67) ASTM-D-2506-73	
Deflection	Method A	± 15% Maximum
Compression Set Increase @ 50%	ASTM-D-1055-69	10% Maximum
Deflection	Method 19.1	
Resistance to Flex Fatigue	ASTM-D-1055-69	
Thickness Loss	Suffix H ASTM-D-1055-69	5% Maximum
Resistance to Tears	ASTM-D-1564-71	0.6 lb./in. Minimum
Resistance to Solvents	Suffix G	Resistant to Common Cleaning Agents, Oil, Food and Drink
Odor		No Objectionable Odor
Flammability	ASTM-D-3675-78 (Radiant Panel)	Max Flame Spread Index 5 Sample shall not melt or drip. Flammability characteristics are permanent
Oxygen Index	ASTM-D-2863-77	55 min
Smoke Density	ASTM-E-662-79 (NBS Smoke Chamber)	Ds @ 90 sec. 100 max Ds @ 4 min. 175 max Dm 300 max
Flaming & non flaming modes (1" sample)	NFPA Std #258-76	
*Above at 1/2" sample		*Dm 200 max
Heat Release Rate (Ohio State)	Reference: E. E. Smith; "Measuring Rate of Heat, Smoke, and Toxic Gas Release, "Fire Tech 8 237, 1972	Max Heat Release Rate 15KW/M <sup>2</sup>  Max Heat Release at 10 min 100 KW-Min/M <sup>2</sup>
Resistance to release of toxic gases	"Study to Develop Improved Fire Resistance Aircraft Passenger Seat Materials - Phase I" NASA CR-152056 prepared under contract NAS 2-9337 by McDonnell Douglas Corp. Pages 41-65	Time to incapacitation (Ti) - 15 minutes min. Time to death (Td) - 30 minutes min.