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# Executive Orders

## EXECUTIVE ORDER MJF 98-15

Louisiana Distance Learning Network Advisory Board

WHEREAS, the federal government through the Department of Defense and the National Guard Bureau has created the Distance Learning Network (hereafter "DLN");

WHEREAS, distance learning is a means to achieve efficient and cost-effective training of soldiers by educational training through electronically mediated instruction including audio conferencing, virtual office, video, audio graphic, computer, multimedia technology, and other forms of learning capabilities when the soldier is geographically separated from the instructor;

WHEREAS, distance learning also has civilian applications that could be of tremendous benefit to the citizens of Louisiana;

WHEREAS, the DLN is offering distance learning opportunities to state military departments;

WHEREAS, through the DLN, states have the opportunity to receive funds and/or in-kind assistance in the form of federally procured supplies and/or services to develop and administer distance learning sites by entering into a distance learning cooperative agreement with the United States Property and Fiscal Officer on behalf of the National Guard Bureau, pursuant to federal requirements;

WHEREAS, if the state of Louisiana develops and administers distance learning sites and permits the use of the sites by public and private organizations and individuals in addition to the Louisiana National Guard, on a space-available and cost reimbursement basis, information technology will be publicly accessible and the public's use of the information technology will generate revenue necessary for the administration of the sites;

WHEREAS, as a prerequisite to the establishment of a distance learning network within a state, the federal government requires the state to establish an advisory board to serve as its point of contact; and

WHEREAS, the interests of the citizens of the state of Louisiana are best served by the creation of an advisory board that is charged with serving as a point of contact for the DLN and with developing, coordinating, and facilitating the implementation and administration of Louisiana's distance learning sites;

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

SECTION 1: The Louisiana Distance Learning Network Advisory Board (hereafter "Board") is established within the military department, Office of the Governor.

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

A. Serving as a point of contact for the DLN and the establishment of distance learning sites within the state of Louisiana;

B. Developing Louisiana's distance learning implementation plan (hereafter "State Plan") in accordance with DLN requirements;

C. Developing, implementing, and monitoring the operation, extension, and maintenance of Louisiana's distance learning sites and integrating them with sites located in other states in accordance with the requirements of the State Plan;

D. Developing, administering, and monitoring a business plan which addresses management, rate structure, revenue distribution, funding, and related issues that impact on the maintenance, growth, and expansion of distance learning sites within Louisiana;

E. Promoting distance learning sites throughout the state in a manner which emphasizes usage of the sites by schools, non-profit associations, commercial business entities, public-private partnerships, and communities; and

F. Ensuring compliance with the requirements of DLN's certification program.

SECTION 3: The Board shall use the *Distance Learning Planning Information Paper* issued by the National Guard Bureau for guidance in its implementation of the duties set forth in Section 2.

SECTION 4: The Board shall annually, by August 1, submit a comprehensive written report to the governor which details the Board's progress in fulfilling the duties set forth in Section 2 and assesses the Board's planning objectives.

SECTION 5: The Board shall consist of fourteen (14) members who shall be appointed by, and serve at the pleasure of, the governor. The membership of the Board shall be selected as follows:

A. The president of the Senate, or the president's designee;

B. The speaker of the House of Representatives, or the speaker's designee;

C. The adjutant general, or the adjutant general's designee;

D. The commissioner of administration, or the commissioner's designee;

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

F. The superintendent of Education, or the superintendent's designee;

G. The commissioner of higher education, Louisiana Board of Regents, or the commissioner's designee;

H. The associate commissioner for information and learning technology, Louisiana Board of Regents, or the associate commissioner's designee;

I. The director of information management, Louisiana National Guard, or the director's designee;

J. The distance learning project officer, Louisiana National Guard, or the distance learning project officer's designee;

K. The executive director of the office of information resources, Division of Administration, or the executive director's designee; and

L. Three (3) representatives of business and industry.

SECTION 6: The governor shall select the chair of the Board. The membership of the Board shall elect all other officers.

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

SECTION 8: Support staff for the Board and facilities for its meetings shall be provided by the military department, Office of the Governor.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 9th day of April, 1998.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9805#007

**EXECUTIVE ORDER MJF 98-16**

Bond Allocation—Louisiana Local  
Government Environmental Facilities  
and Community Development Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act No. 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Local Government Environmental Facilities and Community Development Authority has requested an allocation from the 1998 Ceiling to be used in connection with the financing of the acquisition, construction, rehabilitation, and equipping of a dental component manufacturing facility and related equipment for Bradford Properties, L.L.C. (the "Project"), located in Shreveport, Louisiana, parish of Caddo, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$300,000	Louisiana Local Government Environmental Facilities and Community Development Authority	Bradford Properties, L.L.C.

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before July 14, 1998.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the capitol, in the city of Baton Rouge, on this 15th day of April, 1998.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9805#008

**EXECUTIVE ORDER MJF 98-17**

DWI/Vehicular Homicide Task Force

WHEREAS, Executive Order No. MJF 96-9, signed on April 15, 1996, established the Governor’s DWI/Vehicular Homicide Task Force (hereafter “Task Force”);

WHEREAS, the membership of the Task Force has been expanded by Executive Order Nos. MJF 97-8, signed on January 30, 1997; MJF 97-55, signed on December 3, 1997; and MJF 98-2, signed on January 13, 1998; and

WHEREAS, it is necessary to expand the membership of the Task Force;

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

SECTION 1: Section 2 of Executive Order No. MJF 96- 9, as amended by Sections 1 of Executive Order Nos. MJF 97-8, MJF 97-55, and MJF 98-2 is amended to add subsection P, which shall provide as follows:

P. one (1) representative of the Louisiana Restaurant Association.

SECTION 2: All other sections and subsections of Executive Order No. MJF 96-9, as amended by Executive Order Nos. MJF 97-8, MJF 97-55, and MJF 98-2, shall remain in full force and effect.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the capitol, in the city of Baton Rouge, on this 29th day of April, 1998.

M.J. "Mike" Foster  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9805#009

**EXECUTIVE ORDER MJF 98-18**

Latin American Business Development Commission

WHEREAS, Executive Order No. MJF 97-54, signed on December 3, 1997, established the Louisiana Latin American Business Development Commission (hereafter "Commission");

WHEREAS, Executive Order Nos. MJF 98-7, signed on February 16, 1998, and MJF 98-9, signed on March 3, 1998, amended several provisions in that Order; and

WHEREAS, it is necessary to amend Executive Order No. MJF 97-54, as amended, in order to add an at-large member to the Commission;

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

SECTION 1: Section 5 of Executive Order No. MJF 97-54, as amended by Section 3 of Executive Order No. MJF 98-7 and Section 1 of Executive Order No. MJF 98-9, is amended to provide as follows:

The Commission shall be composed of sixteen (16) members who shall be appointed by and serve at the pleasure of the governor. The membership of the Commission shall be selected as follows:

- A. The governor, or the governor’s designee;
- B. The secretary of the Department of Economic Development, or the secretary’s designee;
- C. The commissioner of Financial Institutions, or the commissioner’s designee;
- D. One (1) member of the Louisiana International Trade Development Board;
- E. One (1) member of the Louisiana Economic Development Council;
- F. Ten (10) citizens of the state of Louisiana with at least five (5) years of experience in one or more of the following fields: international trade, finance, economics, oil and gas services, maritime activities, agriculture, world health, governmental relations, and/or environmental protection; and
- G. One (1) at-large member.

SECTION 2: All other sections and subsections of Executive Order No. MJF 97-54, as amended by Executive Order Nos. MJF 98-7 and MJF 98-9, shall remain in full force and effect.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the capitol, in the city of Baton Rouge, on this 29th day of April, 1998.

M.J. "Mike" Foster  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9805#010

**EXECUTIVE ORDER MJF 98-19**

Bond Allocation—Louisiana Housing Finance Agency

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter “the Act”) and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter “MJF 96-25”) was issued on August 27, 1996, to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds

**EXECUTIVE ORDER MJF 98-20**

Procurement of Small Purchases

subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Housing Finance Agency has requested an allocation from the 1998 Ceiling to be used in connection with a program of financing mortgage loans for single family, owner-occupied residences owed by low and moderate income homebuyers throughout the state of Louisiana in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$55,000,000	Louisiana Housing Finance Agency	Single Family Mortgage Revenue Bond Program

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1998, provided that such bonds are delivered to the initial purchasers thereof on or before July 30, 1998.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 1st day of May, 1998.

M.J. "Mike" Foster  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9805#011

WHEREAS, the Louisiana Procurement Code is set forth in R.S. 39:1551, *et seq.*;

WHEREAS, R.S. 39:1596 expressly vests the governor with the authority to prescribe procedures for the procurement of small purchases, by providing that:

Procurements not exceeding the amounts established by executive order of the governor may be made in accordance with small purchase procedures prescribed by such executive order, except that procurement requirements shall not be artificially divided so as to constitute a small purchase under this Section;

WHEREAS, Executive Order No. MJF 96-14, signed on June 4, 1996, established the procedure for the procurement of small purchases in accordance with the statutory guidelines of the Louisiana Procurement Code; and

WHEREAS, it is necessary to rescind and terminate Executive Order No. MJF 96-14 through the issuance of a replacement executive order;

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

SECTION 1: All departments, institutions, boards, commissions, budget units, and agencies of the executive branch of state government (hereafter "agency") shall observe, be guided by, and implement the specific directives on small purchase procedures set forth in this Order.

SECTION 2: Unless the context clearly indicates otherwise, the words and terms used in this Order shall be defined as follows:

A. "Small purchases" means (1) any procurement not exceeding ten thousand dollars (\$10,000), or (2) any procurement of those items listed in Section 5(A) or (B) of this Order, regardless of price, except as noted in Section 5(A)(14).

B. "Delegated purchasing authority" means the dollar amount delegated to an agency by the chief procurement officer of state central purchasing, as defined in R.S. 39:1556(3).

C. "Certified economically disadvantaged business" means a business certified as an economically disadvantaged business by the division of economically disadvantaged business development, Department of Economic Development, in accordance with the provisions of the Louisiana Economically Disadvantaged Business Act, R.S. 51:1751, *et seq.*, and included on the most recent list of certified economically disadvantaged businesses issued by the division of economically disadvantaged business development.

SECTION 3: The following items are not subject to the procedures set forth in this Order:

A. Those items covered by an existing competitive state contract, when minimum order requirements are met, unless

the chief procurement officer of state central purchasing grants a written exemption;<sup>1</sup>

B. Public works contracts which exceed five thousand dollars (\$5,000) and are governed by the provisions of R.S. 38:2241; and

C. Printing purchases which do not exceed five hundred dollars (\$500) and which are not available from state printing contracts or through the Division of Administration print shop.

SECTION 4: Except as otherwise provided in this Order, all small purchases shall be made in accordance with the following minimum procedures:

A. For purchases not exceeding five hundred dollars (\$500), no competitive bidding is required.

B. For purchases exceeding five hundred dollars (\$500), but not exceeding two thousand dollars (\$2,000), contracts shall be awarded on the basis of the lowest responsive price<sup>2</sup> quotation(s) solicited by telephone, facsimile, or other means, to at least three (3) bona fide, qualified bidders. Whenever possible, at least one (1) of the bona fide, qualified bidders shall be a certified economically disadvantaged business. Agency files shall document and list all solicited bidders and each bidder's contact person, summarize bid responses, indicate the awarded bid, and state the reason why any lower bid was rejected. If no bid was solicited from a certified economically disadvantaged business, agency files shall contain a written explanation of why such a bid was not solicited. Agency files should also contain written confirmation of the bid from the successful bidder.

C. For purchases exceeding two thousand dollars (\$2,000), but not exceeding ten thousand dollars (\$10,000), contracts shall be awarded on the basis of the lowest responsive price quotation(s) received pursuant to either facsimile or written solicitation to at least five (5) bona fide, qualified bidders. Whenever possible, at least two (2) of the bona fide, qualified bidders shall be certified economically disadvantaged businesses. Facsimile solicitations shall allow for bids to be accepted for a minimum period of five (5) calendar days. Written solicitations shall allow for bids to be accepted for a minimum period of ten (10) calendar days.

All facsimile and/or written solicitations shall include the closing date, time, and all pertinent competitive specifications, including quantities, units of measure, packaging, delivery requirements, ship-to location, terms and conditions, and other information sufficient for a supplier to make an acceptable bid.

Precautionary measures shall be taken to safeguard the confidentiality of bid responses prior to the closing time for receipt of bids. No bid shall be evaluated using criteria not disclosed in the solicitation.

Agency files shall document and list all solicited bidders and each bidder's response, summarize bid responses, indicate the awarded bid, and state the reason why any lower bid was rejected. If less than two (2) bids were solicited from certified economically disadvantaged businesses, agency files shall contain a written explanation of why two (2) bids were not solicited.

SECTION 5: Except as provided in subsection A(14), the following items are considered small purchases regardless of price and may be procured in the following manner:

A. No competitive bidding is required for the following items:

(1) Repair parts for equipment obtained from an authorized dealer;<sup>3</sup>

(2) Equipment repairs obtained from an authorized dealer or by telephone or facsimile solicitation to at least three (3) bona fide, qualified bidders; whenever possible, at least one (1) of the bona fide, qualified bidders shall be a certified economically disadvantaged business;

(3) Vehicle repairs **not** covered by a competitive state contract or the state fleet maintenance repair contract, obtained from an authorized dealer or by telephone or facsimile solicitation to at least three (3) bona fide, qualified bidders; whenever possible, at least one (1) of the bona fide, qualified bidders shall be a certified economically disadvantaged business;

(4) Vehicle body repairs covered by insurance recovery and in accordance with insurance requirements;

(5) Livestock purchased at public auction;

(6) Purchasing or selling transactions between state budget units and other governmental agencies;

(7) Publications and/or copyrighted materials purchased directly from the publisher or copyright holder;

(8) Publications and/or copyrighted materials purchased by the state library or libraries at colleges and universities when using subscription services;

(9) Public utilities and services provided by local governments;

(10) Prosthetic devices, implantable devices, and devices for physical restoration, which are not covered by a competitive state contract;

(11) Educational training and related resources (except equipment) used to enhance the performance of state employees, including memberships in professional societies and organizations, except for customized training which is covered under R.S. 39:1481, *et seq*;

(12) Purchases for clients of Blind and Vocational Rehabilitation programs not covered by competitive state contract which are federally funded at a rate of at least 78.7%, regulated by Title 34, Parts 361, 365, 370, and 395 of the Code of Federal Regulations, and in accordance with OMB Circular A-102;

(13) Materials, supplies, exhibitor fees, and exhibit booths at conferences, seminars, and work shops, for participation in promotional activities which enhance economic development may be procured in accordance with this section with the approval of the department secretary if not covered by competitive state contract;

(14) Wire, related equipment, time and material charges to accomplish adds, moves, and/or changes to telecommunications systems not exceeding two thousand dollars (\$2,000);

(15) Working class animals trained to perform special tasks, including but not limited to narcotics detection, bomb



detection, arson investigation, and rescue techniques;

(16) Food, materials and supplies for teaching and training where the purchasing, preparing, and serving of food is part of the regularly prescribed course;

(17) Shipping charges and associated overseas screening and broker fees from an international origin to a domestic destination;

(18) Parcel services, including but not limited to Federal Express, United Parcel Service, Airborne Express, and Express Mail;

(19) Renewal of termite service contracts;

(20) Purchase of supplies, operating services, or equipment for Louisiana Rehabilitation Services, Traumatic Head and Spinal Cord Injury Trust Fund Program;<sup>4</sup>

(21) Purchasing of clothing at retail necessary to individualize clients at state developmental centers in compliance with Federal Regulations for ICF/MR facilities;

(22) Health insurance for the managers of Randolph-Sheppard programs, as defined by 20 U.S.C. §107, *et seq.*, and paid from income generated by unmanned vending locations; or

(23) Purchases made to resell as part of a merchandising program with the written approval on file from the secretary of the department, or agency equivalent, when it is not practical or feasible to obtain competitive price quotations.

B. For the following items, telephone or facsimile price quotations shall be solicited, where feasible, to at least three (3) bona fide, qualified bidders. Whenever possible, at least one (1) of the bona fide, qualified bidders shall be a certified economically disadvantaged business. The file shall contain justification if fewer than three (3) bids are solicited and, if no bid was solicited from a certified economically disadvantaged business, a written explanation of why the bid was not solicited.

(1) Farm products including, but not limited to, fresh vegetables, milk, eggs, fish, or other perishable foods, when it is determined that market conditions are unstable and the bidding process is not conducive for obtaining the lowest prices;

(2) Food, materials, and supplies needed for:

(a) Operation of boats and/or facilities in isolated localities where only limited outlets of such supplies are available; and/or

(b) Juvenile detention homes and rehabilitation facilities/homes where the number of inmates, students, or clients is unstable and unpredictable;

(3) Convention and meeting facilities;<sup>5</sup>

(4) Gasoline and fuel purchases not covered by competitive state contract;

(5) Equipment for blind operated facilities not covered by competitive state contract;

(6) Feed commodities, including but not limited to soybean meal, cottonseed meal, and oats for use on prison farms;

(7) Aircraft parts, repairs, inspections, and modifications approved by the head of the agency, head of Division of Administration Flight Operations, or its designee and performed by an FAA-certified mechanic and/or at an

FAA-certified repair station in accordance with FAA requirements; and/or

(8) Air and bus charters, in accordance with Policy & Procedure Memorandum No. 49 - General Travel Regulations.

SECTION 6: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 7: Executive Order No. MJF 96-14 is hereby rescinded and terminated.

SECTION 8: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

<sup>1</sup> This provision does not apply to those agencies which are exempt from state central purchasing under R.S. 30:1572.

<sup>2</sup> The terms "price" and "bid" are used interchangeably in this Order to mean the amount of money offered as consideration for the sale of a specified item.

<sup>3</sup> This provision does not apply to the stocking of parts.

<sup>4</sup> Although competitive bidding is not required under this provision, whenever practicable, three (3) bid quotations from bona fide, qualified bidders should be obtained. Whenever possible, at least one (1) of the bona fide, qualified bidders shall be a certified economically disadvantaged business.

<sup>5</sup> However, any associated food or lodging must be in accordance with Policy & Procedure Memorandum No. 49—General Travel Regulations.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 4th day of May, 1998.

M.J. "Mike" Foster  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9805#026

## EXECUTIVE ORDER MJF 98-21

Bond Allocation—Louisiana Local  
Government Environmental Facilities and  
Community Development Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act Number 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Local Government Environmental Facilities and Community Development Authority has requested an allocation from the 1998 Ceiling to be used in connection with the financing of the acquisition,

construction, rehabilitation, and equipping of a sawmill and manufacturing facility and acquisition of an optimizer and trim/sort system for PBS Lumber Manufacturing, Inc. (the "Project"), located in Winnfield, Louisiana, parish of Winn, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$1,036,672	Louisiana Local Government Environmental Facilities and Community Development Authority	PBS Lumber Manufacturing, Inc.

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before August 5, 1998.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the capitol, in the city of Baton Rouge, on this 7th day of May, 1998.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9805#052

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of the Commissioner

Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk, and Farm-Raised White-Tailed Deer (LAC 7:XXI.1501-1523)

In accordance with the Administrative Procedure Act, specifically R.S. 49:953(B), and R.S. 3:3101 the commissioner of Agriculture and Forestry finds that these emergency amendments to the permanent rules regulating imported exotic deer and antelope, elk and farm-raised white-tailed deer for commercial purposes in the state of Louisiana are necessary to prevent imminent peril to the health, safety and welfare of the citizens of Louisiana.

The commissioner of Agriculture and Forestry finds that it is necessary to prohibit "canned hunts" and to increase the acreage of farms upon which farm-raised white-tailed deer may be harvested. The harvesting of alternative livestock requires licensees to plan such harvesting months in advance of the actual harvesting. Failure to immediately make these changes to the permanent rules and regulations would deprive licensees of sufficient lead time to make adequate plans for harvesting in a manner that would not be prohibited under these rules and regulations as a "canned hunt" and would deprive potential licensees of adequate time to establish farms with the minimum acreage being required under these amendments. Such deprivation may lead to severe economic instability of the alternative livestock industry and subsequent economic demise of that industry.

Permanent amendments to the regulations are being promulgated. However, the time delay required by the Administrative Procedure Act precludes adoption of permanent amendments to the regulations in a timely fashion.

These emergency amendments to the permanent regulations become effective at 6 p.m. on April 16, 1998. These emergency amendments to the permanent regulations shall remain in effect 120 days from this day or until the final amendments become effective whichever may occur first.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXI. Diseases of Animals

### Chapter 15. Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk and Farm-Raised White-Tailed Deer

#### §1501. Statement of Authority and Purpose

The commissioner of Agriculture and Forestry heads and directs the Department of Agriculture and Forestry and exercises all functions of the state relating to the promotion, protection and advancement of agriculture and forestry. The commissioner is authorized by law and does hereby adopt these rules and regulations for the purposes of promoting, protecting and advancing agriculture and to implement the laws adopted by the legislature, including those in Part I of

Chapter 19-A of Title 3 of the Revised Statutes, giving the commissioner the specific power to regulate farm-raised exotic animals, including imported exotic deer and imported exotic antelope, elk and farm-raised white-tailed deer.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:

#### §1503. Definitions

For purposes of these rules and regulations the following words and phrases shall have the meaning given herein.

*Alternative Livestock*—any imported exotic deer and imported exotic antelope, elk and farm-raised white-tailed deer.

*Canned Hunt*—harvesting farm-raised alternative livestock in a manner that is similar to but substantially inconsistent with those methods and techniques generally employed in the sport known as hunting and where those inconsistencies result in the taking of the farm raised alternative livestock being a certainty.

*Commercial Purpose*—the keeping, breeding, raising, containing, harvesting, killing, slaughtering, buying, selling, trading, or transferring ownership of alternative livestock, any alternative livestock carcass or part thereof, with the intent to receive money, goods, services, livestock or any other type of compensation in connection therewith.

*Commissioner*—the Commissioner of Agriculture and Forestry.

*Department*—the Louisiana Department of Agriculture and Forestry.

*Elk*—any animal of the species and genus *cervus canadensis*.

*Farm*—any area of land or water, regardless of size, used to breed, raise or keep farm-raised alternative livestock for a commercial purpose, including but not limited to breeding farms or propagating preserves. This definition does not include areas of land or water which are part of a zoo, game park or wildlife exhibit where the primary purpose is the exhibition of alternative livestock or other animals.

*Farm-Raised*—any alternative livestock born, raised, or kept within a closed circumscribed fenced area for a commercial purpose. This definition does not include alternative livestock which are part of a zoo, game park or wildlife exhibit where the primary purpose is the exhibition of the alternative livestock or other animals.

*Farm-Raised White-Tailed Deer*—any animal of species and genus *odocoileus virginianus* which is bred, born, raised and/or kept within a closed circumscribed fenced area for the purpose of buying, selling, or trading in commerce. Farm raised white-tailed deer does not include any white-tailed deer which is part of any zoo, game park, or wildlife exhibit where the primary purpose of the same is the exhibition of white-tailed deer and/or other animals.

*Harvesting*—the attempt or act of shooting, wounding or killing farm-raised alternative livestock within the enclosure

system of a farm in a manner consistent with those techniques commonly referred to as hunting in Title 56 of the Louisiana Revised Statutes.

*Imported Exotic Antelope*—any animal of the family *Bovidae* which are not indigenous to North America, except animals of the tribes *Bovine* (cattle) and *Caprine* (sheep and goats).

*Imported Exotic Deer*—any animal of the family *Cervidae* which are not indigenous to North America, including but not limited to Red Deer, Seika Deer and Fallow Deer.

*LDWF*—the Louisiana Department of Wildlife and Fisheries.

*Person*—any individual, corporation, partnership or other legal entity.

*Quarantine*—the requirement, resulting from an order of the department or the State Veterinarian's Office, to secure and physically isolate an animal or animals in a specified confined area to prevent the spread of contagious disease.

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:

#### **§1505. Issuance of Farm-Raising License; Renewals**

A. Any person who keeps, breeds, raises, contains, harvests, kills, slaughters, buys, sells, trades, or transfers ownership of any type of farm-raised alternative livestock for commercial purposes shall obtain a farm-raising license, from the department prior to engaging in such activity.

B. The department shall not issue any farm-raising license until the application for the farm-raising license and the information requested, including the required plan for the operation of the farm, is approved by the department and the proposed farm passes the department's and LDWF's inspection.

C. Any changes in any information submitted in the original application, occurring during or after the application process, shall be submitted in writing to the department. The department and LDWF must approve, in writing, any change or modification, which shall be in writing, in the written farm operation plan submitted with the original application before such change or modification, may go into effect.

D. A farm-raising license shall be valid for the period beginning with the date of issuance and ending the following June 30 or from July 1 of the year of renewal through the following June 30.

E. A farm-raising license may be renewed each year by the department. A licensee shall submit a written request for renewal, the renewal fee, any proposed modification, which shall be in writing, of the written farm operation plan previously submitted to and approved by the department and any proof requested by the department of compliance by the licensee with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine. If either the written request for renewal or the renewal fee is received by the department after July 31, the

farm-raising license shall be deemed expired, *ipso facto*, retroactive to June 30.

F. In the event that the department determines that a farm does not meet the requirements of or was not complying with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine the farm-raising license may not be renewed by the department.

G. The licensee may contest the department's decision not to renew a farm-raising license by filing a written request for an adjudicatory hearing with the department within 15 days from receipt of the notice of nonrenewal. Such a hearing is to be held in accordance with the provisions of the Administrative Procedure Act. Any such hearing shall be held within 30 days of the request, unless continued for good cause.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:

#### **§1507. Fees**

##### **A. Farm-Raising License Fees**

1. The fee for a new farm-raising license shall be \$50.
2. The farm-raising license renewal fee shall be \$50.
3. The department shall waive the farm-raising license fee for any person who obtains a farm-raising license from this department, and who holds a valid game breeders license issued by LDWF for the possession of any alternative livestock at the time these rules and regulations become effective, and who submits a written application within the calendar year that these rules and regulations become effective.

4. The waiver granted in §1507.A.3 applies only to a new farm-raising license and shall not apply to any renewal of a farm-raising license issued by the department under these rules and regulations.

##### **B. Harvesting Permit Fee**

1. Each individual intending to harvest or kill any farm-raised alternative livestock at any farm licensed by the department shall obtain a harvesting permit from the department or LDWF, before harvesting or killing any farm-raised alternative livestock, except as provided by §1507.B.3.

2. The fee due to the department for each harvesting permit shall be \$50 which fee shall be collected by the department or ministerially collected for the department by LDWF. Upon collection by LDWF, LDWF shall promptly remit the fee to the department retaining one-half for administrative costs.

3. No licensee or those persons employed by or assisting such licensee harvesting farm-raised alternative livestock to be taken directly to a state or federally approved slaughter facility or capturing farm-raised alternative livestock to be sold or traded for breeding or stocking purposes shall be required to obtain a harvesting permit or pay a fee.

##### **C. Farm-Raised Alternative Livestock Tag Fee**

1. Each farm-raised alternative livestock harvested or

killed shall have a farm-raised tag attached to the left ear or left antler of the carcass at the time of kill and the tag shall remain with the carcass at all times, except as provided in §1507.C.3.

2. The farm-raised alternative livestock tag shall be provided by the department at a cost of \$5 per tag.

3. No farm-raised tag shall be required for farm-raised alternative livestock which are to be taken directly to a state or federally approved slaughter facility or which are sold or traded alive for breeding or stocking purposes.

4. No harvesting shall occur and no harvesting permit shall be issued if the area of the relevant farm within the enclosure system is less than 300 acres or more 2,500 acres in size unless good cause is shown by the applicant to the commissioner why the issuance of a harvesting permit for an enclosure of a different size is not inconsistent with the intent of Part I of Chapter 19-A of Title 3 of the Revised Statutes.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:

### **§1509. Farm-Raising Licensing Requirements**

A. Written Application. Each applicant for a farm-raising license shall submit a completed written application on a form supplied by the department. In addition to any other information that may be requested by the department the applicant shall provide the following information:

1. name, physical address, mailing address and telephone number of the applicant and whether the applicant will own or lease the land. If the land is leased then a copy of the lease shall be provided to the department;

2. the name under which the business will operate, the physical address, mailing address and telephone number of the business, if different than the information provided in §1509.A.1;

3. the business structure, (sole proprietorship, partnership, corporation, limited liability company, joint venture, or otherwise);

4. the name of the person or persons in charge, position, (e.g., owner, manager, etc.), residence address and phone number;

5. the physical location and size of the farm;

6. a topographical map of the farm if 50 acres or more;

7. the species of alternative livestock to be farm-raised;

8. the approximate number of animals to be farm-raised;

9. the complete plan for the operation of the farm including:

a. an enclosure system, including fencing the farm, indicating the location, size, nature and extent of the fencing material and of any right of way related to the farm property;

b. systematic inspection of the enclosure system, including the fence, maintenance, repair and replacement of the fence, keeping the fence and any clearance along either side of the fence clear and verification to the department of compliance with this provision;

c. the capture of any farm-raised alternative livestock that may escape from or wild white-tailed deer that may enter the farm through a breach or opening in the enclosure system or fence;

d. removal of white-tailed deer from the farm prior to completion of the enclosure of the farm;

e. controlling farm-raised alternative livestock population;

f. identification by means of an electronic implant of all white-tail deer born, bought, sold, traded or which otherwise become farm-raised white-tailed deer, which shall include the systematic capture of farm-raised white-tailed deer for implantation purposes;

g. the removal and disposal of all alternative livestock in the event that the farm ceases operation for any reason or upon revocation or nonrenewal of the farm-raising license, including a provision for written notice to the department prior to cessation of farming operation;

h. the type of farming operation records that will be kept;

10. a statement that the applicant shall abide by the requirements of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine;

11. a certified statement that all representations contained in the application, the farm operation plan and attachments are true and correct.

B. Farm Inspection. An applicant shall have the proposed farm physically inspected and approved by the department and LDWF before a farm-raising license may be issued by the department. To obtain department approval a proposed farm shall:

1. be located in a rural area of the state;

2. be securely enclosed by an enclosure system, including fencing, that meets the following specifications:

a. a minimum height, above the relevant ground, of eight feet;

b. enclose an area of not less than 300 acres nor more than 2,500 acres to be eligible for harvesting as provided by §1507.B of these rules and regulations. Applicants seeking eligibility to harvest on farms with enclosures of less than 300 acres or more than 2,500 acres must demonstrate good cause why an enclosure of a different size is not inconsistent with the intent of Part I of Chapter 19-A of Title 3 of the Revised Statutes;

c. a minimum gauge wire of 12½;

d. fencing material of chain link, woven wire, solid panel or welded panel or, if made with any other material, approved in writing by the department, however, welded wire fences shall not be used unless it was approved by LDWF and installed prior to April 22, 1997, but, such welded wire fences, when replaced or partially replaced, shall be replaced by fencing required by these rules and regulations;

3. have drainage sufficient to leave a majority of the farm free from extended periods of standing water;

4. have adequate space and if the total enclosed area of the farm is less than 50 acres, allow at least 5,000 square feet for the first elk or farm-raised white-tailed deer placed on the farm and at least 2,500 square feet for each subsequent elk or farm-raised white-tailed deer;

5. have no condition which may cause noncompliance with or substantial difficulty in complying with Part I of

Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine;

6. not be subject to an objection for good cause related to wildlife made in writing to the department by LDWF, which written objection shall follow within 10 working days of a physical inspection of the proposed farm made concurrently and jointly by the department and LDWF.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:

#### **§1511. Grounds for Refusal to Issue or Renew a Farm-Raising License**

The commissioner may refuse to issue or renew a farm-raising license for any of the following circumstances:

1. the applicant cannot demonstrate to the satisfaction of the commissioner a competency to operate an alternative livestock farm;

2. the applicant has failed to provide all of the information required in or with the farm-raising license or renewal application, or has provided false information to the department;

3. the applicant has previously refused to permit the department to inspect the farm or to inspect farm records or the applicant has otherwise failed to comply with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine;

4. the department does not approve the farm operation plan;

5. the proposed farm does not pass the department's or LDWF's inspection;

6. the applicant has previously been found in violation of either Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department or any quarantine.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:

#### **§1513. Obligations of the Farm-Raising Licensee**

##### **A. Identification of Farm-Raised Alternative Livestock**

1. All farm-raised white-tailed deer shall be identified by means of an electronic implant implanted as follows:

a. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear or in either shoulder;

b. all farm-raised white-tailed deer being brought into Louisiana shall have the electronic implant implanted before entering this state and prior to being released on the farm;

c. farm-raised white-tailed deer born in this state shall have an electronic implant implanted the first time the farm-raised white-tailed deer is captured alive and before the farm-raised white-tailed deer leaves the farm;

d. all white-tailed deer shall be electronically implanted at the base of the left ear immediately upon harvest

whether or not such deer have already been implanted previously. This requirement for electronic implantation is in addition to any and all other requirements for electronic implantation contained in these regulations. This electronic implantation shall remain with the carcass at all times;

e. each electronic implant code shall be listed on the farm-raised white-tailed deer's health certificate and on the bill of sale or certificate of transfer.

2. All farm-raised alternative livestock other than farm-raised white-tailed deer shall be permanently and individually identified as follows:

a. by means of an electronic implant or by a permanent ear tattoo and ear tag;

b. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear or in either shoulder;

c. prior to entering the state, alternative livestock, other than farm-raised white-tailed deer, shall be identified as required herein;

d. alternative livestock born in this state, other than farm-raised white-tailed deer, shall be identified as required herein, the first time any such animal is captured alive and before any such animal leaves the farm;

e. the identification number or electronic implant code, and the location thereof, shall be listed on the health certificate and the bill of sale or certificate of transfer.

3. Farm-raised alternative livestock, other than farm-raised white-tailed deer, that will be transported directly to a state or federally approved slaughter facility are exempt from this identification requirement.

4. Farm-raised alternative livestock placed on a farm prior to the effective date of these regulations, other than farm-raised white-tailed deer, are not required to be identified by a permanent ear tattoo and ear tag or electronic implant unless removed alive from the farm.

##### **B. Record Keeping**

1. Each licensee shall maintain records, for not less than 36 months, of all sales, deaths, kills, trades, purchases, or transfers of any farm-raised alternative livestock. The records shall include:

a. total number of farm-raised alternative livestock, carcasses, or parts thereof, killed, sold, traded, purchased or transported;

b. name and address of the person to whom each farm-raised alternative livestock, or any carcass, or parts thereof, was sold, traded, delivered, presented or transported;

c. the electronic implant code or identification number of the farm-raised alternative livestock;

d. copies of any health certificates issued;

e. accurate records showing all inspections, maintenance, repairs and replacement to the enclosure system, including the fence and such records shall include the dates and times of each, names of the persons performing services, the location of any breaches of the enclosure system, including the fence and nature and location of any repairs or replacements made to the fence;

f. records customarily kept in the normal course of conducting business and those records required by these rules and regulations.

2. Sellers, traders or transferors of farm-raised alternative livestock, any carcass, or any part thereof, shall furnish the purchaser or transferee with a bill of sale or letter of transfer as verification of the farm-raised status.

3. The furnishing of any false information shall be a violation of these rules and regulations.

#### C. Enclosure System and Fence Inspection and Maintenance

1. Any licensee shall conduct or shall have conducted a visual ground inspection of the enclosure system, including the fence, along the entire perimeter of the fenced area of the farm not less than weekly. An inspection shall be conducted immediately after any major storm or occurrence of any other force of nature that would cause a reasonable person to be concerned about the integrity of the enclosure system, including the fence.

2. Any licensee shall maintain the enclosure system, including the fence in good repair at all times. Good repair means that farm-raised alternative livestock are not able to leave and wild white-tailed deer are not able to enter through the enclosure system, including the fence, or otherwise.

3. Any licensee who discovers a breach or opening in the enclosure system or fence that would allow farm-raised alternative livestock to leave from or wild white-tailed deer to enter into the enclosed area shall notify, orally and in writing, the department and LDWF of the breach or opening and the department shall notify LDWF within 12 hours.

4. In the event of such a breach or opening the licensee shall immediately close the breach or opening and make all reasonable efforts to determine if farm-raised alternative livestock left from or wild white-tailed deer entered into the area enclosed by the fence.

#### D. Other Obligations of the Farm Licensee

1. A licensee shall remove white-tailed deer from the farm prior to completion of the fencing and enclosure system of the farm. Removal of the white-tailed deer shall be accomplished to the satisfaction of the department and LDWF pursuant to these regulations.

2. A licensee shall control the population of farm-raised alternative livestock on the farm.

3. A licensee shall make all efforts that a reasonable licensee would make to capture any farm-raised alternative livestock that escapes from the fenced area of the farm and to remove wild white-tailed deer that enters the fenced area of the farm.

4. A licensee shall, in writing, notify the department, at least 10 days prior to placing any alternative livestock on the farm if such alternative livestock was not listed on the original application or on any modification previously approved, in writing, by the department. The department shall promptly notify LDWF following receipt of licensee's notice.

5. A licensee upon cessation of operations, or upon revocation or nonrenewal of the farm-raising license shall remove and dispose of all farm-raised alternative livestock on the farm in accordance with the farm operation plan submitted to and approved by the department or in accordance with specific written instructions issued by the department in the event that circumstances warrant removal and disposal of the

farm-raised alternative livestock to be made in a manner different from the farm operation plan.

6. A licensee shall be responsible for ensuring that any individual who harvests or kills any farm-raised alternative livestock on the licensee's farm does so in accordance with these rules and regulations.

7. A licensee shall harvest or kill farm-raised alternative livestock in accordance with these rules and regulations.

8. A licensee shall provide that all farm-raised alternative livestock have the necessary health certificates and that the farm-raised alternative livestock meet all applicable health requirements.

9. A licensee shall allow authorized representatives of the department and authorized representatives of LDWF to inspect the farm at any time and all books and records at any reasonable time.

10. A licensee shall comply with all provisions of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:

#### §1515. Health Certificates and Health Requirements

A. Prior to entering Louisiana, all alternative livestock, except those being transported directly to a state or federally approved slaughter facility, shall:

1. meet the general health requirements promulgated in LAC 7:XXI.107;

2. have an entry permit number issued by the State Veterinarian's Office no more than 15 days before entry into Louisiana which entry number shall be included on the certificate of veterinary inspection;

3. have written proof of a negative test for brucellosis in accordance with the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* as and when published by the United States Department of Agriculture, Animal and Plant Health Inspection Service. Until such time as the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* are published, all alternative livestock six months of age and older entering Louisiana, except those being transported directly to a state or federally approved slaughter facility, shall be tested negative for brucellosis within 30 days prior to entry into Louisiana, and written proof thereof shall be provided, unless the alternative livestock originate from a herd which has been officially declared a certified brucellosis free herd by the state of origin;

4. have written proof of a negative test for tuberculosis in accordance with the *Tuberculosis Eradication in Cervidae Uniform Methods and Rules* as published by the United States Department of Agriculture, Animal and Plant Health Inspection Service;

5. prior to any person importing any alternative livestock into Louisiana, LDWF shall be provided by the department a copy of the entry permits or other applicable documents which describe the alternative livestock by species, sex, age and place of origin.

B. Any alternative livestock which has been exposed to brucellosis or tuberculosis shall be quarantined and tested for the diseases to which it has been exposed within 60 days of the date of the quarantine. The quarantine shall remain in effect until removed, in writing, by the State Veterinary Office.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:

#### **§1517. Harvesting or Killing of Farm-Raised Alternative Livestock**

A. Farm-raised white-tailed deer shall be harvested by killing only from one-half hour before sunrise to one-half hour after sunset during the period of October 1 through January 31 of the following year, as established by the Louisiana Wildlife and Fisheries Commission. Licensees may also harvest at will at any other time from one-half hour before sunrise to one-half hour after sunset upon 48 hours notice to and written approval of the department. Upon receipt of any such notice the department shall, no later than 24 hours before the harvest, notify LDWF.

B. Except for farm-raised white-tailed deer, farm-raised alternative livestock may be harvested or killed at any time from one-half hour before sunrise to one-half hour after sunset unless the commissioner provides otherwise in accordance with the provisions of §1517.C.

C. The commissioner and Louisiana Wildlife and Fisheries Commission may establish, by written order, other dates and conditions for the harvesting or killing of farm-raised alternative livestock as the commissioner deems necessary to carry out the purposes of Part I of Chapter 19-A of Title 3 of the Revised Statutes. Such orders shall be issued by the commissioner in January of each year or as soon thereafter as is practical and published in the January issue of the *Louisiana Register* or in the first available issue after any such order is issued.

D. Prior to harvesting or killing farm-raised alternative livestock, any person, except as provided by §1507.B.3 of these regulations, shall first apply for and obtain a harvesting permit to do so from the department or LDWF by submitting an application on a form supplied by the department.

1. Any harvesting permit issued by the department or LDWF shall be valid only for the time periods stated on the face of the permit.

2. The department may issue or LDWF may ministerially issue a harvesting permit upon written application by any individual or by any farm licensee making application on behalf of the individual and upon receipt of the harvesting permit fee.

3. The applicant shall not be subject to any existing court or administrative order denying the applicants right to harvest.

E. Except as provided by §1507.C.3 of these regulations, any farm-raised alternative livestock harvested or killed, shall have a farm-raised tag attached to the left ear or left antler of the carcass at the time of the kill and the tag shall remain with the carcass at all times.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:

#### **§1519. Prohibitions**

A. No farm-raised alternative livestock shall be released into the wild without express written permission from both the department and LDWF.

B. Farm-raised white-tailed deer meat or farm-raised white-tailed deer parts of any kind shall not be bought, sold, traded, or moved in commerce in any way.

C. Farm-raised alternative livestock sold for slaughter, except farm-raised white-tailed deer, the sale of which is prohibited, shall be handled in accordance with state and federal meat inspection laws and regulations.

D. It is a violation of these regulations to sell, purchase, trade, transport, or otherwise transfer any farm-raised alternative livestock for any purpose other than immediate slaughter at a state or federally approved slaughter facility if such farm-raised alternative livestock originates from a herd which is under quarantine for brucellosis or tuberculosis.

E. Canned hunts of farm-raised alternative livestock are prohibited.

F. Failure to comply with any provision of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine is prohibited and each act or omission or each day of a continuing violation shall constitute a separate violation.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:

#### **§1521. Enforcement**

A. The department's and LDWF's authorized representatives may, at any time, enter and inspect all farms on which farm-raised alternative livestock are located for the purposes of issuing, renewing or reviewing farm-raising licenses and to insure compliance with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine.

B. Authorized representatives of the department and LDWF may inspect, during any reasonable hours, any records regarding or relating to any farm-raised alternative livestock.

C. Farm-raised alternative livestock which escapes from the enclosure system of the farm, if not captured by a licensee within 96 hours of the escape, may be captured by authorized representatives of the department or by any law enforcement agency by whatever means deemed necessary by that agency.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:

#### **§1523. Penalties**

A. The commissioner may suspend or revoke the farm-raising license of any licensee and the harvesting permit



issued to any person found guilty of violating Part I of Chapter 19-A of Title 3 of the Revised Statutes, those portions of Title 56 of the Revised Statutes related to wildlife, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine.

B. The commissioner may, in addition to suspending or revoking any farm-raising license or harvesting permit, impose upon any person charged with violating any provisions of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine, a fine for up to \$100 per violation for each violation such person is found guilty.

C. These civil penalties may be assessed only by a ruling of the commissioner based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

D. Any person or licensee subject to an order or decision made pursuant to these regulations may request and receive an adjudicatory hearing before the department to be held in accordance with the Administrative Procedure Act by making written application for same to the department within 15 days of issuance of such order or decision.

E. The commissioner may seek a restraining order, injunctive relief or other relief in a proper court of law to restrain violations of or to compel compliance with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department or any quarantine or to enforce any order or ruling made by him in an adjudicatory proceedings.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:

Bob Odom  
Commissioner

9805#006

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of the Commissioner

#### Brucellosis Vaccination (LAC 7:XXI.305, 307 and 309)

The Livestock Sanitary Board, in accordance with the Administrative Procedure Act, specifically R.S. 49:953(B), hereby adopts the following amended emergency rules regulating the brucellosis vaccination requirements for heifers between the ages of four and 12 months. These emergency rules become effective on May 20, 1998 and shall remain in effect 120 days or until the final rules become effective, whichever occurs first.

The Livestock Sanitary Board has permanent regulations, (LAC 7:XXI.305 and 307), requiring all heifers between the ages of four and 12 months of age offered for sale at Louisiana

livestock auction markets to be vaccinated against brucellosis prior to being sold.

These regulations were promulgated at a time when Louisiana was under an accelerated brucellosis eradication program to rid the state of this costly disease of cattle which causes abortions, stillbirths, and weak calves. At that time most states would not accept calves unless they were vaccinated. Now most states have changed their brucellosis vaccination requirements thereby allowing heifers to be imported without a brucellosis vaccination.

Approximately 98,000 or 90 percent of the heifers vaccinated against brucellosis in Louisiana are shipped to other states that now allow the importation of non vaccinated heifers.

The current regulations require Louisiana cattle producers to pay \$2 per heifer for brucellosis vaccination, resulting in an unnecessary cost to Louisiana cattle producers of approximately \$196,000.

The Livestock Sanitary Board has taken steps to amend its permanent regulations to eliminate the brucellosis vaccination requirement for heifers going out of state but the process is such that Louisiana cattle producers will have to pay approximately \$98,000 before the amendments to the permanent regulations can take effect.

The continued imposition of a now useless cost is a burden on Louisiana's cattle industry to such an extent as to constitute an imminent peril to the welfare of that industry, and, consequently, an imminent peril to the welfare of the citizens of Louisiana.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XXI. Diseases of Animals

#### Chapter 3. Cattle

#### §305. Brucellosis Vaccination and Fee

A. - C. ...

D. All heifer calves between four and 12 months of age not vaccinated for brucellosis which are sold through an approved livestock auction market and are to remain in Louisiana more than 30 days must be vaccinated with USDA approved brucellosis vaccine prior to being shipped from said approved livestock auction market. There shall be a fee to be paid by the buyer of \$2 for each heifer calf required to be vaccinated for brucellosis, which fee shall be known as the brucellosis vaccination fee. The brucellosis vaccination fee shall be collected on the date of the sale from the buyer by the approved livestock auction market and forwarded to the Louisiana Department of Agriculture and Forestry no later than the tenth day of the month following the month in which the fee was collected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2221 and R.S. 3:2223.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:75 (February 1989), amended LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

#### §307. Livestock Auction Market Requirements

A.1.c.iv. ...

d. All heifer calves, between four and 12 months of age not vaccinated for brucellosis, which are to remain in

Louisiana more than 30 days must be vaccinated with USDA approved brucellosis vaccine prior to being shipped from an approved livestock auction market. The responsibility for the brucellosis vaccination of those heifer calves sold through a Louisiana livestock auction market and remaining in Louisiana more than 30 days after the sale shall be placed upon the buyer and the livestock auction market through which said heifer calves are sold. Failure to accomplish this vaccination shall be a violation of this regulation and violators shall be subject to penalties which may be imposed by the Louisiana Livestock Sanitary Board as granted in R.S. 3:2093.

d.i. - g.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:237 (March 1985), amended LR 11:615 (June 1985), LR 12:501 (August 1986), LR 12:598 (September 1986), LR 13:556 (October 1987), LR 14:220 (April 1988), LR 14:695 (October 1988), LR 15:813 (October 1989), LR 17:30 (January 1991), LR 18:837 (August 1992), LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

**§309. Governing the Sale of Cattle in Louisiana by Livestock Dealers**

All cattle which are sold or offered for sale by livestock dealers must meet the general requirements of §115 and the following specific requirements:

A.2.b.ii. ...

3.a. All heifer calves between four and 12 months of age must be vaccinated with USDA approved brucellosis vaccine prior to being sold if they are to remain in Louisiana more than 30 days. The responsibility for the brucellosis calfhood vaccination of those heifer calves sold by a livestock dealer and remaining in Louisiana more than 30 days after the sale shall be placed upon the buyer and the livestock dealer through which said calves are sold. Failure to accomplish this vaccination shall be a violation of this regulation and violators shall be subject to penalties which may be imposed by the Louisiana Livestock Sanitary Board as granted in R.S. 3:2093.

A.3.b. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:562, R.S. 3:2221, and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:237 (March 1985), amended LR 11:651 (June 1985), LR 12:502 (August 1986), LR 13:558 (October 1987), LR 14:221 (April 1988), LR 17:31 (January 1991), LR 18:838 (August 1992), LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

Bob Odom  
Commissioner

9805#005

**DECLARATION OF EMERGENCY**

**Department of Economic Development  
Racing Commission**

Coupled Entries; Fields (LAC 35:XIII.11113)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., repeals the following emergency rule effective April 22, 1998, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to repeal this rule to eliminate the prohibition of coupled entries and fields in trifecta races.

**Title 35  
HORSE RACING  
Part XIII. Wagering**

**Chapter 111. Trifecta**

**§11113. Coupled Entries; Fields**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 11:616 (June 1985), repealed by the Department of Economic Development, Racing Commission, LR 24:

Paul D. Burgess  
Executive Director

9805#013

**DECLARATION OF EMERGENCY**

**Department of Economic Development  
Racing Commission**

Pari-Mutuel Tickets (LAC 35:XV.12341)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule effective April 22, 1998, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this rule to provide for conditions of issued

pari-mutuel tickets and refunds thereof. It also corrects the language of the previous version of this rule.

**Title 35**

**HORSE RACING**

**Part XV. Off-Track Wagering**

**Chapter 123. General Rules**

**§12341. Pari-Mutuel Tickets**

A. - B. ...

C. When wagers are accepted by a host track, guest track or off-track wagering facility and a pari-mutuel ticket is issued therefor, such wagers are to be considered enforceable contracts, evidenced by possession of winning tickets, and such tickets shall be honored by all cashiers of the host track and the off-track wagering facility where such wagers are placed. Refunds of wagers shall be made only:

1. on a horse that is scratched; or
2. if a race is declared off; or
3. if a manual merge is rendered impossible because of

an act or event beyond the control of a host track and/or the host track's off-track wagering facility including, but not limited to, a catastrophe or acts of God. However, if a licensee, while participating in a common pooled wagering network with one or more other tracks, experiences transmission failure or other malfunctions with either the guest or host totalizator system which prevents the merger or required wagering data, then in such event the licensee shall honor the pari-mutuel ticket.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:176, and R.S. 4:211-227.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 14:290 (May 1988), amended by the Department of Economic Development, Racing Commission, LR 17:261 (March 1991), LR 24:

Paul D. Burgess  
Executive Director

9805#012

**DECLARATION OF EMERGENCY**

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

**Home Health Program—Surety Bond**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), and shall be in effect for the maximum period of 120 days allowed under the Administrative Procedure Act, or until adoption of the rule, whichever occurs first.

Section 4724 of the Balanced Budget Act of 1997 was enacted August 5, 1997 to deal with a variety of issues designed to eliminate waste, fraud, and abuse in the Medicare and Medicaid Programs. One of these provisions established

a requirement that home health agencies provide surety bonds of at least \$50,000 in order to participate in the Medicaid Program. This surety bond is in addition to the similar bond required for participation in the Medicare Program. Section 4724 amends section 1903(i) of the Social Security Act by adding a new paragraph (18). These surety bonds are required to ensure the recovery of overpayments, civil money penalties or assessments.

The Health Care Financing Administration, the federal agency responsible for oversight of the Medicaid Program, will be publishing a final rule with a comment period to implement the statutory requirement of that law. The rule affects the Medicaid regulations at 42 CFR 441 by creating a new section 42 CFR 441.16 and moving the previous 441.16 to 441.17.

These regulations require that all home health agencies (except government-operated agencies that have no uncollected overpayments in the preceding five years) provide a surety bond with an effective date of January 1, 1998. Home health agencies that have not provided an acceptable surety bond will have their Medicaid payments suspended.

Surety bonds must name the Louisiana Department of Health and Hospitals as obligee. For currently enrolled home health agencies, the amount of the bond is the greater of \$50,000 or 15 percent of the amount listed on the IRS Miscellaneous Income Form (1099) for the most recent year. Home health agencies that incurred overpayments in excess of either of these amounts in the previous fiscal year shall provide surety bonds in the amount of the previous year's overpayment.

Purchasers of existing home health agencies are required to obtain a new surety bond effective the date of the change in ownership. The new owner shall purchase a surety bond in the same amount as the one held by the previous owner.

Home health agencies seeking to enroll as Medicaid providers for the first time will be required to provide a surety bond in the amount of \$50,000.

Government-operated agencies that lose their waiver (exempt status) of this requirement must obtain and provide verification of a surety bond in the appropriate amount within 60 days of the date on which they lose exempt status.

The department will accept surety bonds issued by companies authorized by the United States Department of Treasury. A list of these companies can be found at website address [www.fms.treas.gov/c570.html](http://www.fms.treas.gov/c570.html).

The home health agencies will be required to submit the original surety bond and a letter signed by an officer of the company stating the following:

- 1) that the bond has been secured;
- 2) the coverage period; and
- 3) the amount of the bond.

The department will mail a letter to each home health agency notifying it of the amount of the surety bond required for their company and steps to be followed.

The surety bond must comply with all applicable federal laws and regulations pertaining to surety bonds and with all applicable state laws and rules pertaining to letters of credit, surety bonds, or combination thereof contained in the Medical Assistance Program Integrity Law, R.S. 46:437.1 et seq., and

applicable rules pertaining thereto.

This action is necessary to comply with the statutory requirement of Section 4724(g) of the Balanced Budget Act of 1997 and avoid possible penalties or sanctions from the federal government. It is anticipated that implementation of this rule is cost neutral.

### Emergency Rule

Effective May 20, 1998 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4724(g) of the Balanced Budget Act of 1997. This provision requires that, as a condition of participation in the Medicaid Program, a surety bond must be obtained by each home health agency listing the Department of Health and Hospitals as the obligee.

A surety bond amount shall be the greater of the following:

- 1) \$50,000;
- 2) 15 percent of Medicaid payments for the most recent calendar year as reflected on the IRS Miscellaneous Income Form (1099); or
- 3) the amount of incurred overpayments in the previous fiscal year.

The home health agency must provide verification of compliance with this requirement. Acceptable verification consists of the original surety bond and a letter signed by an officer of the surety bond company stating that the bond has been secured, the coverage period, and the amount of the bond.

The department will accept surety bonds issued by companies authorized by the United States Department of Treasury. A list of these companies can be found on the Internet website of the Department of Treasury.

Home health agencies that have not provided an acceptable surety bond will have their Medicaid payments suspended.

The surety bond must comply with all applicable federal laws and regulations pertaining to surety bonds and with all applicable state laws and rules pertaining to letters of credit, surety bonds, or combination thereof contained in the Medical Assistance Program Integrity Law, R.S. 46:437.1 et seq., and applicable rules pertaining thereto.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule.

David W. Hood  
Secretary

9805#063

## DECLARATION OF EMERGENCY

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

Qualified Individuals—Medicare Part B Buy-In

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the

following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B) and shall be in effect for the maximum period allowed under the Administrative Procedure Act, or until adoption of the rule, whichever occurs first.

Section 4732 of the Balanced Budget Act of 1997 requires the Medicaid Program to establish a mechanism for payment of Medicare Part B premiums for two new mandatory eligibility groups of low-income Medicare beneficiaries, called Qualifying Individuals (QIs). This provision amends section 1902(a)(10)(E) of the Social Security Act concerning Medicare cost-sharing for Qualified Medicare Beneficiaries (QMBs) and Specified Low-Income Medicare Beneficiaries (SLMBs). It also amends section 1905(b) of the Act concerning the Federal Medical Assistance Percentage (FMAP), by incorporating reference to and establishing a new section 1933, for Qualifying Individuals (QIs). Qualified Medicare Beneficiaries (QMBs) are individuals entitled to Part A of Medicare, whose income does not exceed 100 percent of the federal poverty level, and whose resources do not exceed twice the Supplemental Security Income (SSI) limit. Specified Low-Income Medicare beneficiaries (SLMBs) are individuals entitled to Part A of Medicare, whose income is above 100 percent, but does not exceed 120 percent of the federal poverty level, and whose resources do not exceed twice the SSI limit. Medicaid eligibility for these groups is limited to payment of Medicare Part B premiums.

Qualifying Individuals are individuals who would be QMBs but for the fact that their income exceeds the income levels established for QMBs and SLMBs. This means that QIs must be entitled to Medicare hospital insurance under Part A and have resources that do not exceed twice the maximum amount established for Supplemental Security Income (SSI) eligibility. Unlike QMBs and SLMBs, who may be determined eligible for Medicaid benefits in addition to their QMB/SLMB benefit, QIs cannot be otherwise eligible for medical assistance under the state plan.

Individuals in the first group of QIs (QI-1s) are eligible if their incomes are above 120 percent of the federal poverty line, but less than 135 percent. The Medicaid benefit for QI-1s consists of payment of the full Medicare Part B premium.

Individuals in the second group of QIs (QI-2s) are eligible if their incomes are at least 135 percent of the federal poverty line, but less than 175 percent. The Medicaid benefit for this group consists only of the portion of the Medicare Part B premium that is attributable to the shift of cost for some home health benefits from Part A to Part B, which raised the Part B premium. Payment for the Medicare premiums described are provided by 100 percent federal funds, which are provided as a capped annual grant. The number of QIs certified is limited by availability of these funds. Effective February 9, 1998, an emergency was adopted, and a notice of intent was published regarding this subject matter (*Louisiana Register*, Volume 24, Numbers 2 and 4). This subsequent emergency rule continues the provisions of the February 9, 1998 emergency rule and the April 20, 1998 notice of intent in force.

This action is necessary to comply with the mandatory

requirement of Section 4732 of the Balanced Budget Act of 1997. It is anticipated that implementation of this emergency rule will be cost neutral.

### **Emergency Rule**

Effective May 20, 1998 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4732 of the Balanced Budget Act of 1997 governing the payment of Medicare Part B premiums for Qualifying Individuals. These provisions are effective for premiums payable beginning January 1, 1998 and ending with December 31, 2002. A capped allocation is available for each of the five years, beginning January 1998, for payment of premiums for the following two mandatory groups.

1) *Qualified Individuals-1 (QI-1s)*—individuals who are entitled to Part A of Medicare, with income above 120 percent, but less than 135 percent of the federal poverty level. In addition, their resources cannot exceed twice the SSI limit and they cannot otherwise be eligible for Medicaid. Eligibility for Medicaid benefits is limited to full payment of Medicare Part B premiums. The amount of the capped allocation limits the number of eligible individuals.

2) *Qualified Individuals-2 (QI-2s)*—individuals who are entitled to Part A of Medicare, with income at least 135 percent, but less than 175 percent of the federal poverty level. In addition, their resources cannot exceed twice the SSI limit and they cannot otherwise be eligible for Medicaid. Eligibility for Medicaid benefits is limited to partial payment of Medicare Part B premiums. The amount of the capped allocation limits the number of eligible individuals.

Once an individual is selected to receive assistance in a calendar month, he is entitled to receive assistance for the remainder of the calendar year, as long as the individual continues to meet QI criteria. However, the fact that an individual receives assistance at any time during the year does not necessarily entitle the individual to continued assistance for any succeeding year. For calendar years after 1998, the state shall give preference to individuals who were QIs, QMBs, SLMBs, or Qualified Disabled and Working Individuals (QDWIs) in the last month of the previous year and who continue to be or become QIs. Selection of QIs shall be on a first-come, first-served basis (in the order in which they apply).

David W. Hood  
Secretary

9805#065

## **DECLARATION OF EMERGENCY**

### **Department of Insurance Licensing and Market Compliance Division**

#### **Regulation 65—Licensing of Bounty Hunters**

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Insurance has adopted an emergency regulation in order that it might be implemented without delay to take effect without causing

imminent peril to the health and safety of the residents of the state of who could be wrongfully surrendered, seriously injured, and/or cause death due to the reckless and wanton conduct of unlicensed agents and bounty hunters in executing bond surrenders for nonpayment of premiums arising out of an insurance contract.

Emergency rulemaking is to establish the guidelines for premium fee administration, transacting a surrender or apprehension of a principal, bond surrender due to nonpayment of premium, prelicensing for applicants and continuing education for licensed agents, criminal bail bonds, fines and hearings, definitions and related matters. This emergency regulation is effective May 20, 1998, and shall remain in effect for the maximum period of time allowed by state law.

### **Emergency Rule**

#### **Section 1. Purpose**

The purpose of this regulation is to establish guidelines for premium fee administration, transacting an apprehension or surrender of a principal, bond surrender due to nonpayment of premium, prelicensing for applicants and continuing education for licensed agents or solicitors, bail bonds, fines and hearings, definitions and related matters.

#### **Section 2. Authority**

This regulation is issued pursuant to the authority vested in the Commissioner of Insurance under the Administrative Procedure Act and R.S. 22:3, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3 and 22:1191(B).

#### **Section 3. Definitions**

The following terms when used in this Chapter shall have the following meanings.

*Bail Bond Agent*—a person, corporation, or partnership which holds an insurance agent or solicitor license and is authorized to provide surety in Louisiana, and/or engages in the apprehension and return of persons who are released on bail or failed to appear at any state of the proceedings to answer the charge before the court in which they may be prosecuted. For purposes of this regulation a bail recovery agent is synonymous with a bail bond agent.

*Bail Enforcement*—the apprehension or surrender of a principal by a natural person, who is released on bail or who has failed to appear at any state of the proceedings to answer the charge before the court in which he may be prosecuted.

*Bail Solicitor*—an individual who holds an insurance license and is authorized by a duly licensed bail bond agent to solicit contracts of bail bond insurance and engages in bail enforcement, solely on behalf of the licensed bail bond agent.

*Commissioner*—the Louisiana Commissioner of Insurance.

*Department*—the Louisiana Department of Insurance.

*Insurer*—any domestic or foreign insurance corporation or association engaged in the business of insurance or suretyship which has qualified to transact surety or casualty business in this state.

*Surrender*—as defined by Article 345 of the *Code of Criminal Procedure*.

#### **Section 4. Bail Recovery Agent License Requirements**

A. In order to engage, to transact, or assist in the apprehension or surrender of a principal, a person must be a

duly licensed bail bond agent or solicitor, pursuant to Part XXIV and Part XXV-A of the *Louisiana Insurance Code*.

1. Continuing Education Program

a. Persons holding a valid bail bond agent or solicitor license must complete 16 hours of a continuing education program, approved by the department, every two years, four hours of which must be instruction in bail enforcement.

b. On or before January 1 of every odd numbered year, all duly licensed bail bond agents shall have completed 16 hours of continuing education described in this Section.

c. On and after May 1, 2000, no person shall engage in the bail bond insurance business, including enforcement and bail recovery activities, unless such person is duly licensed bail bond agent or solicitor pursuant to Part XXIV and Part XXV - A of the *Louisiana Insurance Code*.

2. Prelicensing. On and after May 1, 1999, all persons applying for a bail bond agent or solicitor license must complete 16 hours of supervised instruction, approved by the department, eight hours of which, must be instruction in bail enforcement.

B. Bail recovery agents from other states must be duly authorized to transact bail enforcement or be a licensed bail bond agent in the state where the bond was written and must contract with a duly licensed bail bond agent from the state of Louisiana in order to transact any surrender or apprehension of a principal in the state of Louisiana. Bail recovery agents from other states must have in their possession certified copies of material needed to identify the principal. Said materials shall be:

1. judgment of bond forfeiture or court order of failure to appear and/or certified copy of bond and/or agent's duly executed copy of the contract;

2. photograph of individual; and

3. documentation reflecting that person is duly authorized to transact bail enforcement by the state where the bond was written.

**Section 5. Enforcement**

A. The commissioner is vested with the authority to enforce this regulation. The department may conduct investigations or request other state, parish or local officials to conduct investigations and promulgate such rules and regulations as may be deemed necessary for the enforcement of this regulation. The department shall impose penalties, sanctions or fines as delineated in the *Louisiana Insurance Code* and collect such fines as necessary for the enforcement of such rules and regulations.

B. At all times while performing bail enforcement, bail bond agents or solicitors shall wear clothing that identifies their bail bonding company or clothing that identifies their bail bonding agency or clothing that identifies them as a bail recovery agent. Bail bond agents or solicitors involved in a bail recovery shall not wear clothing that suggests that they are police officers or government agents. The identity of the bail bonding company, bail bond agent or solicitor agent must be written out in full on both sides of the clothing. The size of the lettering must not be less than ½-inch on the front of the clothing and must be no less than 2 inches on the rear of clothing. All lettering on the front must be uniform in size and

all lettering on the rear must be uniform in size. The bail bond agent or solicitor on site during a bail enforcement shall have on his person the license issued from the commissioner of insurance. If any law enforcement authority is contacted or if a complaint is filed with the district attorney's office as a result of any activity which occurs during bail enforcement, the district attorney or the law enforcement authority may deliver to the commissioner a copy of any reports or complaints which allege violations of this regulation.

C. A principal may not be placed into a jail on a bond surrendered for nonpayment of a premium. The agent or solicitor must serve the principal and an officer at the jail where the principal is incarcerated with a letter stating the principal has a right to have a hearing with the commissioner if the principal alleges his rights under this Part have been violated. The letter must be served at the time of the surrender on both the principal and the officer who accepts the principal into custody. The commissioner shall decide if any fines shall be due under this regulation. No handcuffs or lethal weapons shall be used in circumstances where the bail recovery agent decides to surrender a principal in cases where there is no bond forfeiture or the principal has not fled the jurisdiction of the court.

D. In order to transact a surrender or apprehension of a principal, the following shall be done.

1. The bail bond agent or solicitor, before conducting a surrender or apprehension of a principal shall notify the local law enforcement in the parish or city where the principal is sought.

2. The bail bond agent or solicitor is required to provide the sheriff or local police of that area with a copy of all documentation that identifies the principal to be surrendered or apprehended. Such documentation shall be:

a. certified copy of judgment of bond forfeiture;

b. certified copy of bond and/or agent's duly executed copy of the application; and

c. photograph of person to be surrendered.

E. Violations of this Section are governed by Part XXIV (Qualification and License Requirements for Insurance Agents, Brokers, Surplus Lines Brokers and Solicitors) and XXVI (Unfair Trade Practices) of the *Louisiana Insurance Code*, the commissioner shall impose penalties, sanctions, or fines as delineated in Part XXIV and XXVI of the *Louisiana Insurance Code* and may seek injunctive relief against all licensed persons who violate the provisions contained herein.

**Section 6. Suspension or Revocation; Licenses; Fines; Prohibited Acts**

A. No licensed bail agent or solicitor shall improperly withhold, misappropriate, fail to timely remit premiums and reports of bonds written, or convert to one's own use any monies belonging to principals, sureties and underwriters, or others possessed in the course of the business of insurance.

B. No licensed bail agent or solicitor shall perform bail enforcement in pursuit of any principal release on bail for nonpayment of premium.

C. No licensed bail agent or solicitor shall fail to return the premiums when a bond is revoked for the nonpayment of premium.

D. No licensed bail agent or solicitor shall remove or have removed any bail bond power of attorney from the clerk of court or sheriff.

E. No licensed bail agent or solicitor shall transact or engage in the surrender or apprehension of a principal with the assistance of an unlicensed person.

F. Violations of this Section are governed by Part XXIV (Qualification and License Requirements for Insurance Agents, Brokers Surplus Lines Brokers and Solicitors) and XXVI (Unfair Trade Practices) of the *Louisiana Insurance Code*. The commissioner shall impose penalties, sanctions or fines as delineated in Part XXIV and XXVI of the *Louisiana Insurance Code* and may seek injunctive relief against all unlicensed persons who violate the provisions contained herein.

James H. "Jim" Brown  
Commissioner of Insurance

9805#041

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Family Support

Family Independence Temporary Assistance  
Program—Food Stamp Disqualifications  
(LAC 67:III.1118 and 1988)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule effective May 7, 1998 in the Family Independence Temporary Assistance and Food Stamp Programs. This rule shall remain in effect for a period of 120 days.

Pursuant to Public Law 105-33, the Balanced Budget Act of 1997, a change in the eligibility of a recipient convicted of a drug-related felony offense is required, since the governing date of the federal statute now applies to the date of the offense rather than the date of conviction. The agency received clarification of the change in April 1998. Therefore, this emergency rule is necessary in order to avoid federal sanctions or penalties which could be imposed by further delaying implementation.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Office of Family Support

#### Subpart 2. Family Independence Temporary Assistance Program

#### Chapter 11. Application, Eligibility, and Furnishing Assistance

#### Subchapter B. Conditions of Eligibility

#### §1118. Individuals Convicted Of A Felony Involving A Controlled Substance

An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the

possession, use, or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C.802[6]) shall be disqualified from receiving cash assistance for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:233.1. and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:449 (April 1997), amended LR 23:1708 (December 1997), LR 24:

#### Subpart 3. Food Stamps

#### Chapter 19. Certification of Eligible Households

#### Subchapter J. Determining Household Eligibility and Benefit Levels

#### §1988. Eligibility Disqualification of Certain Recipients

\* \* \*

B. An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802[6]) shall be disqualified from receiving food stamp benefits for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:233.1, P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 23:590 (May 1997), LR 23:1710 (December 1997), LR 24:

Madlyn B. Bagneris  
Secretary

9805#045

## DECLARATION OF EMERGENCY

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

#### Commercial Red Snapper Season Closure

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its resolution of January 8, 1998 setting the 1998 commercial red snapper seasons, to declare a closed season when he is informed that two-thirds of the commercial red snapper quota for the Gulf of Mexico has been harvested or projected to be

harvested, such closure order shall close the season until 12 noon September 1, 1998, which is the date set for the re-opening of the 1998 commercial red snapper season in Federal waters, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 12:01 a.m., April 19, 1998, the commercial fishery for red snapper in Louisiana waters will close and remain closed until 12 noon September 1, 1998. Nothing herein shall preclude the legal harvest of red snapper by legally licensed recreational fishermen. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper. Effective with the closure, no person shall possess red snapper in excess of a daily bag limit. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing red snapper taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.4.

The secretary has been notified by the National Marine Fisheries Service that two-thirds of the commercial red snapper quota has been harvested, and the season closure is necessary to prevent over fishing of this species.

James H. Jenkins, Jr.  
Secretary

9805#002

## DECLARATION OF EMERGENCY

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

#### Reef Fish—Daily Take, Possession and Size Limits Set by Commission (LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 49:967(D), and pursuant to its authority under R.S. 56:6(25)(a), R.S. 56:326.1 and R.S. 56:326.3 adopts the rule set forth below. This emergency rule is necessary to expedite the enforceability and effectiveness of Federal regulations on the recreational fishery for red snapper, which became effective April 29, 1998. It is therefore in the best interest of the State, and appropriate that these regulations be enacted expeditiously, thereby requiring emergency action. This Declaration of Emergency shall become effective at 12:01 a.m., May 11, 1998 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

#### Title 76

### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

### Chapter 3. Saltwater Sport and Commercial Fishery §335. Reef Fish—Daily Take, Possession and Size Limits Set by Commission

A. The Louisiana Wildlife and Fisheries Commission does hereby adopt the following rules and regulations regarding the harvest of snapper, grouper, sea basses, jewfish, and amberjack within and without Louisiana's territorial waters:

Species	Recreational Bag Limits
1. Red Snapper	4 fish per person per day * * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:

Thomas M. Gattle, Jr.  
Chairman

9805#066

## DECLARATION OF EMERGENCY

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

#### Spring Inshore Shrimp Season—1998

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons; R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters; and R.S. 56:497(A)(2), which provides that the season in Zone 2 shall open no later than the third Monday in May in 1998, the Wildlife and Fisheries Commission does hereby set the 1998 Spring Inshore Shrimp Season to open as follows:

Zone 1—that portion of Louisiana's inshore waters from the Mississippi State line to the eastern shore of South Pass of the Mississippi River, to open at 6 a.m., May 25, 1998, except the open waters of Breton and Chandeleur Sounds as described in the menhaden rule (LAC 76:VII.307.D) which shall open at 6 a.m., May 18, 1998; and

Zone 2—that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, as well as that portion of the State's Territorial Waters south of the Inside/Outside Shrimp Line as described in R.S. 56:495 from the Atchafalaya River Channel at Eugene Island as delineated by the River Channel buoy line to Freshwater Bayou, all to open at 6 a.m., May 18, 1998; and

Zone 3—that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island westward to the Texas State Line, to open at 6 a.m., May 25, 1998.

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

Thomas M. Gattle, Jr.  
Chairman

9805#064



# Rules

## RULE

### Department of Economic Development Board of Architectural Examiners

#### Continuing Education (LAC 46:I.1117)

Under the authority of R.S. 37:144(C), and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners amended LAC 46:I.1117 pertaining to continuing education and accreditation therefor. The board made continuing architectural education mandatory for all architects practicing architecture. Beginning with license renewals effective January 1, 1999, all architects practicing architecture must show compliance with the educational requirements of these rules.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part I. Architects

#### Chapter 11. Administration

#### §1117. Continuing Education

A. Purpose and Scope. These rules provide for a continuing education program to insure that all architects remain informed of those technical and professional subjects necessary to safeguard life, health, and promote the public welfare. These rules shall apply to all architects practicing architecture in this state.

B. Exemptions. Exempt from participating in the continuing education program required by these rules are:

1. a newly registered architect during his or her initial year of registration;
2. an *emeritus status architect* as defined in §905.E;
3. a civilian who serves on active duty in the armed forces of the United States for a period of time exceeding 90 consecutive days during the annual report period; and
4. an architect who demonstrates, to the satisfaction of the board, that meeting these requirements would work an undue hardship by reason of disability, sickness, or other clearly mitigating circumstances.

#### C. Definitions

*AIA*—the American Institute of Architects.

*AIA/CES*—the continuing education system developed by AIA to record professional learning as a mandatory requirement for membership in the AIA.

*ARE*—the Architect Registration Examination prepared by the National Council of Architectural Registration Boards.

*Board*—the Louisiana State Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, Louisiana 70809, Telephone: (504) 925-4802, Telecopier: (504) 925-4804, web site: <http://www.lastbdarchs.com>.

*CEH*—a continuing education hour. One CEH is equivalent to 50 minutes of actual contact time.

*HSW*—the health, safety, and welfare of the public.

*NCARB*—the National Council of Architectural Registration Boards.

*Nonresident Architect*—an architect registered by the board and residing outside Louisiana.

*Resident Architect*—an architect residing in this state.

*Roster*—the Annual Roster of Louisiana Registered Architects issued by the board.

*Sponsor*—an individual, organization, association, institution, or other entity which offers an educational activity for the purpose of fulfilling the continuing education requirements of these rules.

#### D. Requirements

1. Beginning with license renewals effective January 1, 1999, all architects must show compliance with the educational requirements of these rules as a condition for renewing registration.

2. Resident architects shall complete a minimum of 12 Continuing Education Hours (CEHs) in HSW each calendar year, beginning with 1998. The requirement must be satisfied during the period which begins January 1 and ends December 31 of the calendar year immediately preceding the license renewal year.

3. Nonresident architects shall complete either:

a. the mandated or voluntary requirements for continuing education of a jurisdiction in which that architect is registered to practice architecture, provided that other jurisdiction accepts satisfaction of Louisiana continuing education requirements as meeting its own; or

b. the requirements set forth herein for resident architects.

4. To satisfy the continuing education requirements for the year 1998 only, an architect may use hours obtained during calendar years 1997 and 1998.

5. If an architect is being re-registered after having been unregistered then, in addition to all other requirements, the architect must have acquired that number of total CEHs that would have been required if registration had been regularly renewed.

#### E. Acceptable Educational Activities

1. Credit will be allowed only for continuing education activities in areas which:

a. directly safeguard the public's health, safety, and welfare; and

b. provide individual participant documentation from a person other than the participant for recordkeeping and reporting.

2. Only subject matters on the ARE, current at the time of the activity, are acceptable. The board shall publish an official list of approved topics to accomplish the purpose of these rules. The board's current list shall be published in the roster and is also available upon written request from the board.

3. Acceptable continuing educational activities in HSW include the following:

a. attending professional or technical seminars, lectures, presentations, courses, or workshops offered by a professional or technical organization (AIA, National Fire Protection Association, Concrete Standards Institute, NCARB, etc.);

b. successfully completing tutorials, short courses, correspondence courses, televised courses, or videotaped courses;

c. successfully completing monographs or other self-study courses such as those sponsored by NCARB or a similar organization which tests the architect's performance;

d. making professional or technical presentations at meetings, conventions, or conferences;

e. teaching or instructing;

f. authoring a published paper, article, or book; and

g. successfully completing college or university sponsored courses.

4. Continuing educational activities need not take place in Louisiana, but may be acquired at any location.

5. All continuing education activities shall:

a. have a clear purpose and objective;

b. be well organized and provide evidence of preplanning;

c. be presented by persons who are well qualified, by education or experience, in the field being taught; and

d. provide individual participant documentation from a person other than the participant for recordkeeping and reporting.

#### F. Number of Continuing Education Hours Earned

1. Continuing education credits shall be measured in CEHs and shall be computed as follows:

a. attending seminars, lectures, presentations, workshops, or courses shall constitute one CEH for each contact hour of attendance;

b. successfully completing tutorials, short courses, correspondence courses, televised or videotaped courses, monographs and other self-study courses shall constitute the CEH recommended by the program sponsor;

c. teaching or instructing a qualified seminar, lecture, presentation, or workshop shall constitute two CEHs for each contact hour spent in the actual presentation. Teaching credit shall be valid for teaching a seminar or course in its initial presentation only. Teaching credit shall not apply to full-time faculty at a college, university, or other educational institution;

d. authoring a published paper, article, or book shall be equivalent of eight CEHs;

e. successfully completing one or more college or university semester- or quarter-hours shall satisfy the continuing education hours for the year in which the course was completed.

2. Any program in HSW contained in the record of an approved professional registry will be accepted by the board as fulfilling the continuing education requirements of these rules. The board approves the AIA as a professional registry, and contact hours listed in HSW in the AIA/CES Transcript of Continuing Education Activities will be accepted by the board for both resident and nonresident architects.

3. No carry over of CEHs from prior years is permitted.

#### G. Reporting, Recordkeeping, and Auditing

1. Each architect shall complete the language on the renewal application pertaining to that architect's continuing education activities during the calendar year immediately preceding the license renewal period. Any untrue or false statement, or the use thereof with respect to course attendance or any other aspect of continuing educational activity, is fraud or misrepresentation and will subject the architect and/or program sponsor to license revocation or other disciplinary action.

2. To verify attendance each attendee shall obtain an attendance certificate from the program sponsor. Additional evidence may include, but is not limited to, attendance receipts, canceled checks, and sponsor's list of attendees (signed by a responsible person in charge of the activity). A log showing the activity claimed, sponsoring organization, location, duration, etc., should be supported by other evidence. Evidence of compliance shall be retained by the architect for two years after the end of the period for which renewal was requested.

3. The board will annually select a number of renewal applications randomly for audit for verification of compliance with these requirements. Upon request by the board, evidence of compliance shall be submitted to substantiate compliance of the requirements of these rules. The board has final authority with respect to accepting or rejecting continuing education activities for credit.

4. The board may disallow claimed credit. If so, unless the board finds that the architect willfully disregarded these requirements, the architect shall have six months after notification of disallowance to substantiate the original claim or earn other CEH which fulfill the minimum requirements (and such CEH shall not again be used for the next renewal).

#### H. Pre-Approval of Programs

1. Upon written request, the board will review a continuing education program prior to its presentation, provided all of the necessary information to do so is submitted in accordance with these rules. If the program satisfies the requirements of these rules, the board will pre-approve same.

2. A person seeking to obtain pre-approval of a continuing education program shall submit the following information:

a. program sponsor(s)—name(s), address(es), and phone number(s);

b. program description—name, detailed description, length of instructional periods, and total hours for which credit is sought;

c. approved seminar topic—division(s) and topic(s) from the current list of approved seminar topics;

d. program instructor(s)/leader(s)—name(s) of instructor(s)/leader(s) and credential(s);

e. time and place—date and location of program; and

f. certification of attendance: sponsor's method for providing evidence of attendance to attendees.

3. Such information shall be submitted at least 30 calendar days in advance of the program so that the board may analyze and respond.

4. The sponsor of a pre-approved program may announce or indicate as follows:

"This course has been approved by the Louisiana State Board of Architectural Examiners for a maximum of \_\_\_\_\_ CEH."

**I. Noncompliance**

1. Failure to fulfill the continuing education requirements shall result in nonrenewal of that architect's certificate of registration and loss of the right to practice architecture.

2. If the board finds that the architect willfully disregarded these requirements, the board may subject the architect to all of the disciplinary actions allowed by law, including license revocation.

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

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

Mary "Teeny" Simmons  
Executive Director

9805#020

**RULE**

**Department of Economic Development  
Racing Commission**

Blanks and Envelopes (LAC 35:XI.9937)

The Racing Commission hereby amends LAC 35:XI.9937, "Blanks and Envelopes," to clarify its intent and to prevent future discrepancies and voided claims due to the spelling of horses' names.

**Title 35**

**HORSE RACING**

**Part XI. Claiming Rules and Engagements**

**Chapter 99. Claiming Rule**

**§9937. Blanks and Envelopes**

All claims shall be on blanks and in envelopes furnished by the association and approved by the commission. Both blanks and envelopes must be filled out completely, and the horse's name must be spelled accurately to identify the claim, otherwise the claim shall be void. The horse's name shall be spelled as it appears in the official racing program of the association, otherwise the claim shall be void.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

**HISTORICAL NOTE:** Adopted by the Racing Commission, 1971, amended by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), repromulgated LR 3:42 (January 1977), LR 4:286 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 24:912 (May 1998).

Paul D. Burgess  
Executive Director

9805#015

**RULE**

**Department of Economic Development  
Racing Commission**

Extension of Contract (LAC 46:XLI.709)

The Racing Commission hereby amends LAC 46:XLI.709, "Extension of Contract," to allow for education as an additional condition to grant an apprentice jockey's contract extension.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLI. Horseracing Occupations**

**Chapter 7. Jockeys and Apprentice Jockeys**

**§709. Extension of Contract**

In the event an apprentice jockey is unable to ride for a period of 14 consecutive days or more because of service in the armed forces of the United States, or because of physical disablement, or because of restrictions on racing, or due to secondary or higher education with proper documentation, the commission, upon recommendation of the stewards and after consultation with the racing authority which first approved the original apprentice contract, may extend the time during which such apprentice weight allowances may be claimed for a period no longer than the period such apprentice rider was unable to ride.

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

**HISTORICAL NOTE:** Adopted by the Racing Commission in 1971, amended and promulgated by the Department of Commerce, Racing Commission, LR 2:431 (December 1976), amended LR 3:27 (January 1977), LR 4:276 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 24:912 (May 1998).

Paul D. Burgess  
Executive Director

9805#016

**RULE**

**Department of Economic Development  
Racing Commission**

Minors (LAC 35:I.315)

The Racing Commission hereby amends LAC 35:I.315, "Minors," to allow minors as young as six years old to attend races (proof of age unnecessary).

**Title 35**

**HORSE RACING**

**Part I. General Provisions**

**Chapter 3. General Rules**

**§315. Minors**

Minors are prohibited from attending racing meetings except that any minor six years of age, or older, may attend any race meeting if accompanied by a parent, grandparent, or

companion. In no case shall any minor in attendance be allowed to engage in wagering. (For the purpose of this rule, *companion* is defined as any person 21 years of age or older who is a relative of the minor.)

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 10:592 (August 1984), amended by the Department of Economic Development, Racing Commission, LR 24:912 (May 1998).

Paul D. Burgess  
Executive Director

9805#017

## RULE

### Department of Environmental Quality Office of Air Quality and Radiation Protection Air Quality Division

#### Hazardous Air Pollutant (HAP) Control Technology Requirements for New Sources (LAC 33:III.551)(AQ168)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.551 (AQ168).

As required by section 112(g) of the Clean Air Act, all new major sources of air toxics are required to have a case-by-case maximum achievable control technology (MACT) determination when no federal MACT emission limitation has been promulgated. The state is required by Louisiana's part 70 Operating Permit Program and 40 CFR part 63, subpart B, to adopt a 112(g) program that complies with the requirements of 40 CFR part 63, sections 63.40-63.44. This rule, adopting and implementing the 112(g) program, carries out those requirements by requiring new major sources of air toxics to do MACT prior to EPA establishing a federal MACT standard. This rule provides the affected facilities with direction and instruction in regards to applicability determinations, application requirements, and administrative procedures. In addition to adopting and implementing this rule by June 28, 1998, the department must also certify to EPA that this program meets all requirements in 40 CFR part 63, sections 63.40-63.44. In the event the state fails to adopt this program, the state may still be able to make the case-by-case MACT determinations, or they may request that EPA make these determinations.

The basis and rationale for this rule are to comply with the requirements of Louisiana's part 70 Operating Permit Program to adopt and implement the 112(g) program. Continued failure to adopt this rule could result in EPA sanctions for the state's failure to adequately administer and enforce Louisiana's part 70 Operating Permit Program.

This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

## Title 33 ENVIRONMENTAL QUALITY Part III. Air

### Chapter 5. Permit Procedures

#### §551. Hazardous Air Pollutant (HAP) Control Technology Requirements for New Sources

A. Applicability. The provisions of this Section apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998. The provisions of this Section do not apply to major sources specifically regulated or exempted from regulation under a standard issued in accordance with section 112(d), 112(h), or 112(j) of the Clean Air Act and incorporated in 40 CFR part 63 or to major sources for which the owner or operator has received all necessary air quality permits for construction or reconstruction prior to June 29, 1998.

B. Definitions. The terms used in this Section have the meaning given to them in LAC 33:III.111 and 5103, the Clean Air Act, and 40 CFR part 63, subpart A except for those terms defined herein as follows:

*Affected Source*—the stationary source or group of stationary sources that, when fabricated (on-site), erected, or installed, meets the definition of "construct a major source" or the definition of "reconstruct a major source" contained in this Section.

*Available Information*—for the purposes of identifying control technology options for the affected source, information contained in the following information sources as of the date of approval of the MACT determination by the department:

- a. a relevant proposed regulation, including all supporting information;
- b. background information documents for a draft or proposed regulation;
- c. data and information available for the Control Technology Center developed in accordance with section 113 of the Clean Air Act;
- d. data and information contained in the Aerometric Information Retrieval System, including information in the MACT database;
- e. any additional information that can be expeditiously provided by the administrator; and
- f. for the purpose of determinations by the department, any additional information provided by the applicant or others and any additional information considered available by the department.

*Construct a Major Source*—

a. to fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources that is located within a contiguous area and under common control and that emits, or has the potential to emit, 10 tons per year of any HAP or 25 tons per year of any combination of HAPs; or

b. to fabricate, erect, or install at any developed site a new process or production unit that in and of itself emits, or has the potential to emit, 10 tons per year of any HAP or 25 tons per year of any combination of HAPs, unless the process or production unit satisfies the following criteria:

- i. all HAPs emitted by the process or production unit that would otherwise be controlled under the requirements

of this Section are controlled by emission control equipment that was previously installed at the same site as the process or production unit;

ii. the department determines:

(a). within a period of five years prior to the fabrication, erection, or installation of the process or production unit, that the existing emission control equipment represents the best available control technology (BACT), lowest achievable emission rate (LAER) under 40 CFR part 51 or 52, toxics-best available control technology (T-BACT), or MACT based on state air toxics rules for the category of pollutants that includes those HAPs to be emitted by the process or production unit; or

(b). that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, T-BACT, or state air toxic rule MACT determination);

iii. the department determines that the percent control efficiency for emissions of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

iv. the department provides notice and an opportunity for public comment concerning its determination that criteria in Clauses i-iii of Subparagraph b of this definition apply and concerning the continued adequacy of any prior BACT, LAER, T-BACT, or state air toxic rule MACT determination;

v. if any commentor has asserted that a prior BACT, LAER, T-BACT, or state air toxic rule MACT determination is no longer adequate, the department shall determine that the level of control required by that prior determination remains adequate; and

vi. any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the department are applicable requirements under section 504(a) of the Clean Air Act either have been incorporated into any existing Title V permit for the affected facility or will be incorporated into such permit upon issuance.

*Control Technology*—measures, processes, methods, systems, or techniques to limit the emissions of HAPs through process changes, substitution of materials, or other modifications which:

a. reduce the quantity of, or eliminate emissions of, such pollutant through process changes, substitution of materials, or other modifications;

b. enclose systems or processes to eliminate emissions;

c. collect, capture, or treat such pollutants when released from a process, stack, storage, or fugitive emissions point;

d. are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in 42 U.S.C. 7412(h); or

e. are the combination of Subparagraphs a-d of this definition.

*Electric Utility Steam Generating Units*—any fossil fuel-fired combustion unit, of more than 25 megawatts, that serves a generator that produces electricity and supplies more than one-third of its potential electrical output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale.

*Greenfield Site*—a contiguous area under common control that is an undeveloped site.

*Hazardous Air Pollutants*—any air pollutants listed in or pursuant to Section 112(b) of the Clean Air Act.

*Maximum Achievable Control Technology (MACT) Emission Limitation for New Sources*—the emission limitation that is not less stringent than the emission limitation achieved in practice by the best controlled similar source and that reflects the maximum degree of reduction in emissions that the department, taking into consideration the cost of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements, determines is achievable by the constructed or reconstructed major source.

*Process or Production Unit*—any collection of structures and/or equipment that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one process or production unit.

*Reconstruct a Major Source*—the replacement of components at an existing process or production unit that in and of itself emits, or has that potential to emit, 10 tons per year of any HAP or 25 tons per year of any combination of HAPs whenever:

a. the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and

b. it is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under this Subsection.

*Research and Development Activities*—activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a de minimis manner.

*Similar Source*—a stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology.

C. Exemptions and Prohibitions. The requirements of this Section do not apply to:

1. electric utility steam generating units unless and until such time as these units are added to the source category list in accordance with section 112(c)(5) of the Clean Air Act;

2. stationary sources that are within a source category that has been deleted from the source category list in accordance with section 112(c)(9) of the Clean Air Act; and

3. research and development activities, as defined herein.

#### D. Source Obligation

1. No person may begin actual construction or reconstruction of a major source of hazardous air pollutants after June 29, 1998, unless the owner or operator obtains or revises a permit issued in accordance with Louisiana's part 70 Program (LAC 33:III.507) and follows the administrative procedures of that program and:

a. the department has made a final and effective case-by-case determination in accordance with the provisions of this Section such that emissions from the affected source will be controlled to a level no less stringent than the MACT emission limitation for new sources; or

b. the major source in question is specifically regulated by or exempted from regulation under a standard issued in accordance with section 112(d), 112(h), or 112(j) of the Clean Air Act and incorporated in 40 CFR part 63.

2. The owner or operator may request approval of case-by-case MACT determinations for alternative operating scenarios. Approval of such data satisfies the requirements of this Section for each such scenario.

3. The MACT emission limitation and requirements established shall be effective as required by Subsection I of this Section, supported by information listed in Subsection E of this Section and consistent with principles established in Subsection E of this Section. The owner or operator shall comply with requirements in Subsections G and J of this Section, and with all applicable requirements in 40 CFR part 63, subpart A.

E. Principles of Case-by-Case MACT Determinations. The following general principles shall govern preparation of each permit application requiring a case-by-case MACT determination concerning construction or reconstruction of a major source and all subsequent review of and actions taken concerning such an application by the department:

1. the MACT emission limitation or MACT requirements recommended by the applicant and approved by the department shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source as determined by the department;

2. based upon available information, the MACT emission limitation and control technology (including any requirements under Subsection E.3 of this Section) recommended by the applicant and approved by the department shall achieve the maximum degree of reduction in emissions of hazardous air pollutants that can be achieved by utilizing those control technologies that can be identified from the available information, taking into consideration the costs of achieving such emission reduction, any non-air quality health and environmental impacts, and energy requirements associated with the emission reduction;

3. the applicant may recommend a specific design, equipment, work practice, operational standard, or a combination thereof. The department may approve such a standard based on these recommendations if the department

specifically determines that it is not feasible to prescribe or enforce an emission limitation as defined herein; and

4. if the administrator has either proposed a relevant emission standard in accordance with section 112(d) or 112(h) of the Clean Air Act or adopted a presumptive MACT determination for the source category that includes the constructed or reconstructed major source, then the MACT requirements applied to the affected source shall have considered those MACT emission limitations and requirements of the proposed standard or presumptive MACT determination.

#### F. Application Requirements for Case-by-Case MACT Determination

1. The application shall specify a control technology selected by the owner or operator that, if properly operated and maintained, will meet the MACT emission limitation or standard as determined by Subsection E of this Section.

2. In the event that an affected source would require additional control technology or a change in control technology, the application for a MACT determination shall contain the following information:

a. identifying information, including company name, physical address and mailing address, facility name and address, if different from the company, a map showing the location of the facility, owner's and operator's names and agent, and telephone number and name of plant manager or contact;

b. a brief description of the major source to be constructed or reconstructed and identification of any listed source category or categories in which it is included;

c. the expected commencement date for the affected source;

d. the expected completion date for the affected source;

e. the anticipated date of start-up for the affected source;

f. the hazardous air pollutant emitted by the affected source and the estimated emission rate for each such hazardous air pollutant, to the extent this information is needed by the department to determine MACT;

g. any federally enforceable emission limitations applicable to the affected source;

h. the maximum and expected utilization of capacity of the affected source, to the extent this information is needed by the department to determine MACT;

i. the controlled emissions for the affected source in tons per year at expected and maximum utilization of capacity, to the extent this information is needed by the department to determine MACT;

j. a recommended emission limitation for the affected source consistent with the principles set forth in Subsection E of this Section;

k. the selected control technology to meet the recommended MACT emission limitation, including technical information on the design, operation, size, and estimated control efficiency of the control technology (and the manufacturer's name, address, telephone number, and relevant specifications and drawings, if requested by the department);

l. supporting documentation including identification

of alternative control technologies considered by the applicant to meet the emission limitation, and analysis of cost and non-air quality health environmental impacts or energy requirements for the selected control technology; and

m. any other relevant information required in accordance with 40 CFR part 63, subpart A.

3. In the event that an affected source will be in compliance, upon start-up, with the case-by-case MACT provisions in accordance with this Section without a change in control technology, the application for a MACT determination shall also contain documentation of the control technology in place.

G. Compliance with MACT Determination. An owner or operator of an affected source that has obtained a MACT determination shall be deemed to be in compliance with section 112(g)(2)(B) of the Clean Air Act only to the extent that the affected source is in compliance with all part 70 permit requirements. Any violation of such requirements by the owner or operator shall be deemed by the department and by EPA to be a violation of the prohibition on construction or reconstruction in section 112(g)(2)(B) for whatever period the owner or operator is determined to be in violation of such requirements, and shall subject the owner or operator to appropriate enforcement action under the Clean Air Act.

H. Requirement for Affected Source Subject to a Subsequently Promulgated MACT Standard or MACT Requirement

1. If the administrator promulgates an emission standard under section 112(d) or 112(h) of the Clean Air Act or the department issues a determination under section 112(j) of the federal Clean Air Act that is applicable to a stationary source or group of sources that would be deemed to be an affected source under this Section before the date that the owner or operator has obtained a final and legally effective MACT determination in accordance with this Section, the owner or operator of the source(s) shall comply with the promulgated standard or determination rather than any MACT determination in accordance with this Section and the owner or operator shall comply with the promulgated standard by the compliance date in the promulgated standard.

2. If the administrator promulgates an emission standard under section 112(d) or 112(h) of the Clean Air Act or the department makes a determination under section 112(j) of the Clean Air Act that is applicable to a stationary source or group of sources that was deemed to be an affected source under this Section and has been subject to a prior case-by-case MACT determination in accordance with this Section and the owner or operator obtained a final and legally effective case-by-case MACT determination prior to the promulgation date of such emission standard, then the department shall issue an initial operating permit that incorporates the emission standard or determination or revise the operating permit according to the reopening procedures in LAC 33:III.529, whichever is relevant, to incorporate the emission standard or determination.

a. The EPA may include in the emission standard

established under section 112(d) or 112(h) of the Clean Air Act a specific compliance date for those sources that have obtained a final and legally effective MACT determination in accordance with this Section and that have submitted the information required by this Section to the EPA before the close of the public comment period for the standards established under section 112(d) of the Clean Air Act. Such date shall assure that the owner or operator shall comply with the promulgated standard as expeditiously as practicable, but not longer than eight years after such standard is promulgated. In that event, the department shall incorporate the applicable compliance date in the part 70 permit.

b. If no compliance date has been established in the promulgated 112(d) or section 112(h) standard or section 112(j) determination of the Clean Air Act, for those sources that have obtained a final and legally effective MACT determination in accordance with this Section, then the department shall establish a compliance date in the permit that assures that the owner or operator shall comply with the promulgated standard or determination as expeditiously as practicable, but not longer than eight years after such standard is promulgated or a section 112(j) determination is made.

3. Notwithstanding the requirements of Subsection H.1 and 2 of this Section, if the administrator promulgates an emission standard under section 112(d) or 112(h) of the Clean Air Act or the department issues a determination under section 112(j) of the Clean Air Act that is applicable to a stationary source or group of sources that was deemed to be an affected source under this Section and that is the subject of a prior case-by-case MACT determination in accordance with this Section, and the level of control required by the emission standard issued under section 112(d) or 112(h) or the determination issued under section 112(j) is less stringent than the level of control required by any emission limitation or standard in the prior MACT determination, the department is not required to incorporate any less stringent terms of the promulgated standard in the part 70 permit applicable to such source(s) and may in its discretion consider any more stringent provisions of the prior MACT determination to be applicable legal requirements when issuing or revising such an operating permit.

I. Effective Date of MACT Determination. The effective date of a MACT determination shall be the date of issuance of a part 70 permit incorporating a MACT determination.

J. Compliance Date. On and after the date of start-up, an affected source that is subject to the requirements of this Section shall be in compliance with all applicable requirements specified in the MACT determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 24:913 (May 1998).

Gus Von Bodungen  
Assistant Secretary

9805#069

**RULE**

**Department of Environmental Quality  
Office of Air Quality and Radiation Protection  
Air Quality Division**

**Refinery Vacuum Producing Systems  
Exemption (LAC 33:III.2139)(AQ167)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.2139 (AQ167).

Refinery vacuum producing systems shall be exempt from the requirements of LAC 33:III.2139 if controls are installed and maintained in accordance with a more stringent regulation. The basis and rationale for this rule are to change LAC 33:III.2139 in order to eliminate unnecessary recordkeeping and reporting requirements. Facilities affected by the rule will comply with one set of reporting and recordkeeping requirements rather than two.

This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 21. Control of Emission of Organic  
Compounds**

**Subchapter G. Petroleum Refinery Operations  
§2139. Refinery Vacuum Producing Systems**

\* \* \*

[See Prior Text in A-B]

C. Exemptions. This Section does not apply to refinery vacuum producing systems that are required by another federal or state regulation to implement controls that reduce VOCs to a more stringent standard than would be required by this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 24:917 (May 1998).

Gus Von Bodungen  
Assistant Secretary

9805#068

**RULE**

**Department of Environmental Quality  
Office of the Secretary**

**Laboratory Accreditation  
(LAC 33:I.Chapters 45-57)(OS007)**

Under the authority of the Environmental Quality Act, R.S.

30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has adopted Office of the Secretary regulations, LAC 33:I.Subpart 3 (OS007).

The laboratory accreditation rule will require accreditation of commercial environmental laboratories by DEQ every three years. The accreditation program will require third-party laboratory audits, submission of samples for independent analysis, and inspections of regulated laboratories. The rule will also provide for quality assurance/quality control procedures, laboratory personnel qualifications, and sampling protocol and integrity. This rule and the accompanying program will enhance the accuracy, reliability, and veracity of environmental laboratory data in the state. This will help to promote and maintain public, government, and customer confidence in laboratory data in Louisiana. The program will also promote improved permitting and enforcement indirectly by promoting quality data.

The basis and rationale for this rule are to implement R.S. 30:2012.D(22), which provides for the secretary to promulgate regulations for certification of commercial laboratories that provide chemical analysis, analytical results, or other appropriate test data to the department required as part of any permit application, by any order of the agency, to be included in any monitoring report submitted to the agency, or by any regulation of the agency.

The department has submitted a report to the Legislative Fiscal Office and the Joint Legislative Committee on the budget demonstrating that the environmental and public health benefits outweigh the social and economic costs reasonably expected to result from the rule. This report is published in the Potpourri Section of this issue of the *Louisiana Register*.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part I. Office of the Secretary**

**Subpart 3. Laboratory Accreditation**

**Chapter 45. Policy and Intent**

**§4501. Description and Intent of Program**

A. These regulations provide requirements for an accreditation program specifically applicable to commercial laboratories and federal, state, and local government laboratories performing analyses reportable to the Louisiana Department of Environmental Quality (the department). The department laboratory accreditation program is designed to ensure the accuracy, precision, and reliability of the data generated, as well as the use of department-approved methodologies in the generation of that data. Laboratory data generated by commercial environmental laboratories that are not accredited under these regulations will not be accepted by the department.

B. This accreditation covers the following fields of testing:

1. air emissions;
2. wastewater/surface water;
3. groundwater;
4. solid/hazardous wastes;
5. soils, sediments, and sludges;
6. biological materials;
7. radiologicals/radioassays; and
8. bioassays/biomonitoring/toxicological testing.

C. Each field of testing is divided into test categories.



Applications for accreditation may be made for one or more test categories within specified fields of testing. To apply the laboratory must identify the specific department-approved methods it will be using for each test category and participate in all relevant department-approved proficiency testing programs. Any variance from approved protocol or procedure is acceptable only with prior written confirmation by the department.

D. Applicants must have an acceptable quality control system and associated documentation. Accreditation earned from other states or regulatory agencies may be accepted by the department, provided that a review shows that the requirements are no less stringent than those required by these regulations. Reciprocity with other state accreditation programs will be reviewed by the department, and if the requirements of these regulations are met, then accreditation may be granted.

E. This Subpart shall not apply to laboratory analyses programs accredited under the regulatory and statutory authority of the Louisiana Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:917 (May 1998).

#### §4503. Definitions

When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below:

*Accreditation*—the formal recognition by the department of a laboratory's competence wherein specific tests or types of tests can be accurately and successfully performed in compliance with all minimum requirements set forth in these regulations.

*Annual Renewal Date*—July 1.

*Applicant*—the laboratory requesting accreditation.

*Commercial Laboratory*—any laboratory that performs analyses or tests for third parties for a fee or other compensation, except those commercial laboratories accredited by the Department of Health and Hospitals in accordance with R.S. 49:1001 et seq.

*Department*—the Louisiana Department of Environmental Quality.

*Department Accreditation Program*—a program instituted by the department by which a laboratory that generates data for submittal to any area of the department may be deemed an accredited laboratory producing acceptable data, based upon the accuracy and reliability of the generated data, the use of department-approved methodology for the generation of the data, and the utilization of an acceptable quality control/quality assurance program to document the quality of the data produced.

*Department-Approved Testing Methods*—the laboratory and field procedures that have been approved by the department. These include all EPA-recognized methods, as well as those deemed equivalent by the department, that are adopted from existing standards and regulations or developed for specific fields of testing, specific testing technologies, or specific types of tests. This refers to the methods cited in the 40 CFR and subsequent changes published in the *Federal*

*Register* from such sources as U.S. EPA, *Standard Methods for the Examination of Water and Wastewater*, ASTM, NIOSH, SW-846, *American Public Health Association for Microbiological Methods*, USGS, AOAC, and alternate test procedures approved for use.

*Discreditation*—the revocation by the department of the formal recognition of the laboratory's accredited status because of a violation of LAC 33:I.5705.F.

*EPA*—the United States Environmental Protection Agency.

*EPA-Accepted Methods*—the methods cited in the 40 CFR and subsequent changes published in the *Federal Register*; from such sources as EPA, *Standard Methods for the Examination of Water and Wastewater*, ASTM, NIOSH, SW846, *American Public Health Association for Microbiological Methods*, USGS, AOAC, and alternate test procedures approved for nationwide use, as well as any method approved by the department.

*Field of Testing*—air emissions; wastewater/surface water; groundwater; soils, sediments, and sludges; solid/ hazardous wastes; biological materials; radiologicals/ radioassays; and bioassays/biomonitoring/toxicological testing.

*Laboratory*—any facility, whether fixed-based, mobile, or field, that analyzes environmental samples and that seeks accreditation by the department.

*Laboratory Representative*—the laboratory employee who is designated as the contact person responsible for the information provided in the application and for ensuring compliance with the requirements for accreditation.

*Mobile Laboratory*—any facility that analyzes environmental samples and that seeks accreditation by the department that is capable of moving or being moved from one site to another.

*NIST*—National Institute of Standards and Technology.

*NRC*—Nuclear Regulatory Commission.

*Pending Accreditation*—a status that exists in the accreditation process wherein all application requirements have been met by the laboratory, but formal accreditation status has not been granted by the department.

*Proficiency Evaluation Test Sample (PE)*—a sample of known composition (unknown to laboratory) provided by an external source (e.g., EPA) that is used to evaluate lab performance.

*Reaccreditation*—the reinstatement of a fully accredited status by the department, thereby signifying that all violations of LAC 33:I.5705.F that initiated the discreditation action have been corrected and that the laboratory is deemed in compliance with requirements of these regulations.

*Reciprocity*—a method of obtaining accreditation, whereby the applicant laboratory provides documentation that demonstrates that its current certification or accreditation is no less stringent than required by these regulations. All fees associated with accreditation in the state of Louisiana shall be applicable. Laboratories located within the state of Louisiana shall be required to apply for a certification and shall not be eligible for reciprocity.

*Round Robin Testing*—a method of proficiency testing, whereby a blind sample is split and sent to laboratories for

analysis from the department or its representative. Laboratories participating in round robin testing shall not pass test samples from one laboratory to another. This form of testing shall be limited to use where applicable.

*Small Laboratory*—a laboratory consisting of 10 or fewer people who influence the quality of data from sample collection through report generation.

*Suspension*—a temporary removal by the department of the accredited status, in part or whole, of a laboratory because of an infraction(s) of LAC 33:I.5705.F until such time that the infraction(s) is satisfactorily corrected and the laboratory is returned to a fully accredited status or the infraction(s) is not corrected and the laboratory is discredited.

*Test Category*—any one of the 10 categories listed in LAC 33:I.4705.B in which a laboratory may request department accreditation for a specific test or analysis.

*Variance*—any deviation from a department-approved method that has the potential for affecting the analytical results generated from a test procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:918 (May 1998).

## **Chapter 47. Program Requirements**

### **§4701. Accreditation Process**

A. The department accreditation process comprises four basic steps:

1. the submittal to the department of a written request from the laboratory in the form of an application provided by the department, along with payment of all applicable fees;

2. an on-site assessment/evaluation of the laboratory submitting the request/application by authorized representatives of the department with the appropriate laboratory background;

3. the successful participation in department-approved applicable proficiency evaluations; and

4. both periodic technical evaluation of the laboratory and periodic submittal by the laboratory of written documentation that all requirements of the department accreditation program are being fulfilled in order to maintain accreditation.

B. When all requirements for accreditation have been successfully fulfilled, the department shall grant the applicant laboratory a formal notice of accreditation and a certificate of accreditation that lists those parameters for which the laboratory is accredited. The certificate of accreditation must be posted within public view in the laboratory setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998).

### **§4703. Application for Accreditation**

A. An applicant for environmental laboratory accreditation must be legally identifiable and possess a permanent business address and telephone number. The applicant laboratory must have the staff and resources in order to satisfactorily accomplish those analyses/tests for which accreditation is requested.

B. An application for environmental laboratory accreditation shall be made in writing to the department. This application will provide all requested information and be accompanied by the appropriate application fee. Information will include at least one satisfactory round of the most recent department-specified proficiency evaluation test results or an analytical data package for test categories where no accessible proficiency tests exist. Supplemental information may be required.

C. Laboratories maintained on separate premises, even though operated under the same management, shall be required to maintain distinct accreditation. If a laboratory is located outside of the state of Louisiana, it shall be considered a separate and distinct laboratory and shall require individual accreditation. Separate accreditation is not required for buildings on the same or adjoining grounds. If a mobile laboratory is operating independently within the state, separate accreditation may be necessary.

D. Each laboratory must identify an official to represent it in all matters related to attaining and maintaining environmental laboratory accreditation. This official is the point of contact with the laboratory and is known as the laboratory representative. The laboratory representative may be any senior person from either the technical or managerial staff. The laboratory representative should be in a position of authority to ensure that the laboratory complies with the criteria and conditions for accreditation and should have the authority to bind the company in a legal manner.

E. In cases where all application requirements have been met, including review of all methodology and quality assurance program data, a special status of "pending accreditation" may be granted at the discretion of the department. Before a laboratory is granted full accreditation, all requirements of these regulations must be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998).

### **§4705. Categories of Accreditation**

A. At the time of application each applicant must clearly identify both the fields of testing and the test categories for which accreditation is sought. A copy of the relevant test method documentation and the requisite equipment for the method must be available at the laboratory. A current list of approved methodologies for each parameter/analyte will be maintained by the department accreditation office, and a copy of the list will become a part of the application package. In cases where the methodology used by the laboratory is not listed, the laboratory shall submit documentation that will verify that the results obtained from the method in use are equal to or better than those results obtained from the approved methodology. The department will review the data submitted by the laboratory and will notify the laboratory in writing within 60 calendar days if the method is acceptable or unacceptable as an alternate method of analysis.

B. A laboratory may apply for accreditation in any one or more of the eight fields of testing (e.g., air emissions,

wastewater/surface water, etc.) and in one or more of the 10 test categories applicable to the field(s) of testing selected. The laboratory shall be accredited in those parameters within the test category(ies) for which the laboratory demonstrates acceptable performance on proficiency samples (when available) and meets all other requirements of the department accreditation program. The accreditation test categories are as follows:

1. metals;
2. air pollutants (including industrial hygiene and Toxic Organic Compounds (T.O.) methods);
3. nutrients, minerals, ions, demands, classical wet chemistry, and total and fecal coliform;
4. microbiology (including fecal coliform and total coliform);
5. bioassay and biomonitoring;
6. organics (including volatiles, semi-volatiles, pesticides, herbicides, and PCBs);
7. dioxins and furans;
8. radiochemistry and radio assay;
9. asbestos; and
10. minor conventional parameters-BOD<sub>5</sub>, oil and grease, TSS, pH, fecal and total coliform, and residual chlorine.

C. An accredited laboratory may request the addition of field(s) of testing and test category(ies) to its scope of accreditation at any time. Such a request must be submitted in writing to the department. Unless the previous on-site inspection can verify the competence of the laboratory to perform the additional tests, another on-site inspection may be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998).

#### §4707. Fees

A. Testing laboratories applying for accreditation or renewal of accreditation shall submit the appropriate fee calculated from the fee schedule along with the required application or update materials. Fees are nonrefundable. Fees are based on test categories and not the fields of testing.

B. In-house laboratories owned and/or operated by the state, local, or federal government are exempt from the fee requirements paid to the department, but shall make appropriate application for accreditation in accordance with other provisions of these regulations. Required proficiency samples shall be purchased by the laboratory and the required third-party audit shall be billed directly to the laboratory.

C. The annual fees shall not be prorated and shall apply in full to any portion of the fiscal year that remains prior to the annual renewal date (July 1).

D. The following basic fee structure will be used in determining the initial or annual fees due to the department:

Accreditation application fee payable every three years	\$500
Per major test category payable every year	\$250
Minor conventional category payable every year	\$200

Annual surveillance and evaluation applicable to minor conventional facilities and facilities applying for only one category of accreditation	\$250
Proficiency samples biannually	to be purchased by the laboratory
Bioassay/biomonitoring annually	to be purchased by the laboratory
Third-party audit	to be billed directly to the laboratory

E. Additional fees may be charged for the expansion of accreditation to include new test categories. Fees must be received prior to granting accreditation. Fee assessment will depend on the category(ies) of analyses and the need for a supplemental on-site inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:920 (May 1998).

#### §4709. Inspection of Laboratory

A. As a condition of obtaining and maintaining accreditation, a laboratory shall permit and facilitate inspections by personnel or designated representatives of the department. The specific requirements of an on-site inspection are outlined in LAC 33:I.Chapter 51.

B. Inspectors shall conform to appropriate safety procedures during an on-site inspection. The authorized representatives of the department who perform the on-site evaluation must be experienced professionals and hold at least a bachelor's degree in a science-related field with technical experience in a laboratory. The representative(s) must successfully complete a laboratory certification course presented by the United States Environmental Protection Agency, the National Institute of Standards and Technology, or other department-approved training group.

C. Regular inspections of accredited laboratories shall be conducted at intervals of not more than two years. Such inspections shall be conducted by representatives of the department upon presentation of credentials. Prior to granting initial accreditation and after all documentation provided to the department has been reviewed, an announced on-site laboratory inspection shall be performed.

D. Inspections may include on-site proficiency test sample(s) analyses but shall not exceed 10 percent of the test parameter(s) but must maintain minimum of one test. If there is a cost for these samples, the department will bill the laboratory, and the laboratory shall remit within 30 calendar days.

E. Laboratories that utilize mobile and/or field laboratories shall not be required to certify each laboratory individually. The mobile and/or field facilities shall be considered a part of the fixed-based laboratory and shall be required to participate in performance evaluation studies. Mobile and/or field laboratories shall not be exempt from any applicable requirements of an on-site evaluation as outlined in LAC 33:I.Chapter 51. Mobile and/or field laboratories may be

inspected at the discretion of the department. In the event an organization is composed entirely of mobile and/or field laboratories and no fixed-based laboratory exists, the business address of the organization shall be utilized as the location for accreditation purposes.

F. Fixed-base laboratories that have moved to a new location shall be inspected within 30 calendar days after the laboratory has notified the department, in writing, of such change in location as required in LAC 33:I.5707.

G. The department shall reserve the right to inspect or observe the testing procedure(s) of the laboratory if such action is deemed necessary by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:920 (May 1998).

#### **§4711. Proficiency Testing Participation**

A. All accredited environmental laboratories or laboratories seeking accreditation must participate in department-approved proficiency testing programs relevant to their scope of accreditation, except when determined by the department that an appropriate proficiency test is not accessible or readily available. The department may provide appropriate commercial test samples at the applicant's expense whenever necessary.

B. If proficiency test samples are not available for particular test categories, the laboratory requesting accreditation will submit an "analytical data package." An "analytical data package" shall include all relevant analytical methodology, technical information, and quality assurance results concerning a particular type of analysis for which there is no current proficiency testing program.

C. Department-approved proficiency tests shall be used to provide suitable evidence of laboratory proficiency.

D. Proficiency testing studies will be available at a minimum of every six months. Laboratories may set up round robin testing programs under the department's supervision in order to satisfy this requirement, using splits where applicable.

E. Laboratories shall satisfactorily analyze at least one of the two proficiency test studies offered per year for each test category accredited. A year shall be considered as the 12-month period from the first day of July until the last day of June. Results shall be considered satisfactory when they are within the acceptable limits established by the testing agency or the department.

F. Each participating laboratory must supply the department with a copy of the proficiency evaluation (PE) test results within 30 days of receipt by the laboratory. Every laboratory that receives test results that are "unacceptable" for a specific analyte must investigate and identify likely causes for these results, resolve any problems, and report such activity to the department along with the submittal of test results.

G. In cases of on-site proficiency testing, the department shall inform the laboratory of the results of the evaluation. The department may require the laboratory to analyze additional proficiency samples if the results of such test are "unacceptable."

H. Results of proficiency testing during the preceding 12 months shall be made available by the laboratory, upon request, to any person utilizing or requesting the services of the laboratory.

I. Accredited laboratories that desire to extend the range of tests or analyses offered shall submit a written request with the appropriate fees, shall comply with the requirements of these regulations, and shall demonstrate satisfactory results in at least one round of proficiency testing samples prior to receiving accreditation.

J. Laboratories shall bear the cost of any subscription(s) to a proficiency testing program required by the department for compliance purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:921 (May 1998).

#### **§4713. Interim Acceptance of Accreditation by Another Accrediting Authority for In-State Laboratories**

A. Acceptance of accreditation from another accrediting authority as equivalent accreditation shall be determined by the department.

B. All of the following requirements must be fulfilled:

1. a completed application form and support documents submitted;
2. any appropriate fee(s) paid;
3. evidence of successful participation in a proficiency testing program or its equivalent;
4. written documentation of accreditation sent to the department;
5. a comparison of certification requirements from the accredited laboratory; and
6. an on-site evaluation/inspection conducted by authorized representatives of the department or the previous inspection conducted by the accrediting authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:921 (May 1998).

#### **§4715. Accreditation for Laboratories not Located in Louisiana**

A. Out-of-state laboratories may receive accreditation via two mechanisms:

1. direct application to the department based on the requirements of this program; or
2. reciprocity based on evaluation of current accreditation maintained. Reciprocal accreditation is based on meeting the requirements set forth in LAC 33:I.4713.

B. A testing laboratory located outside of Louisiana may receive accreditation from the department or from another agency having environmental regulatory responsibility or delegated administrative authority, if approved by the department. The laboratory shall comply with all documentation and fee requests from the department.

C. If the out-of-state laboratory's accreditation is revoked, the Louisiana authorization is thereby automatically canceled. The environmental representative shall notify the state and all clients in Louisiana that utilize the laboratory of the revocation

within 10 calendar days.

D. When accreditation of the laboratory has been reinstated, the department will request adequate documentation from the laboratory indicating that the laboratory is in compliance with these regulations. The following requirements must be fulfilled before the department reinstates the laboratory as accredited:

1. a completed application form and support documents submitted;
2. fee(s) paid in accordance with LAC 33:I.4707;
3. evidence of successful participation in a proficiency testing program or its equivalent;
4. written documentation of accreditation sent to the department; and
5. an on-site evaluation/inspection conducted by authorized representatives of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:921 (May 1998).

#### **§4717. Accreditation for Laboratories Participating in the NELAP Certification Program**

In-state laboratories participating in the National Environmental Laboratory Accreditation Program (NELAP) shall be certified under standards established by these regulations and those of the NELAP program as found at <http://134.67.104.12/html/nelac/standards.htm> or by writing NELAP, U.S. Environmental Protection Agency (MD-75A), Research Triangle Park, NC 27711, attention: NELAC Director, telephone (919) 541-1120. NELAP-certified laboratories shall be required to meet the requirements for reciprocity as set forth in LAC:33:I.4713.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998).

#### **§4719. Implementation**

A. All commercial laboratories analyzing data as of the effective date of these regulations that are directly or indirectly submitting data to the department must submit an application for accreditation as required in LAC 33:I.4701.A.1, including the review fee, within 180 days of the effective date of these regulations. The department will not accept laboratory data generated by laboratories that do not comply with this deadline until such laboratories receive accreditation and fully comply with the requirements of this Section.

B. All laboratories subject to these regulations must receive accreditation from the department, as provided in these regulations, undergo an on-site inspection as specified in LAC 33:I.4701.A.2, and successfully participate in proficiency evaluations as required in LAC 33:I.4701.A.3 within one year of the effective date of these regulations. The department will not accept data generated by laboratories that do not comply with this deadline until such laboratories receive accreditation and fully comply with the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998).

### **Chapter 49. Organization and Personnel Requirements**

#### **§4901. Laboratory Staff for All Programs Covered by these Regulations**

A. Managerial Staff. The laboratory shall have the managerial staff with the authority and resources needed to discharge their duties. The laboratory shall be organized in such a way that confidence in its independence of judgment and integrity is maintained at all times. The laboratory shall specify and document the responsibility, authority, and interrelation of all personnel who manage, perform, or verify work affecting the quality of calibrations and tests. Such documentation shall include:

1. a clear description of the lines of responsibility in the laboratory;
2. personnel proportioned such that adequate supervision is ensured. An organizational chart is recommended; and
3. job descriptions for all positions.

#### **B. Laboratory Technical Director**

1. Academic Training. The laboratory technical director must have a bachelor's degree in science or a minimum of four years' equivalent experience in a related field.

2. Experience. The laboratory technical director must have a minimum of two years' experience in the area of environmental analysis.

#### **C. Quality Assurance Manager**

1. Academic Training. The quality assurance manager must have a minimum of a bachelor's degree in science or four years' equivalent experience in a related field.

2. Experience. The quality assurance manager must have a minimum of two years' environmental laboratory experience.

3. Reporting Authority. The quality assurance manager must have direct access to the highest level of management for decisions regarding laboratory quality assurance policy and resources. He or she must have independent authority regarding quality assurance oversight and implementation of the quality assurance program. This organizational position must not report through the technical management of the laboratory. The quality assurance manager must have the opportunity and freedom to evaluate data objectively without influence from technical or financial management.

4. Technical Knowledge. The quality assurance manager must have a general knowledge of all analytical methods that are performed by the laboratory.

5. Small Laboratories. In smaller laboratories (staff less than 10 total employees), the quality assurance manager's responsibilities may be performed by an upper level technical or operational manager of the facility. Academic and experience requirements apply.

#### **D. Supervisors**

1. Academic Training. Supervisors must have a

minimum of a bachelor's degree or a minimum of four years' experience in a related field.

2. Experience. Supervisors must have a minimum of one year of experience in the area to be supervised, preferably with a minimum of six months' supervisory experience.

3. Radiochemistry. If the individual is supervisor of a radiochemistry laboratory, the individual must have a minimum of four years' experience in the field/area of radiochemistry; however, each year of additional college-level training in related fields may substitute for one year of experience, up to a maximum of two years.

#### E. Instrument Operators

1. Academic Training. Instrument operators must have a minimum of a high school diploma or equivalent and satisfactory completion of a short course or structured in-house equivalent on the operation of the instrument (by equipment manufacturer, professional organization, university, or other qualified training facility).

2. Experience. Instrument operators must have a minimum of six months' experience in the operation of the instrument with documentation that acceptable results are achieved by the operator (performance evaluation and quality control samples successfully analyzed).

3. On-the-Job Training. During on-the-job training to fulfill the requirement for experience, the data produced by the operator shall be deemed acceptable when validated and reviewed by a qualified instrument operator and/or laboratory supervisor.

#### F. Analyst

##### 1. Chemistry Procedures

a. Academic Training. An analyst must have a minimum of a high school diploma or equivalent, plus proper training in a methods training course or by a qualified analyst.

b. Experience. An analyst must have a minimum of six months' laboratory experience with the analysis procedure(s) with documentation that acceptable results are achieved by the analyst (performance evaluation and quality control samples successfully analyzed).

c. On-the-Job Training. During on-the-job training to fulfill the requirement for experience, data produced by the analyst shall be deemed acceptable when validated and reviewed by a qualified analyst and/or laboratory supervisor.

##### 2. Microbiological Procedures

a. Academic Training. An analyst must have a minimum of a bachelor's degree in science or four years' experience in a related field. He or she must have training in water analyses for total coliform and fecal coliform, a minimum of a high school diploma, or the equivalent, and satisfactory completion of a short course or structured in-house equivalent on the proper techniques of analysis.

b. Experience. An analyst must have a minimum of six months' experience in microbiological analysis and techniques.

3. Radiological Procedures (Gross Alpha, Gross Beta, and Specific Radionuclides)

a. Academic Training. An analyst must have a minimum of a high school diploma or equivalent, plus specialized training in standards and sample preparation, instrument calibration, calculations, and data handling.

b. Experience. An analyst must have a minimum of six months of on-the-job training. An analyst may assist in routine sample preparation and radioanalytical procedures provided that the work is supervised and validated by a qualified analyst and/or laboratory supervisor.

##### 4. Biomonitoring Procedures

a. Academic Training. An analyst must have a minimum of a high school diploma, or the equivalent, and documented training by a qualified analyst. EPA video training tapes should be utilized where available.

b. Experience. An analyst must have six months of on-the-job training with documentation of acceptable results from standard reference toxicant tests performed by the analyst.

c. On-the-Job Training. During on-the-job training to fulfill the requirements for experience, data produced by the analyst shall be deemed acceptable when validated and reviewed by a qualified analyst and/or laboratory supervisor.

G. Information on the relevant qualifications, training, and experience of the technical staff shall be maintained by the laboratory.

H. The laboratory shall provide additional training as needed in order to keep personnel current with new procedures, changes in existing procedures, and/or equipment changes or improvements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998).

## **Chapter 51. On-site Inspection/Evaluation §5101. Inspection Procedures**

A. The authorized representative(s) of the department shall schedule the initial on-site inspection with the applicant laboratory. The authorized representative(s) of the department may make an announced or unannounced inspection or examination of an accredited laboratory whenever the department, in its discretion, considers such an inspection or examination necessary to determine the extent of the laboratory's compliance with the conditions of its accreditation and these regulations. Any refusal to allow entry to this representative shall constitute a violation of a condition of accreditation and is grounds for discreditation. The laboratory shall provide appropriate safety equipment for the department representative(s) when required.

B. Additional inspections may be conducted when evaluations and submissions from the laboratory or its clients indicate significant technical changes in the capability of the laboratory have occurred.

C. The following shall be available for review at the laboratory:

1. quality assurance plan;
2. approved methodology manual;
3. quality assurance data; and
4. proficiency test data.

D. During inspections, consideration will be given to:

1. competence of the staff;
2. working conditions, including adequacy of space;
3. lighting, equipment, and supplies;

4. efficient organization of the laboratory;
5. testing or analytical methods used;
6. quality control procedures;
7. maintenance of all required records; and
8. compliance with all the requirements of these regulations.

E. Laboratory inspection will follow this general outline:

1. an entry briefing with laboratory management;
2. review of quality documentation, sample handling, and records, such as typical lab results and reports of test data;
3. interviews with technical staff;
4. demonstration of selected tests, as necessary;
5. examination of equipment and calibration records;
6. an exit briefing including the specific identification of any deficiencies; and
7. a written report of inspection findings to be forwarded to the laboratory within 60 working days after the on-site visit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:923 (May 1998).

### §5103. Laboratory Facilities

A. The laboratory conditions in which the tests are undertaken shall not invalidate the test results or adversely affect the required accuracy of measurement. The laboratory shall have the equipment and energy sources needed for proper testing. They shall be equipped with devices to monitor essential environmental conditions. Specifically, the testing laboratory shall include the following:

1. adequate work space, ventilation, light, and access to stable power sources at work stations;
2. exhaust hoods for proper elimination of volatile materials;
3. contamination-free work areas as necessary;
4. chemical and sample handling areas that will provide safe working areas and prevent cross contamination of samples;
5. adequate storage facilities for samples, extracts, reagents, solvents, reference materials, and standards to preserve their identity, concentration, purity, and stability;
6. adequate procedures and facilities in place for collection, storage, and disposal of wastes;
7. where relevant, adequate procedures and facilities for handling materials that may transmit infectious agents and radioactive materials;
8. appropriate storage for volatile, corrosive, or explosive chemicals and flammable solvents;
9. adequate separation of activities to ensure that no activity has an adverse effect on analyses;
10. separate culturing and testing facilities for biomonitoring laboratories; and
11. counting rooms that are physically separated from other activities in radiological laboratories.

B. Access to and use of all test areas shall be regulated in a manner appropriate to their designated purpose, and entry by persons external to the laboratory shall be controlled.

C. Adequate measures shall be taken to ensure cleanliness in the testing laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:924 (May 1998).

### §5105. Test Methods and Procedures

A. The testing laboratory shall have adequately documented instructions on the use and operation of all relevant equipment, on the handling and preparation of test items, where applicable, and on standard testing techniques, where the absence of such instructions could jeopardize the efficiency of the testing process. All instructions, standards, manuals, and reference data relevant to the work of the testing laboratory shall be maintained up-to-date and be readily available to the staff.

B. The testing laboratory shall use department-approved methodologies. These methodologies shall be available to the staff performing the tests.

1. Any variance from department-approved methodology is acceptable with prior written confirmation by the department. When an approved method or an appropriate modification is not available, the data may be accepted when submitted with the method validation package that must include, at a minimum, the requirements found in Subsection B.2 of this Section.

2. Where it is necessary to deviate from department-approved methods, a method validation package shall be submitted. This validation package must include, at a minimum, the following:

- a. origin of method;
- b. deviations from standard;
- c. reason for deviations;
- d. effects of deviations; and
- e. comparison with the department-approved methods

replaced, with documentation indicating results achieved from the modified method are equal to or better than the original method.

C. Any federal and/or state regulations applicable to the request for alternate methodology shall have priority over these regulations, and shall be utilized in the assessment of the request.

D. The testing laboratory shall have implemented the written standard operating procedures (SOPs), which shall be available to the staff and the inspector.

E. The testing laboratory shall have an acceptable and written quality assurance program plan that is implemented by the staff and readily available to the inspector.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:924 (May 1998).

### §5107. Deficiencies Identified During On-Site Inspection

A. Whenever deviations or deficiencies are found during an inspection, documentation of same will be included in the written report as required in LAC 33:I.5101.E.7. The laboratory representatives (or designees) will be asked to attest to (sign) receipt of the on-site inspection form and review same with the representative of the department conducting the

inspection. The laboratory shall have a period of 30 calendar days from date of receipt of the laboratory inspection report in which to respond to the deficiencies reported and submit a plan for correcting all identified deficiencies. If the laboratory fails to respond, the accreditation process will terminate and the laboratory will be considered as nonaccredited.

B. The laboratory shall correct any deficiencies or deviations within six months from the date of receipt of the inspection report. If deficiencies affecting the accuracy of results are found, the accreditation shall be immediately suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:924 (May 1998).

#### **§5109. Report of On-Site Inspection**

A. The department shall prepare for each accredited laboratory a listing of the test categories for which the laboratory has demonstrated proficiency during inspections. Inspection reports and listings shall be deemed public records. The department shall prepare a certificate of accreditation identifying the test categories for which the laboratory has been approved.

B. Whenever an accredited laboratory completes the requirements for increasing the scope of accredited analyses performed, another on-site inspection may be required, unless the previous annual on-site inspection verifies the competency of the laboratory to perform the additional tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:925 (May 1998).

#### **§5111. Laboratory Safety Program**

While specific safety criteria are not an aspect of laboratory accreditation, laboratory personnel should apply general and customary safety practices as part of good laboratory procedures. Each laboratory is strongly encouraged to have a written safety plan as part of their standard operating procedures. However, when safety practices are included in any approved method, those procedures become mandatory and must be strictly followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:925 (May 1998).

### **Chapter 53. Quality System Requirements**

#### **§5301. Quality Assurance/Quality Control Requirements**

A. Each laboratory seeking accreditation shall:

1. have documented quality control procedures in use for each analytical procedure;
2. comply with all quality control procedures required by applicable federal, state, or public health agencies when performing analyses; and
3. have procedures to be followed for feedback and corrective action whenever testing discrepancies are detected or departures from documented policies and procedures occur.

B. The laboratory shall operate an internal quality

assurance program appropriate to the type, range, and volume of work performed. A person/persons having responsibility for quality assurance within the laboratory shall be designated by the laboratory management and have direct access to top management.

C. The quality assurance program shall be documented in a quality assurance manual that is available for use by the laboratory staff. The quality assurance manual shall be maintained by the quality assurance manager. The quality assurance manual shall contain information regarding:

1. the structure of the laboratory (organizational charts and generic position descriptions);
2. the operational and functional duties and services pertaining to quality assurance, so that each person concerned knows the extent and the limits of his/her responsibility;
3. general quality assurance procedures;
4. procedures for feedback and corrective action whenever testing discrepancies are detected;
5. chain of custody procedures;
6. a quality policy statement, including objectives and commitments, by management;
7. references to procedures for the control and maintenance of documentation, including document control of laboratory notebooks, instrument logbooks, standards logbooks, and records for data reduction, validation, storage, and reporting;
8. the laboratory's procedures for achieving traceability of measurements;
9. the laboratory's scope of tests;
10. references to procedures for handling submitted samples;
11. references to major equipment, as well as the facilities and services used by the laboratory;
12. references to procedures for calibration, verification, and maintenance of equipment;
13. references to verification practices including interlaboratory comparisons, proficiency testing programs, use of reference materials, and internal quality control schemes;
14. the laboratory management arrangements for departures from documented policies and procedures or from standard specifications;
15. references to procedures for dealing with complaints;
16. references to procedures for protecting confidentiality and proprietary rights;
17. references to procedures for audit and review; and
18. references to processes/procedures for establishing that personnel are adequately experienced in the duties they are expected to carry out and/or receive any needed training.

D. The quality assurance system shall be reviewed annually by management to ensure its continued effectiveness. Such reviews shall be documented with details of any changes.

E. Standard operating procedures (SOPs) shall be kept in a manual available to the analyst and the inspector. SOPs may be included as a part or section of the laboratory's quality assurance manual. The laboratory shall have clearly defined, written SOPs or an equivalent, addressing, at a minimum, and as appropriate:



1. methods of analysis;
2. sample collection, preservation, storage, handling, and chain of custody;
3. procurement and inventory procedures;
4. preventive maintenance;
5. recordkeeping and record storage (archives);
6. data reduction, validation, and reporting;
7. correcting erroneous reports;
8. management of laboratory wastes and hazardous materials; and
9. complaints registered against the laboratory's testing procedures, reporting procedures, and/or other general operating procedures.

F. Supervisory staff shall be responsible for quality assurance/quality control implementation and compliance.

G. The following general quality control principles shall apply, where applicable, to all testing laboratories. The manner in which they are implemented is dependent on the types of tests performed by the laboratory (e.g., chemical, microbiological, radiological). The standards for any given test type shall assure that the following applicable principles are addressed:

1. all laboratories shall have protocols in place to monitor the following quality controls:
  - a. adequate controls to monitor tests such as blanks, spikes, or reference toxicants;
  - b. adequate tests to define the variability and/or reproducibility of the laboratory results such as duplicates;
  - c. measures to ensure the accuracy of the test data, including sufficient calibration and/or continuing calibrations, use of certified reference materials, proficiency test samples, or other measures;
  - d. measures to evaluate test performance, such as method detection limits, or range of applicability such as linearity;
  - e. selection of appropriate formulae to reduce raw data to final results such as linear regression, internal standards, or statistical packages;
  - f. selection and use of reagents and standards of appropriate quality; and
  - g. measures to assure constant and consistent test conditions (both instrumental and environmental) where required by the method, such as temperature, humidity, light, or specific instrument conditions;
2. all quality control measures shall be assessed and evaluated on an ongoing basis, and quality control acceptance limits shall be used to determine the validity of the data. The acceptance/rejection criteria shall be updated at a frequency established by the method or by the department's standards;
3. the laboratory shall have procedures for the development of acceptance/rejection criteria where no method or regulatory criteria exists; and
4. the method-specified and/or method-recommended quality control protocols shall be followed. The essential standards shall be used if no protocols are written into the method or if the method protocols are less stringent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:925 (May 1998).

### §5303. Equipment and Supplies

A. The laboratory shall be furnished with or have access to all items of equipment required for correct performance of the analytical procedures for which it is accredited.

B. All equipment shall be properly maintained. Maintenance shall be documented.

C. Defective equipment shall be removed from service and labeled until it has been repaired and shown to function satisfactorily.

D. Maintenance log book(s) shall be maintained for all major equipment. Each log shall include:

1. the name of the item of equipment;
2. the manufacturer's name, type identification, and serial number;
3. the date received and the date placed in service;
4. the condition of equipment when placed in service (new, used, or reconditioned);
5. the current location;
6. the location of manufacturer's instruction manual (if available); and
7. the details of maintenance.

E. In the case of measuring equipment, calibration records shall be maintained.

F. Records shall be maintained for acquisition of all equipment, reagents, and support services utilized by the laboratory in the generation of analytical data.

G. Supplies used for environmental testing shall meet the following minimums:

1. analytical reagents:
  - a. analytical reagent grade (AR) chemicals or equivalent are acceptable, unless individual procedures specify other reagent requirements;
  - b. stock and working standard solutions shall be checked regularly for signs of decomposition and expiration;
  - c. all solutions shall be labeled with identification of the compound, concentration, date prepared, analyst who prepared solution, and expiration date;
  - d. all purchased chemicals, solutions, and standards shall be labeled with dates of receipt, the dates of expiration on the container, and the date when the container is opened;
  - e. when reagents are removed from a container, they shall be used entirely or the unused portion discarded. Unused portions of a reagent may not be returned to the original container; and
  - f. compressed gases shall be of commercial grade, unless individual procedures specify other requirements.
2. glassware shall be cleaned and maintained properly as required by the test methodology; and
3. thermometers:
  - a. the laboratory shall have access to a NIST (National Institute of Standards and Technology) traceable thermometer where applicable;
  - b. the calibration of working thermometers, with the exception of dial thermometers, shall be checked at least annually against a NIST traceable certified thermometer and

results recorded and documented per thermometer;

c. the calibration of dial-type thermometers shall be checked at least quarterly against a NIST traceable thermometer and results recorded per thermometer; and

d. thermometers shall be labeled when calibrated and the correction factor recorded.

H. Equipment used for environmental testing shall meet the following minimums:

1. analytical balances/pan balances:

a. records of balance calibration shall be kept for at least two ranges with a minimum class S or S-1 reference weights (weights should be recertified every two years). Records or equivalent showing daily (or before each use) functional/calibration checks for analytical balances and monthly functional/calibration checks for pan balances shall be maintained;

b. balances shall be calibrated and serviced at a minimum of once per year and service date recorded on the balance; and

c. balances may only be used with suitable support;

2. pH meters:

a. the laboratory shall use a pH meter with appropriate electrode with scale graduations at least 0.1 pH units (calibrated to  $\pm 0.1$  pH units for each use period) with temperature correction;

b. either a thermometer or a temperature sensor for automatic compensation shall be in use;

c. records shall be maintained indicating calibration daily or before each use, whichever is less frequent; and

d. aliquots of standard pH 4 and pH 7 or pH 7 and pH 10 shall be used only once;

3. conductivity meter:

a. a conductivity meter and probe of sufficient sensitivity shall be in use;

b. records shall be kept to show a daily or before each use calibration check, whichever is less frequent. Calibration shall be within the range of interest using standard solutions; and

c. records shall be kept showing that the cell constant is determined annually;

4. refrigeration equipment:

a. thermometer(s) in each refrigerator shall be immersed in liquid to the appropriate immersion line;

b. thermometers shall be graduated in increments no larger than 1°C;

c. temperatures for each refrigerator shall be recorded for each day in use for laboratory activities;

d. samples shall be stored in separate refrigerators from all standards where a potential for cross-contamination exists; and

e. refrigerator temperature should be maintained between 1EC and 6EC (inclusive), and freezer temperature shall be less than 0EC;

5. visual comparison devices:

a. visual devices shall be calibrated according to manufacturer's specifications and/or test methodologies; and

b. results shall be recorded and maintained; and

6. ovens/incubators/baths:

a. temperature shall be adequately controlled; and

b. records shall be kept to show that temperature is maintained (e.g., beginning and end of each use cycle or daily for extended drying periods).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:926 (May 1998).

### §5305. Calibration

A. Measuring and testing equipment used by the testing laboratory shall be calibrated, where appropriate, before being put into service and thereafter according to an established program.

B. The overall program of calibration of equipment shall be designed and operated so as to ensure that measurements made in the testing laboratory are traceable (where the concept is applicable) to national standards of measurement and, where available, to international standards of measurement specified by the International Committee of Weights and Measures. Where the concept of traceability to national or international standards of measurement is not applicable, the testing laboratory shall provide satisfactory evidence of correlation or accuracy of test results (e.g., by participation in a suitable program of interlaboratory comparisons).

C. The laboratory shall record all calibration data including frequency, conditions, and standards used for all analytical methodology.

D. The laboratory shall verify and document all standards versus primary (reference) standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:927 (May 1998).

### §5307. Test Methods and Procedures

A. The laboratory shall have procedures for making and controlling revisions to in-house SOPs, using revised SOPs only after written authorization from the designated laboratory authority.

B. Quality control procedures shall be documented and available to the staff as required in LAC 33:I.5301.C.

C. All manual calculation and data transfers shall be subject to appropriate checks.

1. When manual calculations are checked by a supervisor or another analyst, the results shall be initialed and dated on the work sheet by the individual who verified the results.

2. Where results are derived by electronic data processing techniques, the stability of the system shall be such that the accuracy of the results is not affected. This generally implies an ability to detect malfunctions in the hardware during program execution and take appropriate corrective action. Adherence to good automated laboratory practices (GALP) is recommended; however, at a minimum the laboratory must comply with the following:

a. computer software must be appropriate for the intended use;

b. procedures must be established and implemented for the protection of the integrity of data. Such procedures shall include:

- i. integrity of data entry or capture;
- ii. data storage;
- iii. data transmission; and
- iv. data processing;

c. computer and automated equipment must be provided with acceptable environmental operating conditions in order to maintain the operating integrity of the system; and

d. appropriate procedures must be implemented in order to maintain the security of data. These procedures must include prevention of unauthorized access to computer records and prevention of unauthorized amendments or changes to computer records.

D. Whenever samples are subcontracted to another environmental testing laboratory, the original laboratory shall maintain a verifiable copy of results with a chain of custody. This procedure may not be used to circumvent proper accreditation or any state requirements. The original laboratory is responsible for ensuring that the secondary laboratory used is properly accredited for the scope of testing performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:927 (May 1998).

### **§5309. Radiochemistry and Radionuclide Assay**

A. General Requirements. Radiochemistry and radionuclide assay laboratories shall be subject to the requirements set forth throughout these regulations and to those specific requirements established in this Section. These are minimum specifications, and more stringent criteria may be utilized.

#### **B. Quality Control Practices**

1. The laboratory shall continually evaluate its performance for each method and matrix that includes the determination of accuracy and precision.

2. Supervisory personnel shall conduct a documented review of the data calculations and quality control (QC) results.

3. Deviations or deficiencies shall be reported to management and documented. QC data shall be retrievable for all analyses.

4. Method detection limits shall be determined and documented. Confirmation of detection limits shall be done yearly or as required by the method.

#### **C. Quality Assurance Checks**

1. Radiochemistry and Associated Radionuclide Assay. Ten percent of all analyses shall be QC, unless otherwise specified by the specific method. A minimum of three QC samples should be performed for each batch. The lab should repeat all samples if the QC check standard is outside the 95 percent confidence interval ( $\pm$  two standard deviations). Samples should be performed as follows:

a. QC samples should include one spike in 10 or one spike per batch if less than 10;

b. QC samples should include one blank in 10 or one blank per batch if less than 10;

c. QC samples should include one duplicate or spiked duplicate in 10 or one duplicate per batch if less than 10; and

d. spike samples should be representative of specified regulatory limits and/or they should approach the method-specific minimum detectable activities or lower limit of detections.

2. Radionuclide Assay Other than Radiochemistry. Ten percent of all analyses shall be QC, unless otherwise specified by the method. A minimum of three QC samples should be performed for each batch. The lab should repeat all samples if the QC check standard is outside the 95 percent confidence interval  $\pm$  two standard deviations. Samples should be performed as follows:

a. QC samples should include one spike in 10 or one spike per batch if less than 10;

b. QC samples should include one blank in 10 or one blank per batch if less than 10;

c. QC samples should include one duplicate or spiked duplicate in 10 or one duplicate or spiked duplicate per batch if less than 10;

d. spike samples should be representative of specified regulatory limits and/or they should approach the method-specific minimum detectable activities or lower limit of detections; and

e. standard NIST traceable sources may be substituted for spike analysis.

#### **D. General Equipment and Supplies**

##### **1. Supplies**

a. Distilled and/or deionized water shall be demonstrated to be free of interferants at applicable detection limits. This may be accomplished through the use of blanks.

b. Analytical reagents shall be demonstrated to be free of interferants at applicable detection limits. This may be accomplished through the use of blanks.

c. Reference sources should be traceable to NIST or an equivalent and shall be replaced after an appropriate period of time, not to exceed five half-lives of a single nuclide or, in the case of mixed nuclide standards, they should be replaced after they have been determined to be unusable. Unusable is determined by the inability to meet calibration criteria as set forth by the method or technical manual.

##### **2. Equipment—Auto Pipetors/Diluters**

a. Apparatus having sufficient sensitivity for the application shall be used.

b. Records shall be kept showing delivery volumes are checked periodically.

c. Laboratory technicians shall periodically demonstrate the ability to properly use the equipment. This shall be documented.

E. Analytical Instrumentation. Maintenance log book(s) shall be maintained on all instrumentation or measuring devices. Each log shall include:

1. information as set forth in LAC 33:I.5303.D;
2. calibration frequency;
3. standards used for calibration;
4. calibration history;

5. the authorized calibration personnel or institute; and
  6. records of all maintenance performed.
- F. Environmental Testing Equipment. Equipment used for environmental testing shall meet the following minimums:
1. low background alpha/beta counting systems:
    - a. the systems shall be calibrated at least yearly;
    - b. the systems shall be calibrated in accordance with the appropriate methodologies or their appropriate technical manual;
    - c. attenuation curves shall be developed for appropriate alpha/beta energies that best represent the energies of the radionuclide of concern;
    - d. voltage plateaus shall be performed yearly, whenever counting gas has been changed, or if major maintenance is performed to the system. If the voltage plateau changes by more than 50 volts, the calibration curves shall be performed;
    - e. daily backgrounds and reference source checks shall be performed when in use or weekly when not in use; and
    - f. sample log books shall be maintained for all samples that were counted/analyzed on the appropriate systems;
  2. gamma spectroscopy systems:
    - a. the systems shall be calibrated at least yearly and shall include energy, peak width, and efficiency;
    - b. the systems shall be calibrated according to the appropriate methodologies or the manufacturer's technical manual;
    - c. daily reference source checks shall be performed when in use or weekly when not in use;
    - d. monthly background checks shall be performed; and
    - e. sample log books shall be maintained for all samples that were counted/analyzed on the appropriate systems;
  3. liquid scintillation systems:
    - a. the systems shall be calibrated at least yearly and shall include energy, peak width, and efficiency;
    - b. the systems shall be calibrated according to the appropriate methodologies or the manufacturer's technical manual;
    - c. daily backgrounds and reference source checks shall be performed when in use or weekly when not in use; and
    - d. sample log books shall be maintained for all samples that were counted/analyzed on the appropriate systems;
  4. alpha spectroscopy systems:
    - a. the systems shall be calibrated at least yearly;
    - b. the systems shall be calibrated according to the appropriate methodologies or the manufacturer's technical manual;
    - c. daily reference source checks shall be performed when in use or weekly when not in use;
    - d. monthly background checks shall be performed; and
    - e. sample log books shall be maintained for all

samples that were counted/analyzed on the appropriate systems; and

5. analytical instrumentation not mentioned above, such as counter scalers or ionizing radiation detection equipment:
  - a. the instrumentation shall be calibrated at least yearly or as mandated by a specific regulatory agency such as EPA, Nuclear Regulatory Commission (NRC), or state governments;
  - b. the instrumentation shall be calibrated according to the appropriate methodologies or to the manufacturer's technical manual;
  - c. daily backgrounds and reference source checks shall be performed when in use or weekly when not in use, if applicable; and
  - d. sample log books shall be maintained for all samples that were counted/analyzed on the appropriate systems.

G. Laboratory Environment

1. Radiochemistry and radionuclide assay counting rooms, wet chemistry rooms, and sample preparation and sample storage rooms shall be physically separated. Access and egress shall be controlled.

2. Radiochemistry and radionuclide assay counting rooms shall be adequately monitored for room temperature, humidity, pressure, and electrical supply characteristics on a daily basis when in use. These characteristics shall be maintained to ensure proper operation of the analytical equipment. Records shall be maintained.

3. Adequate measures shall be taken to ensure good housekeeping in the laboratory.

H. Waste Disposal. Radioactive waste disposal shall be thoroughly documented. The documentation shall include the following:

1. quantity disposed of;
2. where the radioactive material was disposed;
3. when it was disposed;
4. who disposed of the material; and
5. activity of disposed material, as applicable.

I. Records (Control Charts)

1. Control charts shall be updated at least monthly.

2. Copies of the control charts shall be available for technician review.

3. Control charts shall have at a minimum the following information:

- a. all axes labeled;
- b. instrument I.D. and/or serial number;
- c. one and two sigma values as well as the normal expected values; and
- d. applicable units as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:928 (May 1998).

**§5311. Quality Assurance for Biomonitoring Laboratories**

A. Quality assurance practices for toxicity testing laboratories must address all activities that affect the quality of the final effluent toxicity data, such as:

1. effluent sampling and handling;

2. the source and condition of the test organisms;
3. condition of equipment;
4. test conditions;
5. instrument calibration;
6. replication;
7. use of reference toxicants;
8. recordkeeping; and
9. data evaluation.

#### B. Facilities, Equipment, and Test Chambers

1. Separate test organism culturing and toxicity testing areas shall be provided to avoid loss of cultures to cross-contamination. Ventilation systems shall be designed to prevent recirculation of air from chemical analysis laboratories into organism culturing or testing areas and from sample preparation areas into culture rooms.

2. Laboratory and toxicity test temperature control equipment shall be adequate to maintain recommended test water temperatures.

3. Recommended materials shall be used for test equipment and test chambers.

#### C. Laboratory Water Used for Culturing and Test Dilution Water

1. The dilution water used in effluent toxicity tests will depend on the objectives of the study or requirements of discharge permits.

2. Water used for culturing organisms, dilutions, and internal quality assurance tests with food, organisms, and reference toxicants shall be analyzed for toxic metals and organics annually or whenever difficulty is encountered meeting minimum acceptability control requirement. The concentration of the metals Al, As, Cr, Co, Cu, Fe, Pb, Ni, and Zn, expressed as total metals, shall not exceed one ug/L each, and Cd, Hg, and Ag, expressed as total metals shall not exceed 100 ng/L. Total organochlorine pesticides plus PCBs shall be less than 50 ng/L. Pesticide levels shall not exceed EPA's ambient water quality chronic criteria values where available.

3. Water used for culturing and test dilutions shall be prepared using methods in the test manuals.

D. Sample holding times and temperatures of effluent samples must conform to conditions described in the test methods and/or the discharge permit.

#### E. Test Conditions

1. Water temperature shall be maintained within limits specified for each test.

2. Environmental chambers, incubators or equivalent facilities shall be adequately monitored by utilizing a seven-day continuous recording chart for temperature and light/dark cycle. Verification that the light/dark cycle is maintained shall be done at a minimum of twice monthly if a recording device is not utilized. Temperature recording charts shall be maintained in record form.

#### F. Test Organism Quality

1. If the laboratory does not maintain in-house cultures of test organisms and obtains organisms from an outside source, the sensitivity of each batch of test organisms shall be determined with the appropriate reference toxicant test performed concurrently with the effluent test, unless the organism supplier provides control chart data from, at a minimum, the last five monthly reference toxicity tests.

2. If the laboratory maintains in-house cultures, the sensitivity of the offspring shall be determined with the appropriate toxicity test performed with a reference toxicant at least once each month. If a given species of test organisms is used only monthly, or less frequently, in toxicity tests, a reference toxicant test shall be performed with each effluent and/or receiving water toxicity test.

3. If the laboratory maintains in-house cultures, records shall be maintained on organism health, mortality, water quality, and culture system maintenance.

4. Test organisms shall be positively identified to species.

#### G. Food Quality

1. Problems with nutritional suitability of food will be reflected in the survival, growth, and reproduction in cultures and toxicity tests. *Artemia* cysts and other foods shall be obtained and analyzed as described in the test manuals, unless analysis is provided by the supplier, then the certificate of analysis shall be maintained.

2. New batches of food used in culturing and testing should be analyzed for toxic organics and metals or whenever difficulty is encountered meeting minimum acceptability criteria for control survival and reproduction or growth. Foods exceeding the requirements in the test manuals should not be used.

#### H. Test Acceptability

1. A control shall be run with each toxicity test.

2. The minimum criteria stated in the appropriate test manuals and/or the discharge permit must be met for a test to be valid.

3. Individual tests may be conditionally acceptable if temperature, dissolved oxygen (DO), and other specified conditions fall outside specifications, depending on the degree of departure and objectives of the test. The acceptability will depend on the experience and professional judgment of the laboratory investigator and reviewing staff of the regulatory agency.

I. Analytical methods for analyses of culture and dilution water, food, and test solutions must include established quality assurance practices outlined in EPA manuals (USEPA 1979a and USEPA 1979b).

#### J. Calibration and Standardization

1. Instruments used for routine measurements of chemical and physical parameters such as pH, DO, temperature, and conductivity must be calibrated and standardized according to the instrument manufacturer's procedures as indicated in LAC 33:I.5301 on quality assurance. Calibration data is recorded in a permanent log book.

2. Wet chemical methods used to measure hardness, alkalinity, and total residual chlorine must be standardized prior to use each day according to the procedures for these specific EPA methods.

K. The minimum number of replicates stated in the test methods and/or permit shall be used for each toxicity test.

L. It is the laboratory's responsibility to demonstrate its ability to obtain consistent, precise results with reference toxicants before it performs toxicity tests with effluents for permit compliance purposes. To meet this requirement, the

intralaboratory precision, expressed as percent coefficient of variation (CV percent), of each type of test used in the laboratory shall be determined by performing five or more tests with different batches of test organisms, using the same reference toxicant at the same concentrations, with the same test conditions and the same data analysis methods. A reference toxicant concentration series (0.5 or higher) shall be selected that will consistently provide partial mortalities at two or more concentrations.

#### M. Documenting Ongoing Laboratory Performance

1. Satisfactory laboratory performance shall be demonstrated by performing one acceptable test per month with a reference toxicant for each test method used in the laboratory. For a given test method, successive tests must be performed with the same reference toxicant, at the same concentrations, in the same dilution, and using the same data analysis methods.

2. A control chart should be prepared for each combination of reference toxicant, test species, test conditions, and end points. Control limits are stated in test method manuals.

N. Reference toxicants such as sodium chloride (NaCl), potassium chloride (KCl), cadmium chloride (CdCl<sub>2</sub>), copper sulfate (CaSO<sub>4</sub>), sodium dodecyl sulfate (SDS), and potassium dichromate (K<sub>2</sub>Cr<sub>2</sub>O<sub>7</sub>) are suitable for use by the laboratory. Standard reference materials can be obtained from commercial supply houses or can be prepared in-house using reagent grade chemicals.

O. A complete file shall be maintained for each individual toxicity test or group of tests on closely related samples. Original data sheets shall be signed and dated by the personnel performing the tests. The file should contain:

1. a record of the chain of custody;
2. a copy of the sample log sheet;
3. the original bench sheets;
4. chemical analysis data on the sample(s);
5. detailed records of the test organisms used in the test, such as species, source, age, date of receipt, and other pertinent information relating to their history and health;
6. information on calibration of equipment and instruments; and
7. results of reference toxicant tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:929 (May 1998).

### §5313. Reports

A. The work carried out by the testing laboratory shall be covered by a report that accurately, clearly, and unambiguously presents the test results and all other relevant information. The report format should be specifically designed for the type of test/analysis reported, but standardized headings should be utilized whenever possible.

B. Each test report shall include at least the following information:

1. name and address of testing laboratory;
2. title of report, unique identification of report (such as log number), identification of each page of the report by number, and total number of pages in the report;

3. description and identification of the sample(s);
4. date of receipt of sample(s) and date(s) of performance of test, as appropriate;
5. identification of the test method;
6. any deviations, additions to, or exclusions from the test method and any other information relevant to a specific test;
7. disclosure of any nonstandard test method utilized;
8. measurements, examinations, and results, accompanied by appropriate quality assurance (QA) documents;
9. a statement on measurement uncertainty (where relevant);
10. a signature and title of person(s) accepting technical responsibility for the test report and date of issue;
11. if applicable, a statement that indicates that the results relate only to the items tested; and
12. if applicable, a statement that indicates that the report shall not be reproduced in full (or in part, if required) without the written approval of the customer.

C. Corrections or additions to a test report after issue shall be made only by a further document suitably marked (e.g., "Supplement to test report log number..." or as otherwise identified) and shall meet the relevant requirements of this Section.

D. In instances where the laboratory transmits a report via telephone, telex, facsimile (FAX), or any other means of electronic transmittal, the laboratory must have in place a written procedure that will provide protection and/or preservation of client confidentiality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:931 (May 1998).

### §5315. Records

A. The testing laboratory shall retain on record all raw data and observations, calculations and derived data, calibration records, and the final test report for a minimum of five years or as required by regulatory or legal requirement.

B. All records and test reports shall be held securely and in confidence to the client, unless otherwise required by law.

C. The testing laboratory shall maintain a system that provides for retrievability of the chain of custody of the sample source, the analytical method, results (including calibration and instrument checks), the analyst performing the analysis, and the date. If laboratory records indicate that incorrect or questionable data has been generated by defective or improperly operated equipment, erroneous data entry, or other such anomalies, and a report has been issued, then the laboratory shall immediately notify the client. A written, corrected or amended report must be forwarded to the client.

D. Current reference documents (e.g., EPA manuals, CFRs, Standard Methods) shall be maintained and available to the staff.

E. Entries to all laboratory analytical records shall be made in a legible, permanent fashion and corrections made without obliterating original entries. All corrections shall be initialed and dated.

F. A permanent record of employees' signatures and

initials shall be maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:931 (May 1998).

## **Chapter 55. Sample Protocol/Sample Integrity**

### **§5501. Unacceptable Samples**

When a sample is received by the testing laboratory and it is apparent or suspected that the sample protocol has not been followed, the laboratory should have a written procedure for handling of the questionable sample. The laboratory may choose to notify the customer and either request another sample or, if the customer insists upon analysis of the sample, reserve the right to include a disclaimer in the final report identifying the sample anomaly. This disclaimer must be permanently attached to the final report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:932 (May 1998).

## **Chapter 57. Maintenance of Accreditation**

### **§5701. Display of Accreditation Certificate**

A. A current accreditation document shall be displayed at all times in a location visible to the public in each accredited laboratory. In cases of suspension or discreditation, the document shall be immediately removed.

B. The accreditation documents shall note the scope of accreditation (classes/parameters of approved testing) as well as the time frame for which the laboratory is accredited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:932 (May 1998).

### **§5703. Renewal of Accreditation**

A. Accreditation shall be renewed annually, provided the testing laboratory has maintained compliance with these regulations, has reported acceptable proficiency test values for accredited classes, and has paid appropriate fees.

B. Failure to receive a renewal notice does not exempt laboratories from meeting the renewal date requirements.

C. Failure to pay the required renewal fees for 30 days shall automatically suspend accreditation of the laboratory until the fee is received by the department.

D. Failure to pay the required renewal fees for 90 days shall automatically result in discreditation of the laboratory. A laboratory whose accreditation has expired may reapply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:932 (May 1998).

### **§5705. Discreditation and Suspension**

A. The department may suspend or discredit a laboratory in any or all test categories when the laboratory fails to fully meet all requirements of these regulations. Factors such as the gravity of the offense, the danger to the public of the offense, the intent of the violation, the extent of the violation, and the proposed correction of the problem will be considered to

determine if suspension or discreditation is to be imposed. An emergency order immediately discrediting the laboratory may be issued if any conditions exist that present an eminent danger to public health and safety.

B. The department shall notify the laboratory by registered or certified letter of the suspension or discreditation and the reasons for the action.

C. Suspensions shall not be withdrawn until the basis for the suspension has been eliminated or rectified.

D. Appeals for laboratories that have received discreditation notices are governed by applicable statutes.

E. If the testing laboratory's accreditation is revoked by the department or another agency having primary enforcement responsibility or delegated administrative responsibility (e.g., out-of-state laboratories), the laboratory management shall notify, in writing, all clients that utilize the laboratory for analysis of samples and reporting of data to the department that the laboratory's accreditation has been revoked. Clients must be advised of the change in accreditation status within 10 calendar days from the official notice of the action.

F. The following shall be considered grounds for discreditation/suspension:

1. violation of a condition of the accreditation;
2. violation of a statute, regulation, or order of the department;
3. misrepresentations or falsifications made to the department, including any documents associated with accreditation applications;
4. demonstrable nonconformance with the requirements of these regulations, including failure to correct deficiencies;
5. nonpayment of applicable fees;
6. demonstrating incompetence or making consistent errors in analyses or erroneous reporting;
7. failure to report, in writing within 30 days, any changes in location, ownership, management and supervisory staff, authorized representative, major facilities of the laboratory, modification of technique, or any revisions to the accreditation application or required support documentation;
8. failure to employ approved testing methods in the performance of analyses;
9. failure to maintain facilities or equipment properly;
10. failure to report analytical test results as required or to maintain required records of test results;
11. failure to participate successfully in a required performance evaluation program;
12. violation or aiding and abetting in the violation of any provision of these regulations or the rules promulgated hereunder;
13. advertising false credentials;
14. failure to indicate clearly in the records when analyses were subcontracted to another laboratory;
15. performing and charging for additional tests or analyses that have not been requested by the customer, falsifying analyses, or engaging in other unethical or fraudulent practices; and
16. subcontracting performance evaluation samples to another laboratory and using the results to satisfy requirements for accreditation.

AUTHORITY NOTE: Promulgated in accordance with R.S.

30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:932 (May 1998).

### **§5707. Changes in Laboratory Operation**

Changes in laboratory name, ownership, location, personnel, facilities, methodology, or any factors significantly affecting the performance of analyses for which the laboratory was originally accredited shall be reported to the department within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:933 (May 1998).

### **§5709. Reaccreditation**

Reaccreditation shall require the submission of a new, revised application demonstrating and documenting corrective action implemented since loss of accreditation status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:933 (May 1998).

Herman Robinson  
Assistant Secretary

9805#070

## **RULE**

### **Firefighters' Pension and Relief Fund City of New Orleans and Vicinity**

#### **Domestic Relations Orders**

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity (the "fund"), pursuant to R.S. 11:3363(F) has amended rules and regulations for determining qualified status of domestic relations orders.

#### **Determining Qualified Status of Domestic Relations Orders**

##### **1. Intent and Construction**

These procedural rules are adopted in order to satisfy the requirements of all applicable state law including, but not limited to, R.S. 11:291, and 292, R.S. 11:3408, Subsection 206(d) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1056(d), and §414(p) of the *Internal Revenue Code*, 26 U.S.C. §414(p), and shall be construed consistently with this purpose.

The trustees are aware that §401(a)(13)(A) of the code provides that benefits under a qualified plan may not be assigned or alienated. Section 401(a)(13)(B) establishes an exception to the anti-alienation rule for assignments made pursuant to domestic relations orders that constitute Qualified Domestic Relations Orders ("QDROs") within the meaning of §414(p)(1)(B) and of Paragraph 2 hereof. Moreover, R.S. 11:291 and 292 similarly establish exceptions to the anti-assignment prohibition imposed by R.S. 11:3408 in regard to this fund. In view of the trustees' intent to administer

the fund as a qualified plan, as well as their awareness that R.S. 11:291 and 292 require the fund to honor certain court-ordered assignments relating to community property rights and child support, these rules hereby establish the trustees' willingness to recognize and enforce any QDRO that meets the requirements set forth herein.

It is further intended that the provisions of §414(p)(3) of the code and R.S. 11:291 and 292 be strictly observed. Therefore, the trustees shall not honor the terms of any QDRO that purports to require the fund to provide any type or form of benefit, or any option, not otherwise provided under the fund; that requires the fund to provide increased benefits (determined on the basis of actuarial value); or that requires the payment of benefits to an alternate payee that are required to be paid to another alternate payee under another order previously determined to be a QDRO.

However, the trustees shall not treat a domestic relations order as failing to meet the requirements of §414(p)(3)(A) and thus to constitute a QDRO solely because the order requires payment of benefits to an alternate payee on or after the participant's earliest retirement age, even if the participant has not separated from service at that time.

Finally, it is the trustees' intent to honor the provision of any QDRO that the participant's former spouse shall be treated as the participant's surviving spouse for purposes of the right to receive all or part of any survivor benefits payable, and that any other spouse of the participant shall not be treated as a spouse of the participant for these purposes, except as to portions of the survivor benefits not assigned to the former spouse via the QDRO. In the event the participant's former spouse is required by the provisions of a QDRO to be treated as a surviving spouse for these purposes, the former spouse must be accorded the same rights that would otherwise accrue to the surviving spouse.

##### **2. Definitions**

As used in these procedural rules, unless the context indicates otherwise, the following terms shall have the following meanings:

*Alternate Payee*—the participant's spouse (or former spouse) or child, or any parent, guardian, government entity, or other agent authorized by the terms of a judicial order to act on the child's behalf, who is entitled to receive some or all of the fund's benefit payments with respect to the participant under the terms of the QDRO. The same QDRO may identify more than one alternate payee; and several alternate payees may be identified in multiple QDROs. However, the trustees shall not recognize the entitlement of any alternate payee, even if specified in a domestic relations order, if the benefits assigned therein have already been assigned by reason of an earlier QDRO validly served upon the fund.

*Domestic Relations Order*—any judgment, decree, or order (including approval of a property settlement or community property partition) that:

(i) relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a participant; and

(ii) is made pursuant to a state domestic relations law (including a community property law).

A state court shall actually issue an order or formally



approve a proposed property settlement in order for it to be recognized by the trustees as a domestic relations order. A property settlement or community property partition signed by a participant and the participant's former spouse, or a draft order to which both parties consent, shall not be considered a domestic relations order until the state authority has adopted it as an order or formally approved it and made it part of the domestic relations proceeding.

*Earliest Retirement Date*—the earlier of:

- (i) the date on which the participant is entitled to a distribution under the fund; or
- (ii) the later of:
  - (A) the date the participant attains age 50; or
  - (B) the earliest date on which the participant could begin receiving benefits under the fund if the participant separated from service.

*Participant*—any employee or former employee of an employer in relation to the fund who is or may become eligible to receive a benefit of any type from the fund, and who is the individual whose benefits under the fund are being divided by the QDRO.

*Qualified Domestic Relations Order*—a domestic relations order that creates or recognizes the existence of an alternate payee's right (or assigns to an alternate payee the right) to receive all or a portion of the benefits payable with respect to a participant in the fund, provided that the order:

- (i) clearly specifies:
  - (A) the name and last known mailing address (if any) of the participant and the name and mailing address of each alternate payee covered by the order or, in the event the alternate payee is a minor or legally incompetent, the name and address of the alternate payee's legal representative; provided, however, that the trustees shall not withhold recognition as a QDRO of a judicial order issued in connection with a participant's child support obligations merely because the name of the child on whose behalf the order has been issued is not specified therein, so long as the order identifies the name of the authorized individual or agency, with appropriate address to which the benefit assignment is to be forwarded, and so long as the order specifically identifies the payment as a child support obligation;
  - (B) the amount or percentage of the participant's or the survivor benefits to be paid by the fund to each such alternate payee, or the manner in which such amount or percentage is to be determined;
  - (C) the number of payments or the period to which such order applies, and
  - (D) the name and identity of the fund;
- (ii) does not require:
  - (A) the fund to provide any type or form of benefits, or any option, not otherwise provided under the fund;
  - (B) the fund to provide increased benefits (determined on the basis of actuarial value); or
  - (C) the payment of benefits to an alternate payee that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

*Trustees*—the Board of Trustees for the Firefighters'

Pension and Relief Fund for the City of New Orleans, or such person or entity to whom the board has delegated responsibility to make determinations on its behalf under these rules.

### **3. QDRO Language**

Many factors should be taken into account by the drafters of a QDRO in determining which benefits to assign to an alternate payee and how these benefits are to be assigned. Because of the complexity and variety of the factors that should be considered and the need to tailor the assignment of benefits under a QDRO to the individual circumstances of the parties, it would be inappropriate for the trustees to propose specific sample language for inclusion in a QDRO. Instead, individual participants and alternate payees, and their respective attorneys, are directed to collaborate jointly upon the drafting of orders that meet their individual needs. Nevertheless, if so requested, the trustees shall review any proposed order submitted to the fund prior to its submission to the appropriate court for execution and entry, with a view to indicating the trustees' probable determination concerning its status as a QDRO. The trustees are required by law to honor and enforce the terms of any QDRO which meets the conditions specified in these rules and as may subsequently be determined by the applicable statutes and the courts' interpretations thereof.

For further guidance concerning those matters that should be considered when drafting a QDRO (e.g., types of benefits, approaches to dividing retirement benefits, form and commencement of payment to alternate payees, survivor benefits and treatment of former spouse as participant's spouse, and tax treatment of benefit payments made pursuant to a QDRO) the parties are encouraged to consult Notice 97-11 issued by the Internal Revenue Service and appearing in *Internal Revenue Bulletin 1997-2* dated January 13, 1997. Additional guidance may be found in the Pension Benefit Guaranty Corporation's booklet entitled *Divorce Orders and PBGC*, which discusses the special QDRO rules that apply for plans that have been terminated and are trustee by PBGC, and provides model QDROs for use with those plans. The publication may be obtained by calling PBGC's Customer Service Center at 1-800-400-PBGC, or electronically via the PBGC Internet site at "<http://www.pbgc.gov>." However, some or all of the principles there set forth may not apply to this fund by reason of its status as a statutory governmental plan and/or the types of benefits payable under R.S. 11:3361 et seq.

### **4. Notice**

Upon the fund's receipt of a domestic relations order with respect to a participant, the trustees shall promptly give notice of these procedural rules to the participant and to each person specified in the order as entitled to payment of any fund benefits under the order, at the address the order specifies.

### **5. Determination**

(a) The trustees shall determine whether a domestic relations order is a qualified domestic relations order within a reasonable time after it is received, and shall have the right to require such evidence as he may reasonably need to make the determination.

(b) The trustees shall notify the participant and the alternate

payee of the determination no less than 30 days before making any payment pursuant to the order, if it is determined to be a qualified order, or within a reasonable time if it is determined not to be a qualified order.

(c) The participant may appeal such a determination to the trustees upon written application to the trustees. The participant may review any documents pertinent to the appeal and may submit issues and comments in writing to the trustees. No appeal shall be considered unless it is received by the trustees within 90 days after receipt by the participant of written notice of the determination.

(d) The trustees shall decide the appeal within 60 days after it is received. If special circumstances require an extension of time for processing, however, a decision shall be rendered as soon as possible, but not later than 120 days after the appeal is received. If such an extension of time for deciding the appeal is required, written notice of the extension shall be furnished to the participant prior to the commencement of the extension.

(e) The trustees' decision shall be in writing and shall include specific reasons for the decision, expressed in a manner calculated to be understood by the participant and the alternate payee.

#### **6. Payments Pending Determination**

During any period in which the issue whether a domestic relations order is a qualified domestic relations order is being determined (by the trustees, by a court of competent jurisdiction, or otherwise), the trustees shall segregate in a separate account in the fund the amounts that would have been payable to the alternate payee during such period if the order had been determined to be a qualified domestic relations order.

(a) To the extent that the domestic relations order is determined to be qualified, the fund shall pay the segregated amounts (plus any interest on them) to the person or persons entitled to them according to the terms of the order. In the case of determinations appealed under these procedural rules, the payment shall be made not less than 10 days nor more than 30 days after the issuance of the trustees' disposition of the appeal.

(b) To the extent that the domestic relations order is determined not to be qualified, the fund shall pay the segregated amounts (plus any interest on them) to the person or persons who would have been entitled to such amounts without regard to the terms of the order. In the case of determinations appealed under these procedures, the payment shall take place not less than 10 days nor more than 30 days after the issuance of the trustees' disposition of the appeal.

(c) To the extent that the issue whether the domestic relations order is qualified is not resolved within 18 months after the fund receives notice of the order, the trustees shall pay the segregated amounts (plus any interest on them) to the person or persons who would have been entitled to these amounts without regard to the terms of the order.

#### **7. Representative of Alternate Payee**

An alternate payee, by written notice to the trustees, may designate a representative for receipt of copies of notices that are sent to the alternate payee with respect to a domestic relations order.

William M. Carrouché  
President

9805#077

## **RULE**

### **Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice**

#### **Code of Professional Conduct Asset Forfeiture (LAC 22:III.Chapter 61)**

In accordance with the provision of R.S. 15:1204, R.S. 15:1207, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice hereby adopts rules and regulations relative to a code of professional conduct for asset forfeiture.

#### **Title 22**

### **CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT**

#### **Part III. Commission on Law Enforcement and Administration of Criminal Justice**

##### **Subpart 7. Asset Forfeiture**

#### **Chapter 61. Code of Professional Conduct**

##### **§6101. Adoption**

The Louisiana Commission on Law Enforcement and Administration of Criminal Justice has adopted a code of professional conduct for asset forfeiture at a meeting held Tuesday, December 2, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:935 (May 1998).

##### **§6102. Introduction**

The purpose of the *Code of Professional Conduct* is to establish ethical standards applicable to asset forfeiture programs throughout the state of Louisiana. These standards are similar to the *National Code of Professional Conduct for Asset Forfeiture*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:935 (May 1998).

##### **§6103. Code of Professional Conduct**

A. Law enforcement is the principal objective of forfeiture. Potential revenue must not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations, or the due process rights of citizens.

B. A prosecutor's or sworn law enforcement officer's employment or salary shall not be contingent upon the level of seizures or forfeitures he or she achieves.

C. Whenever practical, and in all cases involving real property, a judicial finding of probable cause shall be secured when property is seized for forfeiture. Seizing agencies shall strictly comply with all applicable legal requirements governing seizure practice and procedure.

D. A judicial finding of probable cause must be secured as provided by law.

E. Seizing entities shall have a manual detailing the statutory grounds for forfeiture and all applicable policies and procedures.

F. The manual shall include procedures for prompt notice

to interest holders, the expeditious release of seized property where appropriate, and the prompt resolution of claims of innocent ownership.

G. All property forfeited must be sold at public sale, and the proceeds distributed according to law.

H. Unless otherwise provided by law, forfeiture proceeds shall be maintained in a separate fund or account subject to appropriate accounting controls and annual financial audits of all deposits and expenditures.

I. Seizing agencies shall strive to ensure that seized property is protected and its value preserved.

J. Seizing entities shall avoid any appearance of impropriety in the sale or acquisition of forfeited property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:935 (May 1998).

Michael A. Ranatza  
Executive Director

9805#024

**RULE**

**Office of the Governor  
Commission on Law Enforcement and  
Administration of Criminal Justice**

Uniform Crime Reporting System (LAC 22:III.5501)

The Commission on Law Enforcement and Administration of Criminal Justice, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and by the authority of the commission, as provided in R.S. 15:1204(9), has adopted rules regarding the UCR program.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE  
AND LAW ENFORCEMENT**

**Part III. Commission on Law Enforcement and  
Administration of Criminal Justice**

**Subpart 6. Grant Applications or Subgrants Utilizing  
Federal, State or Self-Generated Funds**

**Chapter 55. Uniform Crime Reporting System  
§5501. Funding Eligibility**

A. Effective January 1, 1998, law enforcement agencies that fail to participate in the state Uniform Crime Reporting System (UCR) or having been relieved of that obligation through certification as a Louisiana Incident Based Crime Reporting System (LIBRS) agency that fail to participate in the LIBRS program shall not be eligible for funding under any grant program administered by the Commission on Law Enforcement.

B. Any agency receiving funding to participate in the Louisiana Incident Based Crime Reporting System (LIBRS) that fails to participate in the system shall not be eligible for funding under any grant program administered by the Commission on Law Enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:936 (May 1998).

Michael A. Ranatza  
Executive Director

9805#018

**RULE**

**Office of the Governor  
Office of Veterans Affairs**

Travel (LAC 4:VII.911)

By authority of R.S. 29:254, the Office of Veterans Affairs hereby amends LAC 4:VII.911.A allowing travel reimbursement to commission members in the course of official state business on days per diem is not paid. Section 911 is printed in its entirety for the purpose of continuity.

**Title 4**

**ADMINISTRATION**

**Part VII. Governor's Office**

**Chapter 9. Veterans Affairs**

**Subchapter A. Veterans Affairs Commission**

**§911. Travel**

A. Travel will only be authorized on days that per diem is paid, unless prior approval is granted by the chairman or his designated representative. Travel must be for official state business.

B. Commission members may not be authorized travel reimbursement for out-of-state trips.

C. All travel vouchers for the commission members shall be authorized by the chairman or his designated representative, the director of the Office of Veterans Affairs, with ultimate responsibility held by the chairman, in accordance with adopted rules relating to travel.

D. The director, as secretary of the commission, shall keep the chairman and all members of the commission apprised of the availability or nonavailability of travel monies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 7:486 (October 1981), amended LR 20:48 (January 1994), LR 24:936 (May 1998).

David C. Perkins  
Acting Executive Director

9805#003

**RULE**

**Department of Health and Hospitals  
Board of Medical Examiners**

Athletic Trainers; Advisory Committee  
(LAC 46:XLV.3103-3179)

Notice is hereby given, in accordance with R.S. 49:953, that the Board of Medical Examiners ("the board"), pursuant to the authority vested in the board by the Louisiana Athletic Trainers Law, R.S. 37:3301-3312, and the provisions of the Administrative Procedure Act, has amended its rules governing the certification of athletic trainers, LAC 46:XLV, Subpart 2, Chapter 31, §§3103-3179, to establish and provide for the responsibilities and authority of an Athletic Training Advisory Committee ("the committee") to the board; to reconstitute the existing continuing education advisory committee as a subcommittee of the committee; and to update and effect certain technical amendments to the existing rules. The rule amendments and new rule section are set forth below.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLV. Medical Professions**

**Subpart 2. Licensure and Certification**

**Chapter 31. Athletic Trainers**

**Subchapter A. General Provisions**

**§3103. Definitions**

A. As used in this Chapter, the following terms and phrases shall have the meanings specified:

\* \* \*

3. *The Law or Louisiana Athletic Trainers Law*—Acts 1985, Number 288, as amended, R.S. 37:3301-3312.

\* \* \*

7. *Certification*—the board's official recognition of a person's lawful authority to act and serve as an "athletic trainer" as such term is defined by the law, R.S. 37:3302.

\* \* \*

12. *Advisory Committee*—the Athletic Training Advisory Committee to the Board, constituted under and pursuant to §3104.

B. Masculine terms wherever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:522 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:937 (May 1998).

**§3104. Athletic Training Advisory Committee**

A. Constitution. An Athletic Training Advisory Committee ("the advisory committee") to the Board is hereby constituted, to be composed and appointed, to have such functions, and to discharge such responsibilities as hereinafter provided.

B. Composition and Qualifications. The advisory committee shall comprise seven members, including five athletic trainers and two physicians, each of whom shall, to be

eligible for and prior to appointment to the committee, be certified as an athletic trainer or licensed as a physician by and in good standing with the board, have maintained residency and practice in the state of Louisiana for not less than one year and have not less than three years of experience in their respective fields. In addition to such general qualifications, the athletic trainer and physician members of the advisory committee shall satisfy the following qualifications.

1. Athletic Trainer Members. The athletic trainer members of the committee shall be appointed and apportioned as follows:

a. one of such members shall be employed or appointed as an athletic trainer by and for a high school;

b. one of such members shall be employed or appointed as an athletic trainer by and for a college or university; and

c. insofar as practical or possible, in its appointment of members to the advisory committee, the board shall maintain geographic diversity so as to provide membership on the advisory committee by certified athletic trainers residing and practicing throughout Louisiana, with at least one member from the Alexandria, Louisiana area or north, and at least one member from south of such area.

2. Physician Members. The physician members of the committee shall each:

a. hold the title of team physician or its equivalent, employed or appointed by a Louisiana high school, college, university or professional athletic team; and

b. have responsibility for and an active role in the direct supervision of athletic trainers.

C. Appointment; Term of Service. Each member of the advisory committee shall be appointed by the board from among a list of not fewer than two qualified nominees for each committee position submitted to the board by the Louisiana Athletic Trainers Association (LATA), or its successor. Each nomination so submitted shall be accompanied by a personal résumé or *curriculum vitae* for the nominee. Each member of the advisory committee shall serve on the committee for a term of three years, or until his or her successor is appointed, and shall be eligible for reappointment.

D. Functions and Responsibilities of the Committee. The advisory committee is responsible and authorized by the board to:

1. assist the board in examining the qualifications and credentials of applicants for athletic trainer certification and make recommendations thereon to the board;

2. advise and assist the board, as the board may request, with respect to investigative and disciplinary proceedings affecting certified athletic trainers;

3. provide advice and recommendations to the board respecting the modification, amendment, and supplementation of rules and regulations, standards, policies and procedures respecting athletic trainer certification and practice; and

4. establish and appoint a continuing education subcommittee, comprising no fewer than three athletic members of the advisory committee, to discharge the responsibilities prescribed by §3169.

E. Committee Meetings, Officers. The advisory committee

shall meet at least twice each calendar year, or more frequently as may be deemed necessary by a quorum of the committee or by the board. The presence of five members, including at least one physician member, shall be requisite to constitute a quorum of the advisory committee. The advisory committee shall elect, from among its members, a chairman, a vice-chair, and a secretary. The chairman, or in his absence or unavailability, the vice-chair, shall call, designate the date, time and place of, and preside at all meetings of the committee. The secretary shall record, or cause to be recorded, accurate and complete written minutes of all meetings of the advisory committee and shall cause copies of the same to be provided to the board.

F. Confidentiality. In discharging the functions authorized by the board under §3104, the advisory committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the committee members pursuant to §3401.D, or pursuant to Subchapter H of this Chapter, shall be considered confidential. As such, advisory committee members are prohibited from communicating, disclosing or in any way releasing to anyone, other than the board, any information or documents obtained when acting as agents of the board without first obtaining written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:937 (May 1998).

#### **Subchapter D. Application**

##### **§3129. Application Procedure**

\* \* \*

D. Application forms and instructions pertaining thereto may be obtained upon personal request at or written request directed to the office of the board. Application forms will be mailed by the board within 30 days of the board's receipt of request therefor. To ensure timely filing and completion of applications, forms must be requested not later than 40 days prior to the deadlines for initial applications specified in §3129.B.

E. An application for certification under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications for certification set forth in this Chapter;
2. three recent photographs of the applicant; and
3. such other information and documentation as are referred to or specified in this Chapter, or as the board may require, to evidence qualification for certification.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998).

##### **§3131. Effect of Application**

\* \* \*

C. The submission of an application for certification to the board shall constitute and operate as an authorization and

consent by the applicant to the board to disclose any information or documentation, set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations, or governmental entities pursuant to §3131, to any person, firm, corporation, association, or governmental entity having a lawful, legitimate and reasonable need therefor, including, without limitation, the athletic trainer certification or licensing authority of any state, the National Athletic Trainers Association, the Louisiana Athletic Trainers Association, the Louisiana Department of Health and Hospitals, state, county or parish and municipal health and law enforcement agencies and the armed services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998).

#### **Subchapter F. Examination**

##### **§3137. Dates, Places of Examination**

The board's examination is administered annually in the city of New Orleans. Applicants shall be advised of the specific date, time, and location of the next scheduled examination upon application to the board and may obtain such information upon inquiry to the office of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:525 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998).

#### **Subchapter H. Continuing Education**

##### **§3169. Continuing Education Subcommittee**

The continuing education subcommittee of the advisory committee ("the CE subcommittee"), constituted under authority of §3104, shall have the authority and responsibility to:

1. evaluate organizations and entities providing or offering to provide continuing education programs for athletic trainers and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing education programs and activities pursuant to §§3171 and 3173;
2. review documentation of continuing education by certified athletic trainers, verify the accuracy of such information, and evaluate and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of certification comply with and satisfy the standards for such programs and activities prescribed by these rules;
3. request and obtain from applicants for renewal of certification such additional information as the committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the CE subcommittee is responsible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:511 (June 1990), amended LR 24:938 (May 1998).

**§3171. Approval of Program Sponsors**

\* \* \*

B. Upon the recommendation of the CE subcommittee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing education activity under §3167.B.2, 3 and 7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:511 (June 1990), amended LR 24:939 (May 1998).

**§3173. Approval of Activities**

\* \* \*

B. Any such written request shall be referred by the board to the CE subcommittee for its recommendation. If the CE subcommittee's recommendation is against approval, the board shall give notice of such recommendation to the person requesting approval and the person requesting approval may appeal the CE subcommittee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final. Persons requesting board preapproval of continuing education activities should allow not less than 90 days for such requests to be processed.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:512 (June 1990), amended LR 24:939 (May 1998).

**§3175. Documentation Procedure**

\* \* \*

C. Any certification of continuing education activities not presumptively approved or preapproved in writing by the board pursuant to these rules shall be referred to the CE subcommittee for its evaluation and recommendations pursuant to §3169.B.2. If the CE subcommittee determines that an activity certified by an applicant for renewal in satisfaction of continuing education requirements does not qualify for recognition by the board or does not qualify for the number of continuing education units claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may appeal the CE subcommittee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:512 (June 1990), amended LR 24:939 (May 1998).

**§3177. Failure to Satisfy Continuing Education Requirements**

A. An applicant for renewal of certification who fails to evidence satisfaction of the continuing education requirements prescribed by these rules shall be given written notice of such

failure by the board. The certification of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unexpired, and subject to revocation without further notice, unless the applicant shall have, within such 60 days, furnished the board satisfactory evidence, by affidavit, that:

1. applicant has satisfied the applicable continuing education requirements;

2. applicant is exempt from such requirements pursuant to these rules; or

3. applicant's failure to satisfy the continuing education requirements was occasioned by disability, illness, or other good cause as may be determined by the board.

B. The certification of an athletic trainer whose certification has expired by nonrenewal or been revoked for failure to satisfy the continuing education requirements of these rules may be reinstated by the board upon written application to the board filed within two years of the effective date of expiration, nonrenewal or revocation accompanied by satisfactory documentation of the completion of not less than three continuing education units within the prior two years and payment of a reinstatement fee, in addition to all other applicable fees and costs, of \$50. Any continuing education activities recognized for purposes of reinstatement shall not be recognized for purposes of any subsequent renewal of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:512 (June 1990), amended LR 24:939 (May 1998).

**§3179. Waiver of Requirements**

The board may, in its discretion and upon the recommendation of the CE subcommittee, waive all or part of the continuing education required by these rules in favor of a certified athletic trainer who makes written request for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding the athletic trainer's satisfaction of the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), amended LR 24:939 (May 1998).

Delmar Rorison  
Executive Director

9805#025

**RULE**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

Boarding and Nonboarding Animals  
(LAC 46:LXXXV.700 and 702)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.700 and 702 in accordance with the

provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 7. Veterinary Practice**

**§700. Definitions**

\* \* \*

*Boarding Animal*—an animal which is being housed at a veterinary facility and is not actively undergoing diagnosis or treatment for illness. A boarding animal which becomes ill while in a veterinary facility ceases to be a boarding animal under this definition.

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1328 (October 1993), amended LR 20:1381 (December 1994), LR 24:940 (May 1998).

**§702. Direct Supervision**

A. - C. ...

D. A Registered Veterinary Technician (RVT) as defined in §700 shall perform all tasks or procedures under direct supervision of a licensed veterinarian, except:

1. an RVT may perform the duties listed in §702.F.1 without the direct supervision of a licensed veterinarian, but the RVT is required to follow the record keeping requirements found in §702.F.3; and

2. an RVT may administer medications and/or treatments to nonboarding (hospitalized or ill) animals without direct supervision by a licensed veterinarian under the following conditions:

a. the licensed veterinarian must chart the precise treatment plan to be used in the animal's medical record. This treatment plan may include oral, topical, and injectable treatments, including fluid therapy;

b. no diagnostic decisions or treatment changes may be made by an RVT;

c. the licensed veterinarian must personally check the animal and update the treatment plan at least once every 24 hours;

d. the licensed veterinarian has the ultimate responsibility for the proper diagnosis and treatment of the animal, including the work delegated to the RVT;

e. the licensed veterinarian has the responsibility to verify that any person who is assigned duties under §702 is legally licensed in Louisiana as an RVT. Failure to verify this information shall be considered unprofessional conduct within the meaning of R.S. 37:1526;

f. if the animal's medical condition changes, the licensed veterinarian must be available for consultation and reevaluation of the animal.

E. ...

F. A lay person shall perform all tasks or procedures under direct supervision of a licensed veterinarian under the following conditions and with the exception described in §702.F.1:

1. a lay person may administer medications to boarding

animals without direct supervision by a licensed veterinarian if the medication is directed to be used orally or topically and if the licensed veterinarian has recorded the exact treatments to be given in the animal's medical record;

2. when a lay person administers medications to nonboarding animals under the direct supervision of a licensed veterinarian, the licensed veterinarian must personally check the animal and update the treatment plan in the medical record at least once every 24 hours;

3. when a lay person administers medications, with or without direct supervision, the lay person shall keep a written record of all treatments which are performed, and that written record shall be incorporated into the animal's medical record;

4. the licensed veterinarian has the ultimate responsibility for the proper diagnosis and treatment of the animal, including the work delegated to a lay person.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:65 (February 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:225 (March 1990), LR 19:1328 (October 1993), LR 24:940 (May 1998).

Charles B. Mann  
Executive Director

9805#028

**RULE**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

Complaint Review Committee  
Appointments (LAC 46:LXXXV.106)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.106 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 1. Operations of the Board of Veterinary Medicine**

**§106. Complaint Resolution and Disciplinary Procedures**

A. ...

B. Appointing a Complaint Review Committee

1. As provided by R.S. 37:1518, the board may appoint a committee of persons to conduct investigations for the purpose of discovering violations of the statutes and rules governing the practice of veterinary medicine. Any committee so appointed shall be chaired by a member of the board who will select two practicing veterinarians and one nonveterinarian who, preferably, has experience in social work and/or grief counseling to serve as committee members.

2. - 3. ...

C. - D.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:345 (March 1993), amended LR 23:967 (August 1997), LR 24:940 (May 1998).

Charles Mann  
Executive Director

9805#027

**RULE**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

License Renewal  
(LAC 46:LXXXV.305)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.305 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 3. Licensure Procedures**

**§305. Renewals**

A. Pursuant to R.S. 37:1524 and R.S. 37:1525, all licenses must be renewed annually. Failure to renew a license shall be considered a violation of the rules of professional conduct. All licenses expire on September 30 of each year unless properly renewed before that date. Licenses which are not renewed by September 30 annually shall be suspended by majority vote of the board at the next available board meeting or revoked by majority vote of the board at the next available board meeting. Suspensions for nonrenewal may be reversed by submitting a complete license renewal application and payment of all applicable fees.

B. Persons failing to annually renew their license by September 30 will receive one notification via certified mail prior to an initial suspension or prior to a revocation of the license. Such notice shall be mailed at least 15 days prior to either the suspension or revocation of the license. Such notice will advise of actions to be taken by the board in conjunction with the failure to renew. These actions may include the imposition of a late fee and/or a fine for reinstatement of the license. The board may also elect to publish, in its own newsletter and/or publications of the Louisiana Veterinary Medical Association (LVMA), and distribute to other parties, the names of such persons holding suspended or revoked licenses. The distribution of this list may include, but is not limited to, the Office of State Narcotics, the federal Drug Enforcement Administration, and Food and Drug Administration, drug supply wholesalers, veterinary supply wholesalers, the Board of Pharmacy, and the LVMA.

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:343 (March 1993), amended LR 23:965 (August 1997), LR 24:941 (May 1998).

Charles B. Mann  
Executive Director

9805#029

**RULE**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

Over-the-Counter Drugs and Record  
Keeping (LAC 46:LXXXV.700 and 701)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.700 and 701 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 7. Veterinary Practice**

**§700. Definitions**

\* \* \*

*Over-The-Counter (OTC) Product*—any product that is sold to the public that is not regulated as a legend drug or as a controlled substance.

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1328 (October 1993), amended LR 20:1381 (December 1994), LR 24:941 (May 1998).

**§701. Record Keeping**

A.1.a. - b. ...

c. The record keeping requirements contained in §701 do not apply to Over-The-Counter (OTC) products except:

i. if an OTC product has been prescribed by the licensed veterinarian as part of a treatment regimen, then the sale and instructions must be recorded in the medical record in accordance with §701.A.1.a; or

ii. if a licensed veterinarian dispenses an OTC product and directs the client to use the product in any manner not on the product's label, then the product must be treated as a legend drug and its use must be properly recorded in the animal's medical record in accordance with §701.A.1.a.

2. ...

a. - e. ...

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 6:71 (February 1980), amended by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 16:225 (March 1990),



Charles B. Mann  
Executive Director

9805#030

**RULE**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

Preceptorship Program  
(LAC 46:LXXXV.1105)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.1105 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 11. Preceptorship Program  
§1105. Applicants**

A. Every applicant for a license to practice veterinary medicine in the state of Louisiana must successfully complete a preceptorship program during the senior year in a board-approved school of veterinary medicine or after graduation. The board shall have the discretionary right to waive compliance with the preceptorship program when the applicant has been licensed in another state or is eligible for a license without examination.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 24:942 (May 1998).

Charles B. Mann  
Executive Director

9805#031

**RULE**

**Department of Health and Hospitals  
Office of Public Health**

Lab Service Fees  
(LAC 48:V.Chapter 137)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has amended the following rule pursuant to R.S. 40:29, as amended and reenacted by Act Number 840 of 1997, relative to costs of laboratory services provided by the Office of Public Health as submitted by any physician, hospital, clinic, nurse, veterinarian, sanitarian or any other licensed health care provider authorized by the Office of Public Health to submit

specimens for scientific analysis. This current rulemaking will have the effect of rescinding *en toto* the rulemaking on this subject promulgated May 20, 1977 in Volume 3, Number 5 of the *Louisiana Register*, on pages 245-247. (The 1977 rule was apparently overlooked in the codification work in 1987, and it was not included in the *Louisiana Administrative Code* published in 1987.) This rulemaking will also have the effect of revising the lab fees set out in Volume 15, Number 6 of the *Louisiana Register* promulgated June 20, 1989, on pages 477-478 concerning neonatal and genetic screening, and testing for sexually transmitted diseases. This current rulemaking has been assigned to LAC 48:V.Chapter 137.

**Title 48**

**PUBLIC HEALTH**

**Part V. Preventive Health Services**

**Subpart 51. Laboratory Fees**

**Chapter 137. Laboratory Services**

**§13701. Definitions**

Unless the context otherwise requires, the words defined in §13701 shall have the following meanings in LAC 48:V.Chapter 137.

*Billable Submitter*—individual authorized to submit specimens for scientific analysis by the Division of Laboratories that does not fall into one of the categories listed under §13703.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:29.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:942 (May 1998).

**§13703. Applicability**

A. These laboratory fees shall not be charged:

1. to the Office of Public Health of the Department of Health and Hospitals or for laboratory services for a patient at a clinic or health unit operated by the Office of Public Health or to any physician, nurse, dentist, veterinarian, sanitarian or other licensed health care provider who is treating a patient or providing services in an official capacity in relation to the treatment of a patient of the Office of Public Health of the Department of Health, including the network of parish health units operated by the Office of Public Health;

2. in any instance when the state health officer declares an epidemic, for any test, procedure, function, or operation related to such epidemic;

3. if exemption from payment is otherwise provided by the *State Sanitary Code*; or

4. to any state hospital or institution when the secretary of the Department of Health and Hospitals requires the Office of Public Health laboratory to act for such institution in case of emergency.

B. These fees shall be charged for all tests, procedures, functions, or any operations performed by each laboratory independently operated by the Office of Public Health of the Department of Health and Hospitals as a state laboratory on human specimens, environmental samples, cultures, analytical and research procedures and related services which are submitted by any physician, hospital, clinic or health unit not operated by the Office of Public Health, nurse, veterinarian, sanitarian or any other licensed health care provider authorized to submit specimens for scientific analysis by the Division of Laboratories of the Office of Public, DHH. The charges or fees

for these services will be assessed according to the following schedule.

Test Description	Fee
1. Ab identification, RBC each panel, each serum technique	\$ 57
2. Ab screen, RBC each serum technique	\$ 21
3. Adenovirus Ab	\$ 18
4. Alpha Fetal protein (amniotic fluid)	\$ 22
5. Alpha Fetal protein (Serum)	\$ 22
6. Antibiotic Disc Test	\$ 4
7. Blood-Hemogram, automated and manual differential WBC (CBC)	\$ 8
8. Blood-RBC antigen other than ABO and Rh(D), each antigen	\$ 5
9. Blood-Rh (D) antigen	\$ 19
10. Blood-typing, ABO	\$ 4
11. Bordetella parapertussis Ab	\$ 19
12. Bordetella pertussis Antigen	\$ 19
13. Bordetella pertussis Culture	\$ 11
14. Borrelia Ab IgG (Relapsing fever)	\$ 19
15. Borrelia Ab IgM (Relapsing fever)	\$ 19
16. Borrelia Ab Total (Relapsing fever)	\$ 19
17. Brucella abortus Ab	\$ 14
18. Chlamydia AB(LGV)	\$ 18
19. Chlamydia testing by DNA gene probe, each probe used	\$ 18
20. Clinical chemistries/21 + amylase	\$ 15
21. Corynebacterium diptheriae culture (throat or nose)	\$ 11
22. Coxiella Burnetti (Q fever) Phase 1-IgG and IgM	\$ 18
23. Coxiella Burnetti (Q fever) Phase 2-IgG and IgM	\$ 18
24. Cryptococcus Ab	\$ 21
25. Culture Typing, Precipitin Method (grouping) per antiserum	\$ 7
26. Culture Typing, Serologic method, agg grouping, per antiserum	\$ 7
27. Culture Typing, Serologic Method, speciation	\$ 5
28. Culture, Bact, screen, stool	\$ 13
29. Culture, Bact, anaerobe, ID, any source without GLC	\$ 11
30. Culture, Bact, ID, aerobe, any source	\$ 11
31. Culture, Bact, screen (aerobic and anaerobic plates)	\$ 15
32. Culture, Bact, screen, other source	\$ 12
33. Culture, Bact, screen, throat or nose	\$ 11
34. Culture, Bact, anaerobe, isolation, any source	\$ 13

35. Culture, Bacti, ID anaerobe with GLC	\$ 20
36. Culture, Bacti, ID any source, in addition to primary culture	\$ 8
37. Culture, Bacti, ID presumptive, any souce, multiple organism	\$ 12
38. Culture, Bacti, ID presumptive, any souce, single organism	\$ 10
39. Culture, Bacti, ID screen, any souce, single Organism	\$ 9
40. Culture, Bacti, ID, screen, multiple organisms	\$ 12
41. Culture, Bacti, ID, urine	\$ 9
42. Cytomegalovirus (CMV) Ab IgG	\$ 20
43. Cytomegalovirus (CMV) Ab IgM	\$ 20
44. Dengue Fever Ab	\$ 18
45. Encephalitis testing in birds (per viral study)	\$ 19
46. Encephalitis, Eastern Equine IgG	\$ 19
47. Encephalitis, Eastern Equine IgM	\$ 19
48. Encephalitis, La Crose (California) IgG	\$ 19
49. Encephalitis, La Crose (California) IgM	\$ 19
50. Encephalitis, Saint Louis IgG	\$ 19
51. Encephalitis, Saint Louis IgM	\$ 19
52. Encephalitis, Western Equine IgG	\$ 19
53. Encephalitis, Western Equine IgM	\$ 19
54. Enterovirus Ab (e.g. coxsackie, echo, polio)	\$ 19
55. Ehrlichia Ab	\$ 18
56. Estradiol Assay	\$ 52
57. Fluorescent Ab screen, each Ab (Bordatella)	\$ 18
58. Fluorescent Ab titer, each Ab	\$ 17
59. Fluorescent Antibody (Direct) (Rabies DFA)	\$ 18
60. Fluorescent Antibody (Indirect)	\$ 34
61. Fluorescent Antibody-double stain	\$ 8
62. Follicle Stimulating Hormone (FSH)	\$ 35
63. Francisella tularensis Ab	\$ 15
64. Glucose quantitative	\$ 7
65. Hepatitis, Anti-A	\$ 18
66. Hepatitis, Anti-C	\$ 18
67. Hepatitis, Anti-HBc Total	\$ 17
68. Hepatitis, Anti-HBe	\$ 18
69. Hepatitis, Anti-HBs	\$ 15
70. Hepatitis, HBe Ag	\$ 16
71. Hepatitis, HBs Ag	\$ 15
72. Herpes I Group IgG	\$ 19
73. Herpes II Group IgG	\$ 19
74. Herpes II Group IgM	\$ 19
75. Herpes simplex Type 1 and 2 Ab differential	\$ 20

76. HIV- Dry Blood spot analysis	\$ 6
77. HIV-1 EIA	\$ 13
78. HIV-1 WB	\$ 28
79. Human Arbovirus IgG	\$ 18
80. Human Arbovirus IgM	\$ 18
81. Human Chorionic Gonadotropic (hCG) Pregnancy Test-Quantitative	\$ 21
82. Human Chorionic Gonadotropic (hCG) Pregnancy Test-Qualitative	\$ 11
83. Human Rickettsia IgG	\$ 10
84. Human Rickettsia IgM	\$ 10
85. Influenza A Ab	\$ 20
86. Influenza B Ab IgG	\$ 20
87. Legionella Ab	\$ 21
88. Leptospira Ab	\$ 19
89. Leutinizing Hormone Assay	\$ 36
90. Lipoproteins HDL cholesterol	\$ 14
91. Lipoproteins triglycerides	\$ 11
92. Lymes-(Borellia burgdorferi) IgG	\$ 22
93. Lymes-(Borellia burgdorferi) IgM	\$ 22
94. Meningoencephalytic Ab (adult)	\$ 18
95. Meningoencephalytic Ab (childhood)	\$ 18
96. Mumps Virus Ab	\$ 19
97. Mycoplasma pneumonia Ab	\$ 19
98. Neisseria gonorrhoeae testing by DNA gene probe	\$ 18
99. Newborn Screening Panel	\$ 31
100. Parainfluenza I Ab	\$ 18
101. Parainfluenza II Ab	\$ 18
102. Borellia III Ab	\$ 18
103. Parasite large volume filtration	\$ 47
104. Polio Virus Ab-Type I	\$ 19
105. Polio Virus Ab-Type II	\$ 19
106. Polio Virus Ab-Type III	\$ 19
107. Prolactin Assay	\$ 36
108. R. rickettsii Ab to antigen (Rocky Mountain Spotted Fever) IgG or IgM	\$ 18
109. R. typhi Ab (Typhus fever) IgG or IgM	\$ 18
110. Rabies Analysis	\$ 73
111. Reovirus Ab	\$ 18
112. Respiratory Syncytial Virus (RSV) Ab	\$ 18
113. Rheumatoid factor-qualitative (latex)	\$ 8
114. Rheumatoid factor-quantitative	\$ 8
115. Rotavirus Ab	\$ 19

116. Rubella (German measles) Ab, IgG	\$ 20
117. Rubella (German measles) Ab, IgM	\$ 20
118. Rubeola (Red measles) Ab, IgG	\$ 18
119. Rubeola (Red measles) Ab, IgM	\$ 18
120. Sensitivity study; antibiotics, disk method, per plate (212)	\$ 10
121. Smear with interpretation	\$ 6
122. Syphilis test VDRL qualitative (serum and CSF)	\$ 6
123. Syphilis test VDRL-quantitative, MHA-TP (serum and CSF)	\$ 6
124. T cells including cell ratio	\$ 54
125. TB Panel (bilirubin, AST, uric acid, creatinine)	\$ 11
126. TB Screen-AST	\$ 7
127. TB, AFB, Antibiotic sensitivities; each drug (includes culture)	\$ 8
128. TB-AFB smear	\$ 8
129. TB-Concentration and Isolation of Mycobacteria, each	\$ 16
130. TB-DNA probe identification of AFB cultures	\$ 18
131. TB-HPLC Ident of Mycobacterium	\$ 26
132. Tissue Culture Studies	\$ 163
133. TORCH Ab (CMV, Herpes, Rubella, Toxo)IgG	\$ 82
134. TORCH Ab (CMV, Herpes, Rubella, Toxo)IgM	\$ 82
135. Toxoplasma Ab, IgG	\$ 18
136. Toxoplasma Ab, IgM	\$ 21
137. Treponema pallidum Ab-Confirmatory test FTA-ABS	\$ 19
138. Typhus in rats-antigen to antibody	\$ 10
139. Varicella Zoster Ab, IgG	\$ 18
140. Vibrio cholerae ID	\$ 93
141. Vibrio vulnificus ID	\$ 47
142. Viral Load studies for HIV	\$ 121
143. Virus ID-Tissue Cult. Additional Studies, each isolate	\$ 34
144. Virus ID-Tissue Cult. Inoculation and Observation	\$ 37
145. Virus ID-Tissue Cult. Inoculation of Egg/Small animal, Observation and Dissection	\$ 28
146. Yersinia pestis (plague) study in rats; includes slide prep, animal inoculation, plague demo	\$ 154
147. Any Public Health Biochemistry procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
148. Any Public Health Microbiology procedure not expressly stated will be charged based on the cost per unit of time(Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU

149. Any Public Health Serology procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
150. Any Public Health Virology procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
151. Any Research Procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
152. A-1 (FC MPN)	\$ 20
153. Adipates/Phthalates	\$ 160
154. Alfatoxins (HPLC)	\$ 119
155. Alfatoxins (Screen)	\$ 40
156. Alkalinity (Total)	\$ 9
157. Aluminum	\$ 16
158. Antibiotic disc assay	\$ 16
159. Antibiotic sensitivity study/antibiotic	\$ 6
160. Antimony	\$ 33
161. Arsenic	\$ 16
162. Barium	\$ 16
163. Beryllium	\$ 16
164. BOD-5 day (manual)	\$ 160
165. BOD-Automated robotics testing	\$ 26
166. Bottled and Vended waters-Colilert	\$ 4
167. Bottled Water-Herbicides	\$ 237
168. Bottled Water-Trihalomethanes (THM)	\$ 33
169. Bottled Water-VOC (P/T)	\$ 172
170. Butter analysis	\$ 121
171. Butterfat, Babcock	\$ 27
172. Butterfat, Roese-Gotlieb (Confirmation)	\$ 92
173. Butterfats and Nonfat Solids	\$ 32
174. C. jejeuni and C. campylobacter-Environmental	\$ 33
175. Cadmium	\$ 16
176. Cadmium in foods	\$ 3
177. Caffeine	\$ 79
178. Calcium hardness	\$ 8
179. Carbamates	\$ 200
180. Caustics	\$ 11
181. Cereal analysis-qualitative	\$ 1
182. Cereal analysis-quantitative	\$ 32
183. Charm I; App N antibiotic testing	\$ 13
184. Charm II; App N antibiotic testing-Cloxacillin	\$ 13
185. Charm II; App N antibiotic testing-Other	\$ 13

186. Charm II; App N antibiotic testing-Quantitative	\$ 40
187. Charm II; App N antibiotic testing-Sequential	\$ 13
188. Chemical Oxygen Demand (COD)	\$ 80
189. Chloride percent-Hypochlorites and Chloramines (screen)	\$ 7
190. Chloride percent; Hypochlorites and Chloramines (Confirmation)	\$ 21
191. Chlorides	\$ 7
192. Chromium	\$ 17
193. Coffee (chicory)	\$ 4
194. Coliform Determinations-Confirmed (includes MPN for coliform and fecal coliform)	\$ 31
195. Coliform Determinations-E. coli (Verified)-each isolate	\$ 13
196. Coliform Determinations-Fecal	\$ 8
197. Coliform Determinations-Fecal by MPN (includes presumptive, completed and confirmed tests)	\$ 45
198. Coliform Determinations-Fecal Coliforms (includes coliform and E.coli MPN)	\$ 31
199. Colilert	\$ 8
200. Color	\$ 5
201. Color and preservatives in food	\$ 80
202. Compliance analysis of nutritional content and labeling	\$ 13
203. Conductivity	\$ 7
204. Copper Flame AA	\$ 9
205. Copper ICAP	\$ 4
206. Corrosion Control (copper, lead, pH, Alkalinity, THRD)	\$ 53
207. Cosmetics (organoleptics, net weight, filth and foreign material)	\$ 13
208. Cryoscope (added water)	\$ 8
209. Cyanide	\$ 160
210. Dairy Waters-MTF	\$ 19
211. Diquat	\$ 200
212. Dissolved Oxygen (DO)	\$ 8
213. Drained weight analysis	\$ 7
214. Dry Skim Milk-Qualitative	\$ 3
215. Dry Skim Milk-Quantitative	\$ 119
216. Dual Column (confirmation)	\$ 33
217. E. coli 015:H7	\$ 27
218. E. coli MPN	\$ 31
219. E. coli speciation	\$ 20
220. Endothall	\$ 253
221. Ethylene Dibromide (EDB)	\$ 133
222. Etiological agent ID for consumer food, beverages	\$ 100
223. Fecal Coliform MPN (includes presumptive, completed and confirmed tests)	\$ 31

224. Filth and Foreign (filter)	\$ 5
225. Filth and Foreign (Macro)	\$ 5
226. Filth and Foreign (Micro)	\$ 7
227. Filth and Foreign (trap/sv)	\$ 389
228. Fluoride analysis	\$ 20
229. Fluorides	\$ 11
230. Foreign Fat (RI)	\$ 4
231. Formaldehyde testing (AIR)	\$ 409
232. Fossomatic CC	\$ 12
233. Fossomatic OSCC	\$ 13
234. Free CO2	\$ 12
235. Gamma screen	\$ 26
236. GC/MS Confirmation	\$ 479
237. General Chemistry (Borellia, Net weight, filth and foreign materials)	\$ 16
238. Glycol/Recirculating Water (10-Tube MPN)	\$ 13
239. Glycol/Recirculating Water (HPC)	\$ 8
240. Glycophosphate	\$ 160
241. Gross alpha and beta (Radon 222, Radium 226, Radium 228, Radon, Uranium)	\$ 67
242. Heavy Metal (ICAP)	\$ 100
243. Heavy Metals (Includes Hg)	\$ 180
244. Herbicides	\$ 240
245. Heterotrophic Plate Count (HPC)	\$ 8
246. Inorganic Chemicals	\$ 299
247. Iodine 131	\$ 396
248. Iron	\$ 17
249. Iron and alumina oxide	\$ 33
250. Lead-Other analysis by furnace atomic absorption	\$ 55
251. Lead analysis (wipes)	\$ 20
252. Lead analysis in water/chemistry	\$ 20
253. Lead analysis in waters schools, day care, water coolers, faucets/chemistry	\$ 20
254. Lead analysis of paint	\$ 40
255. Lead and copper analysis for private residence water	\$ 23
256. Lead-Blood lead Screen by Graphite Furnace Atomic Absorption	\$ 13
257. Listeria analysis-milk	\$ 27
258. Listeria analysis-food	\$ 100
259. Listeria culture-Environmental	\$ 20
260. Loss on Ignition	\$ 5

261. Manganese	\$ 16
262. Mercury in foods	\$ 79
263. Mercury in Water	\$ 20
264. Metal (1 metal) ICAP	\$ 16
265. Metals (13 metals)ICAP	\$ 53
266. Metals (4 metals) ICAP	\$ 24
267. Metals (ICAP) plus Mercury	\$ 180
268. Metals in food-ICAP	\$ 40
269. Microbiology culture for environmental organisms (Listeria, Campylobacter, Yersinia, Salmonella, Staphylococcus and E.coli)	\$ 175
270. Milk Containers-paper and Plastic	\$ 17
271. Net Weight and Contents	\$ 7
272. Nickel	\$ 16
273. Nitrate	\$ 13
274. Nitrates and Nitrites	\$ 13
275. Nitrites	\$ 13
276. Nonfat Solids	\$ 5
277. Nuisance Organisms	\$ 20
278. Oil and Grease	\$ 158
279. Organoleptic Exam	\$ 3
280. Organoleptic Exam in foods	\$ 13
281. Oyster meat analysis for Vibrio and Salmonella	\$ 40
282. Oyster waters-analysis for Salmonella, Shigella, Vibrio, Staph	\$ 33
283. Oyster waters; metals	\$ 100
284. Oyster waters; organics	\$ 40
285. Oyster waters; Pesticides	\$ 233
286. Pesticide (Endrin, lindane, methoxychem. toxophene)	\$ 100
287. Pesticide battery 12 assays	\$ 201
288. Pesticide residues-food	\$ 273
289. Pesticide residues-grains	\$ 273
290. Pesticide residues-vegetables	\$ 233
291. Pesticide/PCBs in soil	\$ 246
292. Pesticides/Herbicides and PCB	\$ 100
293. Pesticides/metals-ICP	\$ 313
294. Pesticides/PCBs	\$ 233
295. Pesticides/PCBs (Food)	\$ 233
296. Pesticides/PCBs (HECD)	\$ 273
297. Pesticides/PCBs (NPD)	\$ 273
298. Pesticides/PCBS (Serum)	\$ 64
299. Pesticides/PCBS GC/MS	\$ 475
300. Pesticides/PCBs in seafood	\$ 233
301. Pesticides/PCBs in water (multi scan)	\$ 233
302. Pesticides/water (Multi scan)	\$ 231

303. pH	\$ 5
304. Phenols	\$ 319
305. Phosphatase by Fluorophos	\$ 7
306. Phosphatase by Sharer	\$ 11
307. Phosphatase by Sharer-Reactivation	\$ 46
308. Phosphatase by Sharer-Interfering Substances	\$ 11
309. Phosphatase by Sharer-Microbial	\$ 34
310. Phosphates	\$ 40
311. Polyaromatic Hydrocarbons (PAH)	\$ 79
312. Potassium	\$ 16
313. Priority Chemicals	\$ 166
314. Radionuclides; Gamma	\$ 53
315. Radium 226 and 228	\$ 725
316. Radon 222	\$ 79
317. Red Tide (Sample prep for mouse assay)	\$ 67
318. Red Tide (Tissue Culture assay)	\$ 133
319. Reducing Sugars	\$ 133
320. Residual Chlorine (chloramines)	\$ 20
321. Residue/insoluble materials (pipe scales)	\$ 237
322. Salinity	\$ 7
323. Salmonella analysis-food	\$ 27
324. Salmonella and Vibrio analysis	\$ 126
325. Salmonella culture	\$ 20
326. Salmonella culture-chocolate	\$ 47
327. Secondary Chemicals	\$ 146
328. Sediment analysis	\$ 240
329. Selenium	\$ 33
330. Shellfish-Microbial Screen (Staph aureus, Salmonella, Shigella, Vibrio, Listeria)	\$ 166
331. Silicates	\$ 40
332. Silver	\$ 16
333. Silvex 2-,4-D and 2,4 TP	\$ 237
334. Sodium	\$ 16
335. Sodium and Potassium	\$ 11
336. Staphylococcus analysis-Environmental	\$ 20
337. Staphylococcus aureus ID-Environmental	\$ 13
338. Strontium 89 and 90	\$ 396
339. Sulfates	\$ 8
340. Sulfides	\$ 47
341. Sulfite analysis-qualitative	\$ 3
342. Sulfite analysis-quantitative	\$ 48

343. Surfactants (MBAS)	\$ 158
344. Synthetic Organic Chemicals (13 classes)	\$ 1,131
345. Syrup-polarization	\$ 106
346. Thallium	\$ 33
347. Total Chlorine residual	\$ 11
348. Total Dissolved Solids	\$ 11
349. Total Hardness	\$ 8
350. Total Solids	\$ 11
351. Total Solids (lactometer)	\$ 7
352. Total Solids-Drying	\$ 17
353. Total Suspended Solids	\$ 27
354. Trihalomethanes (THM)-(Liquid/Liquid)	\$ 33
355. Trihalomethanes (THM)-(purge and trap)	\$ 79
356. Tritium (H3)	\$ 79
357. Turbidity	\$ 4
358. Unregulated Volatile Organics	\$ 173
359. Uranium	\$ 198
360. Urines for methylparathion	\$ 8
361. Vibrio cholerae Identification and Typing	\$ 150
362. Vibrio vulnificus Identification	\$ 118
363. Vitamin A	\$ 158
364. Vitamin A and D	\$ 185
365. Vitamin D	\$ 158
366. Volatile Organic Chemicals (VOCs) (Liquid/Liquid)	\$ 33
367. Volatile Organic Chemicals (VOCs) (Purge and Trap)	\$ 172
368. Yersinia culture-Environmental	\$ 30
369. Zinc	\$ 16
370. Zinc in foods	\$ 3
371. Any Environmental Chemistry and Toxicology procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
372. Any Environmental Microbiology procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
373. Any Research Procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:29.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 3:245 (May 1977), amended by the Department of

Health and Hospitals, Office of the Secretary, LR 15:477 (June 1989), amended by the Office of Public Health, LR 24:942 (May 1998).

**§13705. Billing and Payment Procedures**

The fees shall be billed to the submitter as follows.

1. A submitter who meets the definition of a billable submitter and wishes to contract with the Division of Laboratories (DOL) to provide one or more of the laboratory tests described in the fee schedule should contact the health laboratory director or the health laboratory assistant director at (504) 568-5373 or in writing at Box 60630, New Orleans, LA 70160.

2. A contract stating the tests and associated fees to be charged will be signed by both parties and an account number assigned. The submitter will be issued a Laboratory Submission Manual by the DOL and may begin submitting specimens and samples following approved DOL procedures and lab submittal forms. The submitter must place the account number on all lab forms when requesting analysis.

3. Billing will be done on a monthly basis. The Division of Laboratories will submit an invoice of fees for laboratory services by the fifteenth each month for each separate account. The invoice shall describe the analysis performed, the date of analysis, date of report, the fee per test and the total charge for current services rendered. Past due amounts will be added to the current charges and the extended total provided.

4. The customer will remit payment by check within 30 days of the billing date. Checks will be made out to the Office of Public Health and mailed to Box 60630, New Orleans, LA 70160. When the checks are received they will be credited to the appropriate account number by staff in the Division of Laboratories. A roster of checks by number and account will be generated. The checks and the accompanying check roster will be transferred to the Fiscal Office of DHH at 1001 Howard Avenue, New Orleans, LA 70112 for final processing within the state system.

5. If payment is not received within 30 days of the billing date, the DOL will issue a past due letter. The customer must respond in writing or by telephone if a discrepancy exists. Otherwise, payment by check to cover the overdue amount on the statement must be made within 30 days of the date of the past due letter.

6. If the customer does not respond or payment is not received within 30 days, the account will be turned over to the OPH Fiscal Services Department and future laboratory services will be discontinued until full payment is made.

7. If the customer does not respond to the collection agency and payment is not received within 90 days of the transfer of the account to the collection agency then the account will be turned over to the DHH Bureau of Legal Services for action.

8. The DOL will engage the services of a CPA (Certified Public Accountant) to oversee the ongoing collection of fees and to audit the system on an annual basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:29.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:948 (May 1998).

David W. Hood  
Secretary

9805#074

**RULE**

**Department of Health and Hospitals  
Office of the Secretary**

Memorandum of Understanding Between the  
Department of Health and Hospitals and the  
Capital Area Human Services District—FY 97/98  
(LAC 48:I.Chapter 27)

Under the authority of R.S. 46:2661 et seq. as enacted by Act 54 of the first Extraordinary Session of 1996, the Department of Health and Hospitals, Office of the Secretary adopts the following rule.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Administration**

**Subpart 1. General**

**Chapter 27. Capital Area Human Services District**

**§2701. Introduction**

This agreement is entered into by and between Department of Health and Hospitals, hereinafter referred to as DHH, and Capital Area Human Services District, hereinafter referred to as CAHSD, in compliance with R.S. 46:2661 et seq. as well as any subsequent legislation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:948 (May 1998).

**§2703. Purpose and General Agreement**

A. The Department of Health and Hospitals is authorized by law to provide for the direction, operation, development and management of programs of community-based mental health, mental retardation/developmental disabilities, alcohol and substance abuse, public health and related activities for eligible consumers in Louisiana.

B. The legislation authorizes CAHSD to provide services of community-based mental health, developmental disabilities, alcohol and substance abuse, public health and related activities for eligible consumers in the CAHSD, which includes East Baton Rouge, West Baton Rouge, Ascension, Iberville, and Pointe Coupee parishes; and to assure that services meet all relevant federal and state regulations; and to provide the functions necessary for the administration of such services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:948 (May 1998).

**§2705. Designation of Liaisons**

The primary liaison persons under this agreement are:

- A, for DHH deputy secretary
- B, for CAHSD chairperson

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:949 (May 1998).

**§2709. Services to be Delivered**

A. In order to provide a broad spectrum of coordinated public services to consumers of OMH, OCDD, OADA, OPH and for the district administration, the CAHSD will assume programmatic, administrative and fiscal responsibilities for including, but not limited to, the following:

- 1. OCDD community support;
- 2. mental health services consistent with the State Mental Health Plan, as required under the annual Mental Health Block Grant Plan;
- 3. outpatient treatment (nonintensive) OADA;
- 4. community-based residential services OADA;
- 5. intensive outpatient treatment/day treatment OADA;
- 6. nonmedical/social detoxification OADA;
- 7. primary prevention;
- 8. healthy community regional program OPH.

B. Attachment B provides definitions for above listed services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:949 (May 1998).

**§2711. Responsibilities of Each Party**

A. CAHSD accepts the following responsibilities:

- 1. perform the functions which provide community-based services and continuity of care for the diagnosis, prevention, detection, treatment, rehabilitation and follow-up care of mental and emotional illness;
- 2. be responsible for community-based programs and functions relating to the care, diagnosis, eligibility determination, training, treatment, case management of developmentally disabled and autistic persons as defined by the MRDD law;
- 3. collaborate with Region II PH Managers to assist them to perform community-based functions which provide services and continuity of care for education, prevention, detection, treatment, rehabilitation and follow-up care related to personal health;
- 4. promote and support community based planning of broad health issues through the Healthy Communities Strategic Planning Model;
- 5. provide for the gradual assumption of appropriate community public health functions;
- 6. perform community-based functions related to the care, diagnosis, training, treatment, and education of alcohol or drug abusers and prevention of alcohol and drug abuse;
- 7. maintain services in community-based, mental health, developmental disabilities, and substance abuse at least at the same level as the state maintains similar programs;
- 8. ensure that the quality of services delivered is equal to or higher than the quality of services previously delivered by the state;

- 9. perform human resources functions necessary for the operation of the CAHSD;
  - 10. be responsible for the provision of any function/service mandated by the Block Grant Plan of each respective program office;
  - 11. provide systems management and services data/reports in a format and content as that required of all regions by each DHH Program Office. Specific content of required information sets will be negotiated and issued annually through Program Office directives;
  - 12. utilize ARAMIS, MIS, SPOE and any other required DHH/Program Office systems to meet state and federal reporting requirements;
  - 13. human resource staffing data will be available for on-site review;
  - 14. maintain and support Single Point of Entry (SPOE) state standard;
  - 15. provide for successful delivery of services to persons discharged from state facilities into the CAHSD service area by collaborative discharge planning;
  - 16. provide in-kind or hard match resources as required for acceptance of federal grant or entitlement funds utilized for services in the CAHSD as appropriately and collaboratively applied for;
  - 17. make available a list of all social and professional services available to children and adults through contractual agreement with local providers.
- B. DHH retains/accepts the following responsibilities:
- 1. operation and management of any inpatient facility under jurisdiction of the DHH except that the CAHSD shall have authority and responsibility for determination of eligibility for receipt of such inpatient services (single point of entry function) which were determined at the regional level prior to the initiation of this agreement;
  - 2. operation, management and performance of functions and services for environmental health;
  - 3. operation, management and performance of functions related to the Louisiana Vital Records Registry and the collection of vital statistics;
  - 4. operation, management and performance of functions and services related to laboratory analysis in the area of personal and environmental health;
  - 5. operation, management and performance of functions and services related to education provided by or authorized by any state or local educational agency;
  - 6. monitoring this service agreement, assuring corrective action through coordination with CAHSD and reporting failures to comply to the governor's office;
  - 7. operation, management and performance of functions for pre-admission screening and resident review process for nursing home reform;
  - 8. operation, management and performance of functions for enrollment and monitoring of targeted case management;
  - 9. DHH will share with CAHSD information regarding, but not limited to, program data, statistical data, and planning documents that pertain to the CAHSD;
  - 10. DHH will provide legal support to and representation of the CAHSD in Civil Service matters and Risk Management;



11. DHH retains all prior authorization functions for Mental Health Medicaid Services;

12.a. DHH will perform a feasibility assessment to determine how to best bring public health into the CAHSD. The assessment will:

i. identify the services that are provided in Region II and which ones exist to serve the CAHSD population predominately;

ii. identify funding sources for each program and the numbers and funding source of staff associated with each;

iii. identify what services are provided to the PH office in Region II by the OPH in New Orleans;

iv. identify which services need to remain centralized and which ones can be managed within the district.

b. The study is to be completed in time for preparation of the FY 99 budget request. Information will be shared with the CAHSD Executive Director throughout the assessment period.

### C. Joint Responsibilities

1. To determine if community-based mental health, developmental disabilities, substance abuse, and public health services are delivered at least at the same level by CAHSD as the state provides for similar programs in other areas, performance indicators shall be established. Such indicators will measure extensiveness of services, accessibility of services, availability of services and, most important, quality of services. The CAHSD will not be required to meet performance indicators which are not mandated for state-operated programs in these service areas, and which were not previously collected by Region 2.

2. CAHSD's progress toward achieving outcomes which meet or exceed those realized by DHH-operated programs in the affected geographic region shall be measured by comparing the CAHSD data on results to baseline statistics reported by regional DHH programs for the year prior to July 1, 1997. Specific outcome measurements/performance indicators to be compared will be jointly agreed upon by CAHSD and DHH.

3. DHH and its Program Offices, in conjunction with CAHSD, will design a longitudinal program evaluation strategy. The program evaluation should concentrate on management and program specific issues. The strategy shall be formalized and DHH shall provide the resources for any objective third party retained for the purposes of such study.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:949 (May 1998).

### §2713. Reallocation of Resources/Staff and Financial Agreements

A. For FY 97-98, DHH agrees to transfer the personnel and financial resources, as described in Attachment A, to the direction and management of the CAHSD. Data in Attachment A will be adjusted based upon the final appropriation for the CAHSD.

B. The CAHSD will submit to DHH an annual budget request for funding of the cost for providing the services and programs for which the CAHSD is responsible. The format for such request shall be consistent with that required by the

Division of Administration and DHH. The request shall conform with the time frame established by DHH.

C. Revisions of the budget may be made upon written consent between the CAHSD and DHH and/or as appropriate, through the Legislative Budget Committee's BA-7 process. In the event any additional funding is appropriated and received by DHH that affects any budget categories for the direction, operation, and management of the programs of mental health, mental retardation/developmental disabilities, substance abuse services, and public health, and related activities for any other such DHH entities or regions, the CAHSD and DHH will mutually agree upon the allocation due to the CAHSD, and will make the appropriate changes to the budget.

D. In the event of a budget reduction, CAHSD will receive a proportionate reduction in its budget.

E. The CAHSD shall be responsible for the billing of all eligible Title XVIII and Title XIX reimbursements for services as well as all other third-party billable services provided.

F. The CAHSD shall assume all financial assets and/or liabilities associated with the programs transferred.

G. CAHSD shall be responsible for repayment of any funds received which are determined ineligible and subsequently disallowed.

H. DHH agrees to maintain the level of support from the Office of the Secretary and from the Office of Management and Finance which is consistent with the current level of support now provided to the regional OCDD, OH, and OADA and OPH offices. These supports include: Communication and Inquiry, Internal Audit, Environmental Consultant, Fiscal Management, Information Services, Facility Management, Budget, Contract and Lease Management, Research and Development, Materials Management, Appeals, Human Rights, and Staff Development/Training.

I. Payment of premiums to Office of Risk Management for insurance costs associated with transferred staff, functions, and property use shall continue to be made by DHH. CAHSD shall be responsible for adhering to all requirements of the Office of Risk Management regarding maintenance of a risk management program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:950 (May 1998).

### §2715. Joint Training and Meetings

CAHSD, through its staff, will participate in DHH and other programmatic training, meetings and other activities as agreed upon by CAHSD and DHH. In a reciprocal manner, CAHSD will provide meetings, training sessions, and other activities that will be available for participation by DHH staff as mutually agreed upon by the CAHSD and the DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:950 (May 1998)

### §2717. Special Provisions

A. The CAHSD agrees to abide by all applicable federal, state, and parish law regarding nondiscrimination in service delivery and/or employment of individuals because of race,

color, religion, sex, age, national origin, handicap, political beliefs, disabled veteran, veteran status, or any other nonmerit factor.

B. The CAHSD shall maintain a property control system of all movable property in the possession of the CAHSD that was formally under the control of DHH, and of all additional property acquired.

C. For purposes of purchasing, travel reimbursement, and securing of social service/professional contracts, the CAHSD shall utilize established written bid/RFP policies and procedures. Such policies and procedures shall be developed in adherence to applicable statutory and administrative requirements. The CAHSD shall provide informational copies of such policies and procedures to DHH as requested.

D. The CAHSD shall abide by all court rulings and orders that affect DHH and impact entities under the CAHSD's control, and shall make reports to DHH Bureau of Protective Services all applicable cases of alleged abuse, neglect, exploitation, or extortion of individuals in need of protection in a format prescribed by DHH.

E. This Memorandum of Understanding anticipates that

East and West Feliciana Parishes shall become part of the CAHSD in which said T.O. and monies shall remain part of the resources transferred. In the event that East and West Feliciana Parishes do not become part of the CAHSD, the DHH and CAHSD shall negotiate a reduction of resources ascribed to those parishes.

F. The CAHSD and DHH agree that in matters of State Civil Service, Risk Management, employee appeals and other such State Civil Service related issues, DHH, through its Bureau of Legal Services, shall continue to function as the Legal Counsel of Record for CAHSD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:950 (May 1998).

**§2719. Renewal/Termination**

This agreement will cover the period of time from July 1, 1996 to June 30, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:951 (May 1998).

**Attachment A**

The DHH agrees to transfer the following T.O. and revenues

Agency	T.O.	S.G.F.	Federal Funds	Self Generated	IAT	Stat. Ded.	Total
PH	1	5,668			38,157 <sup>(1)</sup>		43,825
OMH	74				7,550,446 <sup>(2)</sup>		
OCDD	17	3,554,158			117,620 <sup>(3)</sup>		3,671,778
OADA	61				4,225,037 <sup>(4)</sup>		4,225,037
OM&F	6	378,296					378,296

**Source of Revenue**

	Total IAT	S.G.F.	Title XIX	Title XVIII	Block Grant	MCH Grant	Preventive Grant	Categorical Grant	Local	Self Generated	PATH Grant	Other
(1)	38,157		3,974			5,139	1,285	25,696				2,063
(2)	7,550,446	6,230,342	634,096	159,135	421,311						80,414	25,148
(3)	117,620		37,620									80,000
(4)	4,225,037	762,311	83,391		3,369,243							10,092

**Attachment B**

**Definitions/Descriptors of Services Provided by DHH Program Offices**

Community Based Residential Services: Typically 30 days or less of non-acute care which provides a planned and professionally implemented treatment regimen for persons suffering from alcohol and/or other drugs of abuse. It operates twenty-four hours a day, seven days a week.

Eligible Consumer: Any person residing in the CAHSD area who is not excluded from participation in a given program by virtue of the funding agency's guidelines for eligibility. In regards to utilization of the state and federal grant funds transferred by this Agreement, highest priority for service receipt shall be given to the target populations specified in the State Plan of each respective DHH Program Office. Additionally, the CAHSD shall be responsible for provision of any program components uniformly mandated by the respective State Plans. This provision regarding use of transferred funds shall not govern priorities for use of other revenue which may be generated by the CAHSD, unless specifically noted herein.

Intensive Outpatient Treatment/Day Treatment: Services provided to a client that last two or more hours per day for three or more days per week. Note: Day Care is included in this category.

Long-Term Treatment: Provides treatment and rehabilitation services in excess of 30 days of non-acute care which includes a planned and professionally implemented treatment regimen for persons suffering from alcohol and/or other drugs of abuse. It operates twenty-four hours a day, seven days a week.

**Mental Health Services**

**1. Outreach**

A. This service consists of finding, identifying and engaging individuals who have mental health service needs. It promotes prevention and assists in early detection and intervention. It also includes activities designed to promote awareness and understanding of the mental health delivery system and its specialized services and strategies. Target populations may include, but are not limited to, community organizations, consumers, other agencies, mental and

physical health service providers, and special populations such as the homeless, persons in jail, and the dually diagnosed.

## **2. Mental Health Clinic Services**

Traditional mental health outpatient services such as diagnostic screening and evaluation, outreach, day treatment, medication management, and psychotherapy (individual, group and family).

### **2.1 Assessment/Evaluation**

A comprehensive assessment/evaluation includes an individualized treatment plan and determines the appropriateness of the program and level of service. As part of the assessment/evaluation, an interdisciplinary team will complete a written report which includes, at a minimum, demographic data and social history, diagnostic information, functional assessment, and other information necessary to determine service need, mix, intensity, and duration.

### **2.2 Medication Management**

An assessment of the need for medications, the prescription of needed medications, and the ongoing management of a medication regimen.

### **2.3 Psychotherapy (Individual, Group, Family)**

A structured, goal-oriented therapeutic process in which an individual interacts with a therapist, or a group of people interact with each other and a therapist, on a face-to-face basis and in accordance with the individual's treatment plan.

## **3. Crisis Response Systems (CRS) - Includes Acute In-Patient Services**

Professional rehabilitation services that provide immediate emergency intervention with the consumer, family, legal guardian, and/or significant others to ameliorate a consumer's maladaptive emotional/behavioral reaction. Services are designed to resolve the crisis and develop symptomatic relief, increase knowledge of where to turn for help at a time of further difficulty, and facilitate return to pre-crisis routing functioning. Crisis Response System services are available 24 hours a day, seven days a week, on a face-to-face basis and have the capacity to provide the following components:

### **3.1 24-Hour Screening and Assessment**

Emergency evaluation and assessment of the level of intervention needed. The comprehensive assessment/evaluation includes the individualized treatment plan and determines the appropriateness of the program as well as the level of services. An interdisciplinary team performs the evaluation and provides a written report which includes: demographic data and social history, diagnostic information, functional assessment, and other information necessary to determine service need and intensity.

### **3.2 In-Home Crisis Services**

Services available in the community seven days a week, 24-hours a day to provide structural support necessary to stabilize a person in the home while experiencing acute symptoms of mental illness/or emotional distress. Services reduce the likelihood that the person will harm himself or others. Support programs are designed to help restore the person to their pre-crisis level of functioning while preventing inappropriate or premature placement in a more restrictive setting. Crisis support programs are provided on a continuous basis up to 72 hours.

### **3.3 Crisis Respite**

Services which provide temporary, on-site supervision to individuals due to emergency situations and absences of customary caretakers. Services may be provided in the consumer's home or in the respite provider home or facility.

### **3.4 Acute Psychiatric Inpatient Services**

Provision of services in an acute psychiatric setting where the individual is provided room, board and routine monitoring by nursing staff. All appropriate evaluations, treatments and therapies provided to an individual are required service components of this service.

### **3.5 Crisis Stabilization**

Providing acute crisis stabilization in a community setting outside the confine of an acute hospital.

## **4. Psychosocial Rehabilitation Services**

Services which are medically necessary and can reasonably be expected to reduce the disability resulting from mental illness and to restore the individual to his/her best possible functional level in the community. The services are provided outside of a mental institution (or distinct part psychiatric unit) on an as needed basis to assist clients in coping with the symptoms of their illnesses, minimizing the disabling effects of mental illness on their capacity for independent living, and preventing or limiting periods of inpatient treatment. The service components are:

### **4.1 Mental Health Rehabilitation Assessment**

The mental health rehabilitation assessment is an assessment of the person's/family's strengths and needs with regard to functional skills and environmental resources. The purpose of the assessment is to identify and prioritize consumer/family defined rehabilitation goals. The assessment team

is composed of the clinical manager, the licensed physician, the consumer and all other professionals and paraprofessionals providing services to the consumer.

## **4.2 Clinical Management**

The clinical manager provides ongoing clinical direction, oversight, and coordination of services for all MHR consumers in a caseload. The clinical manager is a licensed mental health professional who is an employee of the MHR agency.

## **4.3 Individual Intervention, Supportive Counseling, Group Counseling, and Parent/Family Intervention**

### **4.3.a Individual Intervention and Supportive Counseling**

Individual intervention (adult) and Supportive Counseling (children) are services provided to eliminate psychosocial barriers that impede the development or modification of skills necessary to function in the community, specifically, counseling and therapy services: (A) Maximize strengths, (B) Reduce behavioral problems, and/or functional deficits to change behavior, (C) Promote problem solution, (D) Improve interpersonal skills, and (E) Assist in the development of interest areas and natural supports, (F) Provide illness education, (G) Explore and clarify values, (H) Facilitate interpersonal growth and change and (I) Increase psychological understanding.

### **4.3.b Parent/Family Intervention**

Parent/family intervention is a therapeutic intervention involving the consumer and/or one or more of that consumer's family members. (A) Family members may be the natural parent, foster parent, legal guardian, child, brother, sister, spouse, significant other, grandparent, grandchild, stepparent, aunt, uncle, or first cousin of the consumer. (B) This intervention may include the teaching of parenting skills.

### **4.3.c Group Counseling**

Group counseling is a therapeutic intervention involving direct personal involvement of a counselor/therapist with a limited number of consumers. (A) Sessions are scheduled often enough to provide effective treatment consistent with the Service Agreements of group members. (B) The group focus is face-to-face dialogue of a verbal rather than performance nature. (C) The time period for a group counseling/therapy session generally does not exceed one to 1½ hours. (D) Group counseling is time limited.

## **4.4 Medication Management Component**

Medication Management is directed toward maximizing the consumer's functioning and reducing symptoms. Medication Management is provided only for the purpose of enabling a consumer to make productive use of other Mental Health Rehabilitation services: The Medication Management component provides all of the following services: (A) On-site medication monitoring, (B) Off-site medication monitoring, (C) On-site individual skills training and (D) Off-site individual skills training.

## **4.5 Psychosocial Skills Training**

The Psychosocial Skill Training components provide all the following services: (A) on-site group skills training, (B) Off-site group skills training, (C) On-site individual skills training and (D) Off-site individual skills training. Psychosocial Skills Training teaches skills necessary for the consumer to succeed in his/her environment including but not limited to: (A) Daily and community living skills, (B) Socialization skills, (C) Adaptation Skills, (D) Development of interests and skills in using leisure time, (E) Symptom management skills, (F) Education in mental health/mental illness issues related to the consumer's individual diagnosis and needs and Psychologically supportive individual and/or group activities.

## **4.6 Service Integration**

Service integration includes but is not limited to the following: (A) Integration of therapeutic principles and psychosocial skills into the consumer's natural environment and daily routine, (B) implementation of a person's behavior management plan, (C) Specialized one on one assistance within a group setting, (D) Physical management of a person who is engaged in violent or destructive or disruptive behavior and (E) Other highly individualized services as identified on the consumer's MHR Service Agreement.

## **5. Supported Living Option**

Those services which assist a person to live in permanent, "regular" housing through the specialized support that is available in the intensity and quality needed, but is not present when there is no need. Supported housing refers to assisting people with mental illness to live in permanent, individual housing in a genuine community environment which is not inherently a treatment or service setting, by providing as needed a flexible range of formal and informal supports that are necessary for an individual to maintain that housing.

## **6. Natural Family Support Networks**

Family Support services assure that families of children with serious

emotional disturbance have the necessary personal support, information, and skill to cope and maintain family integrity and to enhance the likelihood that the child with serious emotional disturbance can successfully remain at home. Service elements include planned respite care, wraparound funding, parent education, parent support groups, parent case manager training, cash subsidy, home aide services transportation, and advocacy services.

#### 7. Targeted Case Management

Services provided to eligible consumers to assist them in gaining access to the full range of needed services including medical, social, educational, and other support services.

#### 8. Consultation/Education

These are services which assist other professionals or community members who have regular or frequent contact with the consumer to better understand the consumer's/family's condition or situation, and to respond more effectively/appropriately to that consumer/family's needs and problems. They are often of the nature of explanations of diagnoses, behaviors, or treatment plans/regimens, and suggestions as to how the person can best work to facilitate treatment and not exacerbate the consumer's condition.

#### 9. Day Treatment

This service provides opportunities for teaching new rehabilitative skills to community living and work activities, building networks of peer support, teaching self-help community activities, and providing a place where individuals can learn how to successfully relate to persons and communicate their needs and desires. In addition, these programs provide secure, structured environments where individuals experiencing disruption in routine behaviors brought on by their illness receive treatment and support.

Children/Adolescents Day Treatment is an intensive, structured, non-residential program of several hours duration (usually five or more) which provides an integrated set of counseling, behavioral, education and family interventions that enable children to reside at home and to maintain community, school and family ties. Programs may be located in schools or other community facilities.

#### 10. Interagency Coordination

Interweaving of the components of services provided by the various agencies involved in serving the consumer into a coherent and effective system.

#### 11. Prevention/Early Education

These are services oriented to persons who have not been identified as needing clinical treatment/intervention, or whose condition is thought to be able to be arrested by preventive intervention. These services typically involve promotion of positive behaviors and mental health practices, increasing necessary and sufficient supports as a mechanism for preventing deterioration, or training recipients with information regarding recognition and coping effectively with risk factors.

#### 12. Transition Services

Services that assist in the shift from children's services to adult services. Transition services consist of joint planning between personnel in both settings to determine the appropriate services to assist the child an family with the adjustment.

#### 13. Planned Respite

This service provides temporary supervision to individual consumers or groups of consumers in order to provide regular care givers with relief. Services may be provided in the consumer's home or in the respite provider's home or in a facility.

**Non-Medical/Social Detoxification:** Twenty-four hour/day services in a non-hospital setting that provides for safe withdrawal from alcohol and/or other drugs and transition to appropriate on-going treatment.

**OCDD Community Support Services:** These are all of the services that OCDD offer to individuals in the community. Such services are 1) tailored to the individual needs of each person requesting a service; and 2) are funded either through state general funds or Medicaid. The primary goal of these services is to create and sustain supports in the community for individuals with developmental disabilities. Such services are as follows:

**1. HABILITATIVE SERVICES**—emotional, vocational skills and work-related skills for adults with developmental disabilities over the age of 22. Types of habilitative services include:

- a. SUPPORTED EMPLOYMENT GROUP MODELS
- b. FACILITY BASED SERVICES

c. PRE-VOCATIONAL TRAINING

d. DAY HABILITATION

**2. RESIDENTIAL SERVICES**—a range of living options in a Title XIX facility which include the following:

a. ICF/MR 16+BEDS

b. GROUP HOMES 7+BEDS

c. COMMUNITY HOME 6 BED OR LESS

d. EXTRAORDINARY RATE—Title XIX allowable services in ICF/MR facilities that cannot be met through the per diem rate.

**3. SUPPORTED INDEPENDENT LIVING/RESIDENTIAL HABITATION**—individually tailored supports provided to a person in his/her home for the purpose of enhancing the quality of life and ensuring their health and safety.

**4. SUBSTITUTE FAMILY CARE/EXTENDED FAMILY LIVING**—community care for children and adults in family homes providing for the individuals's physical, emotional, educational, habilitative and social needs.

**5. RESPITE**—temporary, short-term care of individuals who are unable to care for themselves because of the absence or need for relief of the primary caregiver.

**6. PCA**—services provided for individuals whose disabilities preclude the acquisition of certain independent living skills related to activities of daily living, such as bathing, dressing, grooming and food preparation and storage.

**7. PERSONAL EMERGENCY RESPONSE**—immediate assistance to an individual in the event of a physical, emotional or environmental emergency through a community-based electronic communications device.

**8. ASSISTIVE DEVICE**—specialized medical equipment and supplies, and adaptive and communication aids which increase the individuals's ability to communicate and or perform activities of daily living.

**9. ENVIRONMENTAL MODIFICATIONS**—assessment of the need for and modifications and or improvements to an individuals' home to allow for community living and ensure safety, security, and accessibility.

**10. INFANT HABILITATION EARLY INTERVENTION**—habilitative services for infants and toddlers, ages birth to three, and their families.

**11. CRISIS ASSISTANCE**—short term, emergency services for individuals and their families who are in a crisis situation that are provided until the individual's needs can be met through the regular services system.

**12. FAMILY TIES**—supports to natural families designed to assist them in bringing home a child, age birth to eighteen, from an institution, group or community home, or other residential facility.

**13. CASH SUBSIDY BENEFITS**—flat monthly payments to the families of children aged birth through seventeen who have severe developmental disabilities.

**Office for Alcohol and Drug Abuse**—Hereafter referred to as OADA

**Office for Citizens with Developmental Disabilities**—Hereafter referred to as OCDD

**Office of Mental Health**—Hereafter referred to as OMH

**Office of Public Health**—Hereafter referred to as OPH

**Outpatient Treatment (Nonintensive):** Treatment/recovery/aftercare or rehabilitation services provided where the client does not reside in a treatment facility. The client receives alcoholism and/or drug abuse treatment services with or without medication, including counseling and supportive services.

**Primary Prevention:** Programs that are directed at individuals who have not been determined to require treatment for substance abuse. "Substance" abuse is defined to include alcohol, tobacco and other drugs ATOD. Prevention Programs will include the following strategies:

1. Information Dissemination
2. Prevention Education
3. Alternative
4. Problem Identification and Referral
5. Community-Based Process
6. Environmental

#### Addendum

In the event that Livingston Parish is included in the CAHSD, the table below includes the agreed upon resources that shall be transferred to the CAHSD. It shall also be understood that Livingston Parish shall be part of the memorandum of understanding between the DHH and CAHSD.

Agency	T.O.	S.G.F.	Title XIX	Title XVIII	Block Grant	MCH Grant	Preventive Grant	Categorical Grant	Local	Self Generated	Path Grant	Other	Total
OPH	0												0
OMH	0												0
OCDD	0	264,056	11,968									7,083	283,107
OADA	0			90,000									90,000
OM&F	0												0

**Addendum to  
Memorandum of Understanding  
Between the Department of Health and Hospitals and  
The Capital Area Human Services District  
FY 97/98**

This addendum to the memorandum of understanding is entered into, by and between the Department of Health and Hospitals and the Capital Area Human Services District. Given that the MOU was effected before the conclusion of the 1997 regular session, an amendment is necessary to reflect

the programmatic and fiscal directives of that session.

1. Changes in funding that were necessary for the Office of Alcohol and Drug Abuse, Office of Mental Health and for the Office of Citizens with Developmental Disabilities are outlined below:

Agency	T.O.	S.G.F.	Federal Funds	Self Generated	IAT	Stat. Ded.	Total
OADA*	38				3,106,809		3,106,809
OMH	74				7,594,018		7,594,018
OCDD	17	4,229,691			143,544		4,373,235

**SOURCE OF FUNDS**

Agency	Total IAT	SGF	Title XIX	Title XVIII	Block Grant	MCH Grant	Preventive Grant	Categorical Grant	Path	Other
OADA	3,106,809	762,311	83,391		2,261,107					
OMH	7,594,018	6,275,414	634,096	159,135	419,811				80,414	25,148
OCDD	143,544	25,000	37,620							80,924

\* An additional \$225,000 shall be transferred to CAHSD by BA 7. This figure includes funds of \$5000 for SYNAR, \$50,000 for O'Brien House, \$20,000 for Compulsive Gambling and \$150,000 for Drug Court.

\*\*Funding for the Office of Public Health and the Office of Management and Finance remains the same.

2. For purposes of consumer eligibility, residents of East and West Feliciana who meet the DHH Program Office State Plan target population definitions shall have access to services provided by the CAHSD.

David W. Hood  
Secretary  
Department of Health and Hospitals

Dr. Jan Kasofsky  
Executive Director  
Capital Area Human Services Director

David W. Hood  
Secretary

9805#067

**RULE**

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

Standards for Payment for Nursing  
Facilities (LAC 50:II.10147)

The Department of Health and Hospitals, Office of the

Secretary, Bureau of Health Services Financing amends the following rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part II. Medical Assistance Program**

**Subpart 3. Standards for Payment**

**Chapter 101. Standards for Payment for Nursing  
Facilities**

**Subchapter F. Vendor Payments**

**§10147. General Provisions**

A. - D.2. ...

a. hospitalization for an acute condition including psychiatric stays, which does not exceed seven days per hospitalization;

b. home leave.

Note: Payment cannot be made for hospital leave days while a resident is receiving swing bed SNF services.

D.3. - 4. ...

5. *Home Leave (Leave of Absence)*—a visit with relatives or friends which does not exceed 15 days per calendar

year. Institutionalization is not broken if the absence does not exceed 30 days and if the facility has not discharged the resident.

Note: Elopements (unauthorized absences under the plan of care) count against allowable home leave days. The period of absence shall be determined by counting the first day of absence as the day the resident leaves the facility. Only a period of 24 continuous hours or more shall be considered an absence. Likewise, a temporary leave of absence for hospitalization or home visit is broken only if the resident returns to the facility for 24 hours or longer. Upon admission, a resident must remain in the facility at least 24 hours in order for the facility to submit a payment claim for a day of service or reserve a bed.

Example: A resident admitted to a nursing facility in the morning and transferred to the hospital that afternoon would not be eligible for any vendor payment for facility services.

6. If a resident transfers from one facility to another, the unused home leave days for that calendar year also transfer. No additional leave days are allocated.

7. The facility shall promptly notify the parish/regional BHSF Office of absences beyond the applicable 30 days for temporary absence, 15 days for home leave, or seven days for hospitalization limitations.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended LR 23: 970 (August 1997), LR 24:954 (May 1998).

David W. Hood  
Secretary

9805#072

**RULE**

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

**Title XIX Medically Needy Program  
Service Coverage Restrictions**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reinstates Title XIX Medically Needy Program and establishes the following service coverage restrictions in the reinstated Title XIX Medically Needy Program:

**Covered Services**

- 1) inpatient and outpatient hospital services;
- 2) Intermediate Care Facility for the Mentally Retarded (ICF/MR) services;
- 3) Intermediate Care and Skilled Nursing Facility (ICF and SNF) services;
- 4) physician services, medical/surgical services by a dentist;
- 5) nurse midwife services;

- 6) Certified Registered Nurse Anesthetist (CRNA) services, anesthesiologist;
- 7) lab and x-ray services;
- 8) prescription drugs;
- 9) EPSDT (KIDMED) screening services;
- 10) rural health clinic services;
- 11) hemodialysis clinic services;
- 12) ambulatory surgery clinic services;
- 13) prenatal clinic services;
- 14) Federally Qualified Health Center (FQHC) services;
- 15) family planning services;
- 16) durable medical equipment;
- 17) rehabilitation services (PT, OT, ST);
- 18) nurse practitioner;
- 19) medical transportation services (emergency and nonemergency);
- 20) home health services for individuals needing skilled nursing services;
- 21) chiropractic services;
- 22) optometry services;
- 23) podiatry services;
- 24) audiology services; and
- 25) radiation therapy.

**Noncovered Services**

- 1) dental services or dentures;
- 2) alcohol and substance abuse clinic/services;
- 3) mental health clinic services;
- 4) home- and community-based waiver services;
- 5) home health (nurse aid and physical therapy);
- 6) case management services;
- 7) mental health rehabilitation services;
- 8) psychiatric inpatient services for individuals under 22 years of age;
- 9) Sexually Transmitted Diseases (STD) services; and
- 10) Tuberculosis (TB) Clinic services.

All other components of the Title XIX Medically Needy Program shall be in accordance with federal requirements as stated in the *Code of Federal Regulations*.

David W. Hood  
Secretary

9805#073

**RULE**

**Department of Public Safety and Corrections  
Gaming Control Board**

Video Draw Poker—Application and License (LAC 42:XI.2405); Riverboat Gaming—Vendor Recommendations/Solicitations, Surveillance and Security (LAC 42:XIII.2329 and 3301)

The Gaming Control Board hereby adopts LAC 42:XIII.2329 and amends LAC 42:XI.2405 and LAC 42:XIII. 3301 in accordance with R.S. 27:1 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42**

**LOUISIANA GAMING**

**Part XI. Video Poker**

**Chapter 24. Video Draw Poker  
§2405. Application and License**

\* \* \*

**D. Change of Ownership of Licensed Establishment**

\* \* \*

7. All device owners shall immediately notify the division, in writing, of any and all facts within their knowledge indicating that a licensed establishment for whom the device owner provides devices or services has had a change of ownership or management. Failure to notify the division as provided in this Subsection shall constitute grounds for suspension or revocation of the device owner's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:955 (May 1998).

**Part XIII. Riverboat Gaming**

**Subpart 2. State Police Riverboat Gaming Division**

**Chapter 23. Compliance, Inspections and Investigations**

**§2329. Notification of Vendor Recommendations or Solicitations**

A. All persons licensed to conduct riverboat gaming operations shall report on the last day of each month, in writing, to the Gaming Control Board the name, address, and telephone number of any person or legal entity who or which recommends to or solicits through any agent, employee or representative, who has authority to contract for the licensee, for the purpose of the licensee considering the purchase of goods and/or services from a particular vendor. The licensee shall report the name, address, and telephone number of the recommended vendor to the board at the same time. This provision shall only apply to the solicitation or purchase of goods and/or services with a value in excess of \$5,000. This provision shall not apply to any recommendations made to the licensee for the hiring of employees working in the day-to-day operations of the vessel.

B. *Vendor*, for the purposes of this rule, shall include, but is not limited to, any manufacturer, distributor, gaming supplier, nongaming supplier, junket representative, professional, independent contractor, consultant, or other person in the business of providing goods and services regardless of whether required to be licensed, permitted, or registered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:956 (May 1998).

**Chapter 33. Surveillance and Security**

**§3301. Required Surveillance Equipment**

A. The holder of an operator's license shall install in the riverboat a closed circuit television system, in accordance with the specifications herein, and shall provide for access at all times to the system or its signal by agents of the division. The closed circuit television system must meet or exceed specifications established by the division to include:

1. solid state, black and white cameras, as approved by the division, installed in fixed positions with matrix control and/or with pan, tilt, and zoom capabilities, secreted from

public and nonsurveillance personnel view to effectively and clandestinely monitor in detail, from various vantage points, the following:

\* \* \*

2. individual solid state, color television cameras, as approved by the division, with matrix control and/or pan, tilt, and zoom capabilities, secreted from public and nonsurveillance personnel view, augmented with appropriate color corrected lighting to effectively and clandestinely monitor in detail, from various vantage points, the following:

\* \* \*

10. video tape recorders, as approved by the division, capable of producing high quality first generation pictures and recording on a standard 1/2-inch VHS tape with high speed scanning and flickerless playback capabilities in real time, or other medium approved by the division. Such videotape recorders must possess time and date insertion capabilities for taping what is being viewed by any camera in the system.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:956 (May 1998).

Hillary J. Crain  
Chairman

9805#004

**RULE**

**Department of Public Safety and Corrections  
Office of State Police**

Motor Carrier Safety and Hazardous  
Materials (LAC 33:V.10303)

The Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section hereby amends LAC 33:V.10303 pertaining to Motor Carrier Safety and Hazardous Materials requirements to add part 382 of 49 CFR (Controlled Substances and Alcohol Use and Testing) as authorized by R.S. 32:1501 et seq. The amendment is critical to the Motor Carrier Safety efforts and consists solely of the addition of 49 CFR part 382.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part V. Hazardous Waste and Hazardous Materials**

**Subpart 2. Department of Public Safety and Corrections—Hazardous Materials**

**Chapter 103. Motor Carrier Safety and Hazardous Materials**

**§10303. Federal—Motor Carrier Safety and Hazardous Materials**

A. ...

**Hazardous Materials Regulations**

Parts 171 - 180 ...

## Motor Carrier Safety Regulations

Part 382 Controlled Substances and Alcohol Use and Testing

Parts 383 - 397 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:1115 (November 1991), LR 19:351 (March 1993), LR 20:58 (January 1994), LR 24:956 (May 1998).

Thomas Normile  
Undersecretary

9805#032

### RULE

#### Department of Social Services Office of Family Support

Support Enforcement and Program Administration  
(LAC 67:III.Chapter 25 and repeal of §2751)

The Department of Social Services, Office of Family Support has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Public Law 105-33, the Balanced Budget Act of 1997, SES will cooperate in automated administrative enforcement in interstate cases. Recent review of the SES State Plan by the U.S. Department of Health and Human Services, Office of Child Support Enforcement (OCSE), prompted that agency to advise SES to incorporate this change into the *Louisiana Administrative Code*, §2525. OCSE review also prompted SES to clarify and expand language pursuant to Public Law 104-193 and R.S. 9:311(C) wherein the procedure for review and adjustment of child support cases has been changed (§2512).

Further review of the *Louisiana Administrative Code* for SES revealed that regulations at §2519 and §2751 should be repealed, having been obsoleted by changes in state and federal laws. In order to correctly codify regulations at this time, LAC 67:III.Chapter 25.Subchapter G is being reserved and the current policy at §2525 will maintain its history and be renumbered §2520. Therefore, §2525 as it appears in this notice is new. Language in other sections is being updated to clarify current regulations.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Office of Family Support

#### Subpart 4. Support Enforcement Services

#### Chapter 25. Support Enforcement

#### Subchapter C. Formula for Support Obligation

#### §2511. Child Support Award Guidelines

The child support award guidelines established in R.S. 9:315 et seq. shall be used in any proceeding to establish or modify child support orders. There shall be a rebuttable presumption that the amount of the child support established

by use of the guidelines is the proper amount of child support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:315 et seq., 45 CFR 302.56.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:497 (September 1987), amended by the Department of Social Services, Office of Eligibility Determinations, LR 15:807 (October 1989), LR 16:34 (January 1990), amended by the Office of Family Support, LR 24:957 (May 1998).

#### §2512. Adjustment of Child Support Orders

SES will send a notice every three years advising both parties to the support order of the right to request a review. If either party requests a review, SES will conduct the review and, if appropriate, judicially adjust the order in accordance with the guidelines if the amount of the child support in the order differs from the amount of the child support award in accordance with the guidelines.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, §351 and R.S. 9:311(C).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19:1178 (September 1993), amended LR 23:748 (June 1997), LR 24:957 (May 1998).

#### Subchapter E. Individuals Not Otherwise Eligible

#### §2519. State Plan

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.33, 45 CFR 232.11(a)(1), 45 CFR 232.11(a)(4), 45 CFR 302.31, 45 CFR 302.32, 45 CFR 302.51, 45 CFR 302.52 and 45 CFR 232.11.

HISTORICAL NOTE: Promulgated by the Health and Human Resources Administration, Division of Youth Services, LR 2:111 (April 1976), repealed by the Department of Social Services, Office of Family Support, LR 24:957 (May 1998).

#### §2520. Locate Fee for Non-FITAP Recipients (previous §2525)

The IV-D Program shall charge a fee of \$10 per request for non-FITAP, locate-only requests. An additional \$4 charge shall be made if the Social Security Number of the noncustodial parent is not provided.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.70.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:131 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 24:957 (May 1998).

#### §2521. Child Support Application Fee for Non-FITAP Applicants

SES will charge an application fee of \$25 for services to individuals who do not receive FITAP, Medicaid, or IV-E Foster Care assistance. When SES takes the application, the SES regional office will collect the fee. When a contracted office of the district attorney takes the application, the district attorney's office will collect the fee and retain the nonfederal share of the fee.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.33.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:115 (February 1986), amended by the Department of Social Services, Office of Family Support, LR 24:957 (May 1998).



**Subchapter F. Cooperation with Other States**  
**§2525. Automated Administrative Enforcement in Interstate Cases**

A. SES shall use high-volume, automated administrative enforcement on interstate cases to the same extent as used for intrastate cases.

B. SES may transmit a request for assistance to another state by electronic or other means in a case involving the enforcement of a support order. The request shall contain sufficient information to enable the receiving state to compare such information with information in its data base. The request shall constitute a certification of the amount of court-ordered support which is in arrears, and that the state has complied with all procedural due process requirements applicable to the case.

C. SES shall promptly respond to a request made by another state for automated enforcement of a support order. SES shall maintain records of the number of such requests for assistance received, the number of cases for which support was collected in response to such a request, and the amount of support collected.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:958 (May 1998).

**Subchapter G. Reserved (previously Parent Locator Service)**

*(Editor's Note: The previous §2525 is relocated and renumbered §2520.)*

**Subchapter I. Tax Refund Offset**

**§2533. Federal Tax Refunds**

A. SES shall collect past-due support by federal tax refund offset according to federal criteria.

B. SES shall deduct the processing fee imposed by the Internal Revenue Service from each non-FITAP payee's refund check.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.72.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1083 (November 1985), amended by the Department of Social Services, Office of Family Support, LR 24:958 (May 1998).

**Chapter 27. General Program Administration**

**Subchapter B. Reserved (previously Notice of Collection of Assigned Support)**

**§2751. Annual Notice of Collection**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.54.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1151 (December 1985), amended by the Department of Social Services, Office of Family Support, LR 22:117 (February 1996), repealed LR 24:958 (May 1998).

Madlyn B. Bagneris  
Secretary

9805#076

**RULE**

**Department of Social Services**  
**Office of Rehabilitation Services**

Vocational Rehabilitation Policy Manual  
Applicant/Client Appeal Rights and Rehabilitation  
Technology (LAC 67:VII.107 and 115)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Social Services, Rehabilitation Services hereby amends the following rule in the Vocational Rehabilitation Services Policy Manual: Applicant/Client Appeal Rights and Rehabilitation Technology.

**Title 67**

**SOCIAL SERVICES**

**Part VII. Rehabilitation Services**

**Chapter 1. Vocational Rehabilitation Policy Manual**

**§107. Applicant/Client Appeal Rights**

A. Administrative Review

\* \* \*

B. Fair Hearing

1. The fair hearing is the final level of appeal within Louisiana Rehabilitation Services. Subsequent to a decision being reached as a result of the fair hearing, any further pursuit of the issue by the applicant/client must be through the public court system.

2. The fair hearing is a process which may be used by applicants/clients to appeal disputed findings of an administrative review, or as a direct avenue of appeal bypassing the administrative review option.

3. The fair hearing will be conducted by an impartial hearing officer within 45 calendar days of receipt of the initial written request if no administrative review was conducted and within 30 calendar days if the fair hearing follows an administrative review.

4. The impartial hearing officer must render a final decision within 30 calendar days following the fair hearing.

5. The entire appeal process, whether it is inclusive of the administrative review or not, will not exceed 45 calendar days unless an exception is agreed upon jointly by the participating parties, i.e.:

a. the applicant/client and/or their representative, if applicable;

b. the appropriate regional manager, and the impartial hearing officer.

6. An exception to this time line should only be made as a result of sufficient cause as agreed upon by the participants. However, if the request for a fair hearing is directly related to an agency decision to end or alter services in progress, then a fair hearing must be conducted and a decision must be reached within 60 calendar days of the initial request.

7. The client will not have the option of requesting delays past this time.

8. The failure of the client who is contesting an agency decision regarding a plan of services currently in progress to participate in a fair hearing within the 60-calendar-day requirement will result in a dismissal of the appeal.

Note: The maximum 60-calendar-day time period for participating in a fair hearing with a resulting decision does not apply to applicants/clients requesting an appeal regarding matters other than services currently in progress. With sufficient cause and joint agreement of the participating parties, the fair hearing and decision can be delayed for a longer period of time.

9. The impartial hearing officer shall be selected from among a pool of qualified persons identified jointly by Louisiana Rehabilitation Services and members of the Louisiana Rehabilitation Services Vocational Rehabilitation Advisory Council.

10. The impartial hearing officer shall be selected to hear a particular case on a random basis, or by agreement between the LRS director and the applicant/client (or the client's representation, as appropriate).

11. All applicants/clients must be provided adequate notification of appeal rights regarding eligibility, determination of severe disability, the provision or denial of rehabilitation services, and/or the client's right to representation. Unless services being provided under the current Individualized Written Rehabilitation Program have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client, such services will continue during the fair hearing appeal process.

12. If an administrative review has been conducted, in order to insure that the applicant/client is afforded the option of availing themselves of the opportunity to pursue a fair hearing, adequate notification by the regional manager must include:

- a. the agency's decision;
- b. the basis for, and effective date of, that decision;
- c. the specific means for appealing the decision;
- d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation;
- e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and
- f. the means through which a fair hearing may be requested, including the name and address of the regional manager.

Note: All fair hearings must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

#### C. Director's Review of Fair Hearing

1. The director shall notify the individual of the intent to review a fair hearing decision in whole or in part within 20 calendar days of the mailing of the impartial hearing officer's decision to the individual.

2. If the director decides to review the decision, the individual shall be provided an opportunity to submit additional evidence and information relevant to a final decision.

3. The director may not overturn or modify a decision of an impartial hearing officer, or part of such a decision, that supports the position of the individual unless:

- a. the initial decision is arbitrary, capricious, an abuse of discretion, or otherwise unreasonable;

- b. the initial decision is not supported by substantial evidence, i.e., consistent with the facts and applicable federal and state policies;

- c. the initial decision by the impartial hearing officer has not given appropriate and adequate interpretation to such factors as:

- i. the federal statute and regulations as they apply to the specific issue;

- ii. the state plan as it applies to the specific issue in question;

- iii. the state procedures manual as it applies to the issue in question;

- iv. key portions of conflicting testimony;

- v. state agency options in the delivery of services if such options are permissible by federal statute;

- vi. restrictions in the federal statute or regulations with regard to such supportive services as maintenance and transportation;

- vii. approved federal or state agency policy as it relates to the issue in question.

4. A final decision shall be made in writing by the director within 30 calendar days of providing notice of intent to review the impartial hearing officer's decision and shall include a full report of the findings and the grounds for the decision. The director shall provide a copy of the final decision to such individual.

#### D. Impartial Hearing Officers

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AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:189 (February 1995), LR 24:958 (May 1998).

#### §115. Financial

A. - A.1.b.v. ...

- vi. rehabilitation technology;

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AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 24:959 (May 1998).

Madlyn B. Bagneris  
Secretary

9805#075

### RULE

#### Department of Transportation and Development Office of the General Counsel

Illegal Outdoor Advertising  
Signs (LAC 70:I.144)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., hereby adopts a rule entitled "Illegal Outdoor Advertising Signs" in accordance with R.S. 48:461.

**Title 70**  
**TRANSPORTATION**

**Part I. Office of the General Counsel**

**Chapter 1. Outdoor Advertising Signs**

**§144. Illegal Outdoor Advertising Signs**

A. An outdoor advertising sign is deemed to be illegal if:

1. the owner has received a certified letter from the department under the provisions of R.S. 48:461 and has failed to respond within the time allotted;

2. the owner replied to the certified letter provided for in R.S. 48:461; received an administrative review as provided for hereafter; received a ruling of illegality and failed to appeal said ruling within the time allotted; or

3. the owner replied to the certified letter provided for in R.S. 48:461; received an administrative review as provided for hereafter; received a ruling of illegality; appealed said ruling as provided for hereafter; and a final ruling of illegality was rendered by the Court.

B. Penalties

1. If the owner fails to reply to the notice within 30 days, as set forth in §144.A.1, then the owner shall be assessed a penalty of \$100 per day for each day that the violation continues to occur, said fine to begin on the date specified in said notice.

2. If the owner requests and receives an administrative hearing as provided for in §144.D, and the hearing results in a finding that the owner's device is illegal, and he fails to appeal said finding, the owner shall be assessed a penalty of \$100 per day for each day that the violation occurred and continues to occur following 30-day written notice of the ruling of the administrative hearing.

3. If the owner receives and appeals the ruling of the administrative hearing and receives a final ruling of illegality rendered by a court of competent jurisdiction, then the owner shall be assessed a penalty of \$100 per day for each day that the violation occurred and continues to occur. Said penalty shall be retroactive to the date 30 days after written notice of the ruling of the administrative hearing.

C. An applicant who requests an outdoor advertising permit for a sign erected without a permit (even though permissible) shall be assessed a surcharge in addition to the permit fee in a sum equal to three times the permit fee.

D. There is hereby created within the Department of Transportation and Development an administrative review process which is available to permit applicants who have received notification that the department intends to remove their outdoor advertising signs or deny future permits.

1. Composition of the Administrative Review Committee. The administrative review committee shall be composed of representatives of the following divisions within the Department of Transportation and Development:

- a. Traffic Services and/or Maintenance Division;
- b. Legal Division;
- c. Office of District Traffic Operation Engineer (office of particular district in which the sign is located) (nonvoting);
- d. Traffic Engineering.

2. Authority of the Administrative Review Committee. The committee, pursuant to a majority vote, may arbitrate and

resolve disputes which arise during the permit process and grant or deny relief to petitioning permittees.

3. The permittee must bring his complaint before the administrative review committee no later than 30 days after notification to remove the illegal sign, or no later than 30 days after receipt of a permit denial, whichever is applicable.

4. Duties of the Administrative Review Committee. The administrative review committee must meet in a timely fashion to review all protests filed by permittees. The administrative review committee must give each protester due notice of meeting time and place. The administrative review committee must notify the permittee of its action within seven working days of its meeting.

5. Rights of the Protesting Permittee. The permittee shall submit, in writing, his protest and all pertinent exhibits. Such submittal must be received five days before the review committee meeting. The permittee may appear before the administrative review committee to offer a brief explanation of his grievance.

6. Permittee's failure to submit an appeal in a timely manner shall constitute a denial of the administrative appeal.

E. Section 144 shall apply to any illegal sign installed prior or subsequent to its promulgation as a final rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR 24:960 (May 1998).

Frank M. Denton  
Secretary

9805#071

**RULE**

**Department of Transportation and Development**  
**Office of the Secretary**  
**Crescent City Connection Division**

Greater New Orleans Mississippi River Bridge  
Number 2 Transit Lanes (LAC 70:I.515)

The Department of Transportation and Development, Office of the Secretary, Crescent City Connection Division, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby adopts the rule applicable to the transit lanes on the Crescent City Connection Bridge Number 2.

**Title 70**

**TRANSPORTATION**

**Part I. Office of the General Counsel**

**Chapter 5. Tolls**

**§515. Crescent City Connection—Transit Lanes**

A. Intent. It is the intent of this rule to efficiently maximize the use of the vehicular traffic lanes of the Crescent City Connection for the increased mobility of individuals and goods across the Mississippi River at New Orleans, to encourage and promote mass transit and transportation such as the use of carpools and other High Occupancy Vehicle (HOV) use, while minimizing transportation related fuel consumption and air pollution, and to provide for one-way reversible traffic flow on

the transit lanes of the Crescent City Connection Bridge Number 2, and the establishment of the requirements for vehicles operating on the transit lanes.

**B. Hours of Operation**

1. The transit lanes of the Crescent City Connection Bridge Number 2 will be open for use by eligible vehicles in accordance with the control signals posted by the Crescent City Connection Division through the Crescent City Connection Police.

2. Generally, the transit lanes of the Crescent City Connection Bridge Number 2 will be open for use by eligible vehicles with the traffic proceeding to the Eastbank in the morning and with the traffic proceeding to the Westbank in the afternoon.

3. However, the directional traffic flow of the transit lanes may be reconfigured by the Crescent City Connection Division in its sole discretion at such times and in such directions in order to protect the public safety during emergencies and to accommodate the public interest during special events.

**C. Ineligible Vehicles.** The objective of the transit lanes is to provide a free flowing facility for mass transit and other high occupancy vehicles. Accordingly, the following vehicles are prohibited from using the transit lanes during the hours of operation even though they may satisfy the vehicle occupancy requirements:

1. vehicles with less than two axles or four wheels;
2. trucks with more than two axles or having a gross weight capacity of one ton or more;
3. vehicles towing trailers;
4. parades;
5. funeral processions;
6. pedestrians;
7. bicycles; and
8. nonmotorized vehicles.

**D. Eligible Vehicles.** The following vehicles are eligible to use the transit lanes during the hours of operation:

1. all public mass transit vehicles, including Regional Transit Authority buses and Jefferson Transit System buses;
2. school buses;
3. commercial passenger vehicles manufactured to carry seven or more passengers and prequalified to use the transit lanes (HOV-7); and
4. other motor vehicles carrying more than a specified number of persons and properly displaying a valid toll tag issued by the Crescent City Connection Division (HOV-2).

**E. Vehicle Occupancy Requirements.** The minimum occupancy requirement for vehicles designated as HOV-2 shall be two or more persons during all hours of operation. The minimum occupancy requirement for vehicles designated as HOV-7 shall continue to be seven or more persons during all hours of operation.

**F. Qualifications**

1. Eligible vehicles meeting the vehicle occupancy requirements must be prequalified to use the transit lanes as follows:

a. **Public Mass Transit Vehicles.** All public mass transit vehicles shall continue to be prequalified to access the transit lanes toll-free during the hours of operation.

b. **School Buses.** All school buses shall continue to be authorized to access the transit lanes toll-free during the hours of operation upon compliance with the school buses exemption provided for under LAC 70:1.509.E.

c. **HOV-7+.** Eligible vehicles meeting the minimum occupancy requirement of seven or more persons must register with the Crescent City Connection Division by providing proof of:

- i. current vehicle registration with the state of Louisiana or other jurisdiction;
- ii. current and valid driver's license; and
- iii. current and fully-paid liability insurance coverage.

d. **HOV-2+.** Eligible vehicles meeting the minimum occupancy requirement of two or more persons and displaying a valid toll tag issued by the Crescent City Connection Division.

2. Toll tags on HOV-2 vehicles must be conspicuously displayed in accordance with the instructions of the Crescent City Connection Division at all times while operating on the transit lanes.

**G. Enforcement.** During all hours of operation, the Crescent Connection Police shall supervise and actively control access to the transit lanes, and enforce vehicle eligibility, minimum occupancy requirements and permit emblem display.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 48:25 et seq. and R.S. 48:1101.2.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Office of the Secretary, Crescent City Connection Division, LR 24:960 (May 1998).

Frank M. Denton  
Secretary

9805#019

**RULE**

**Department of the Treasury  
Board of Trustees of the Teachers' Retirement System**

Deferred Retirement Option Plan (DROP)  
Withdrawal (LAC 58:III.511 and 519)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees of Teachers' Retirement System of Louisiana (TRSL) hereby amends rules relative to the withdrawal of Deferred Retirement Option Plan (DROP) funds.

**Title 58  
RETIREMENT**

**Part III. Teachers' Retirement System  
Chapter 5. Deferred Retirement Option Plan (DROP)  
§511. Change of Drop Withdrawal Method**

A. The participant will have one opportunity per 12-month period to change the chosen withdrawal method if the original method selected was either §509.A.2, 3, 4, or 5. Any change in the withdrawal method must be made in accordance with the life expectancy of the participant, and at no time may the

disbursement from the account be less than the amount of the originally selected periodic payment.

B. When the life expectancy of the participant governs the selected periodic withdrawal method, disbursements from the DROP account shall be made in accordance with the following schedule for all DROP participants first eligible to begin withdrawing on or after November 19, 1996:

Life Expectancy Schedule		
Age when DROP Participant Terminates Employment	Number of Months for Permitted Withdrawals	Number of Years for Permitted Withdrawals
55 or under	360 months	30 years
55 and one day to 60	310 months	25.8 years
60 and one day to 65	260 months	21.7 years
65 and one day to 70	210 months	17.5 years
70 and one day and older	160 months	13.3 years

C. The selection of a withdrawal method and the amount of the periodic payment must be designated by the participant 30 days prior to completion of DROP participation and termination of employment on the form prescribed by the TRSL. Should a participant fail to choose a withdrawal method, or to notify TRSL that employment will continue, TRSL will consider the participant still employed. No benefit will be payable to the participant until official notification of termination of employment, on the prescribed form, is received in the office of TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), LR 24:961 (May 1998).

**§519. Application for DROP**

A member shall not begin their DROP participation until TRSL has received a fully completed, signed, and witnessed original Application for DROP, Form 11F. FAX copies will not be accepted for this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), LR 24:962 (May 1998).

James P. Hadley, Jr.  
Director

9805#023

**RULE**

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

**Triploid Grass Carp (LAC 76:VII.901)**

The Department of Wildlife and Fisheries, Office of Fisheries does hereby amend the rule governing triploid grass carp possession and transportation for aquatic plant control in Louisiana.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 9. Aquaculture—Exotic Species**

**§901. Triploid Grass Carp**

A. Triploid Grass Carp Possession and Transportation for Aquatic Plant Control; Permit Required

\* \* \*

2. Definitions

\* \* \*

*Triploid Grass Carp Sales Permit*—the official document that allows for the importation, transportation, possession and sale of live triploid grass carp in Louisiana, as approved by the secretary or his designee.

*Triploid Grass Carp Seller*—a properly licensed fish farmer who possesses a triploid grass carp sales permit.

3. Triploid Grass Carp Habitat Management Request Procedures

\* \* \*

b.i. The completed applications must be returned to the department, after which department personnel will review the application. Site visitations will be made:

(a). if stocking exceeds 100 triploid grass carp;

(b). if the department determines that such a site visit is necessary; or

(c). by specific request from a water body owner.

ii. Site visitations made by fisheries staff of the Louisiana Cooperative Extension Service or other qualified fisheries professionals may be used as a substitution for a departmental site visit.

c. The department will ensure that the applicant is furnished a copy of rules and regulations pertaining to the importation, transportation and possession of live triploid grass carp in Louisiana.

\* \* \*

e. After approval, the application and fee will be forwarded to the License Section for processing.

4. Transport of Triploid Grass Carp for Habitat Management

a. Permittee must have on his immediate possession a Triploid Grass Carp Possession and Transportation Permit when purchasing and/or transporting live triploid grass carp. This permit must be signed by the secretary or his designee.

Permittee shall show this permit upon demand by department representatives.

b. Prior to importation, fish must be certified as triploid grass carp by the U.S. Fish and Wildlife Service or a qualified agent or contractor approved by the department. Such certification must be furnished to and approved by the department prior to introduction of any fish into any waters of this state.

c. A bill of lading must accompany those individuals in possession of living triploid grass carp during transportation and shall include:

- i. source of triploid grass carp (hatchery);
- ii. name, address and phone number of seller;
- iii. name, address and phone number of buyer;
- iv. copy of triploid certification;
- v. total number of fish;
- vi. destination and route of shipment.

5. Triploid Grass Carp Stocking

a. No waters will be stocked without a department permit.

b. Permittee is responsible for containing triploid grass carp in his waters. Permittee is also responsible for erecting barriers to prevent the escape of triploid grass carp into adjoining waters.

6. Triploid Grass Carp Habitat Management

\* \* \*

h. Permittee is responsible for damages caused by any escapement.

i. Except in cases of mortality or unavoidable loss, restocking will be permitted only at intervals of three years or greater following the initial stocking.

j. The cost of an initial triploid grass carp permit shall be \$50 plus an additional fee for on-site inspection, if deemed necessary by the department, or by specific request from a water body owner as stated in §901.A.3.b.i.(c). An individual wishing to stock triploid grass carp supplementally after the period described in §901.A.6.i must notify the department, after which that individual will be re-permitted at an administrative fee of \$25.

k. Qualified universities and public entities conducting research approved by or in conjunction with the department shall be exempt from fee charges.

l. If a permittee terminates the use of triploid grass carp in the permitted water body, the permittee shall notify the department immediately and dispose of the triploid grass carp according to methods approved by the department.

m. In addition to all other legal remedies, failure to comply with any of the provisions in §901 shall be just cause to immediately suspend and/or revoke the permittee's permit. All triploid grass carp shall be destroyed at permittee's expense, under the department's supervision, within 30 days of permit revocation. Violation of any of the provisions of the permit constitutes a class four violation in accordance with R.S. 56:319(E).

n. Any permittee charged with violation of §901 has a right to make a written response to the alleged violation(s)

to the secretary, requesting a hearing to review the alleged violation(s).

B. Sale of Live Triploid Grass Carp for Aquatic Plant Control; Permit Required

1. Individuals wishing to sell live triploid grass carp must first obtain a Triploid Grass Carp Sales Permit.

2. A triploid grass carp seller must be a properly licensed fish farmer.

3. The person shipping triploid grass carp shall display the words "TRIPLOID GRASS CARP" prominently on at least two sides of the vehicle or hauling tank with letters that are no less than 4 inches high.

4. A triploid grass carp seller is bound by the triploid grass carp possession and transportation regulations as stipulated in §901.A, except that:

a. the Triploid Grass Carp Sales Permit serves in lieu of the Triploid Grass Carp Possession and Transportation Permit;

b. the holders of a Triploid Grass Carp Sales Permit may sell only live triploid grass carp to holders of a valid Triploid Grass Carp Possession and Transportation Permit or a Triploid Grass Carp Sales Permit.

5. The department shall be notified at a designated telephone number (1-800-442-2511) of shipments of live triploid grass carp to permitted buyers at least 24 hours prior to shipment. Notification shall include buyer's name, address, permit number, number of fish and date and route of transport.

6. The initial Triploid Grass Carp Sales Permit will be issued to cover a period of time ending with the calendar year following the date of the permit. Permits shall be renewed annually thereafter. The cost of a Triploid Grass Carp Sales Permit is \$250.

7. An additional fee for the initial inspection of facilities will be assessed and charged.

8. Each Triploid Grass Carp Sales Permit holder will send the department an annual report detailing each sales transaction, including name and address of permitted buyer, permit number, date and number of triploid grass carp sold. These reports must be postmarked no later than the thirtieth day after the end of the calendar year.

9. In addition to all other legal remedies, failure to comply with any of the provisions in §901 shall be just cause to immediately suspend and/or revoke the permittee's permit. All triploid grass carp shall be destroyed at permittee's expense, under the department's supervision, within 30 days of permit revocation. Violation of any of the provisions of the permit constitutes a class four violation in accordance with R.S. 56:319(E).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318, 56:319 and 56:319.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17:806 (August 1991), amended LR 19:511 (April 1993), LR 24:962 (May 1998).

James H. Jenkins, Jr.  
Secretary

9805#079

**RULE**

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

Apprentice Fisherman License (LAC 76:VII.409)

The Wildlife and Fisheries Commission hereby adopts a rule pertaining to an apprentice fisherman license.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 4. License and License Fees**

**§409. Apprentice Fisherman License**

A. Definitions

*Apprentice*—a real person who engages in the taking of finfish for a period of two years only with and aboard the vessel of a validly-licensed commercial fisherman who also holds a valid and appropriate permit/license issued by the department and who is engaged in the commercial taking of saltwater finfish by approved methods.

B. Application

1. At the time of application for an apprentice license, the applicant must provide a notarized affidavit, signed by both the applicant and the mentor, providing the Social Security Number, name, address and commercial fisherman's license number of his mentor and stating the intent to participate in the apprenticeship program.

2. The cost for the apprentice license shall be one half the cost of a commercial fisherman's license.

C. Seasons. A person who holds an apprentice license shall be aboard the vessel with and in the presence of his mentor while engaged in the taking of finfish under this "special apprentice license." The apprentice license shall authorize, under the same conditions as the regular license or permit, the commercial taking of saltwater finfish by the apprentice while in the presence of his mentor during the period for which it is valid. The special apprentice license shall be valid from January 1 through December 31. An

apprentice license must be purchased prior to January 31 to qualify for one full year as an apprentice for the following license year.

D. Eligibility

1. Having held a valid apprentice license for two full years may substitute for the requirement of having held a gill net gear license in two of the years 1993, 1994 and 1995 when applying for a spotted seatrout permit, mullet permit, or rod and reel license. In addition to providing all commercial license application information, the applicant shall be required to show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species for the two years in which he held the apprentice license. Proof of such income shall be provided by the apprentice using one of the methods listed in the appropriate permit or license section that has been approved by the commission.

2. In addition to all other requirements, any applicant applying for a rod and reel license must provide a signed copy of his/her state income tax return for the years in which an apprentice license was held, or a notarized affidavit certifying that he/she was not required to file a state tax return.

3. The Socioeconomic Section of the Department of Wildlife and Fisheries, Office of Management and Finance, will review the submitted tax return information and determine if applicant meets the income eligibility requirement.

E. General Provision. Any person who previously held a commercial fisherman's license, or who has been convicted of a class three or greater violation, shall not be eligible to purchase an apprentice license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:303.8.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:964 (May 1998).

James H. Jenkins, Jr.  
Secretary

9805#078

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Forestry Office of the Commissioner

Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk, and Farm-Raised White-Tailed Deer  
(LAC 7:XXI.1501-1523)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., The Department of Agriculture and Forestry, Office of the Commissioner proposes to amend the permanent regulations regulating Alternative Livestock—Imported Exotic Deer and Imported Antelope, Elk and Farm Raised White-Tailed Deer. These rules comply with and are enabled by R.S. 3:3101 et seq.

The text of this proposed rule can be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

All interested persons may submit written comments on the proposed rules through June 26, 1998, to Dr. Maxwell Lea, Jr., Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed rules is available.

Bob Odom  
Commissioner

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

#### RULE TITLE: Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk, and Farm-Raised White-Tailed Deer

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

There will be no implementation costs or savings to state or local governmental units.

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

The Louisiana Department of Agriculture and Forestry would establish requirements and fees for the permitting of commercial farms raising alternative livestock and farm-raised white-tailed deer (previously regulated by the Department of Wildlife and Fisheries). The one-time game breeders permit fee of \$75 would decrease to \$50 and the yearly permit renewal fee of \$30 would increase to \$50. Estimating that 25 new farms would be permitted and 200 permits renewed, state revenues would increase from \$7,875 to \$11,250, or \$3,375 annually. Additionally, a \$50 harvesting permit fee would have to be paid by any individuals intending to kill alternative livestock for purposes other than sending to an approved slaughter facility. Estimating 400 permits issued times \$50 would increase state revenues by \$20,000. Individuals, who harvest these animals, would have to pay a \$5 alternative livestock tag fee for each animal harvested. Estimating that 600 livestock would be

harvested, state revenue would increase by \$3,000. The total increase in state revenue would be \$26,375.

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

Farmers of alternative livestock would be affected by this rule. The one time fee for permitting a farm would decrease by \$25 under the Department of Agriculture and Forestry. The annual renewal fee would increase by \$20. Individuals owning farms who harvest alternative livestock for purposes other than selling to an approved slaughterhouse would have to pay a \$50 harvesting permit fee per farm and a \$5 alternative livestock tag fee per animal killed. This would cost this group a total of \$26,375.

All farm-raised, white-tailed deer would have to be permanently identified by an implanted electronic device (microchip). The cost to these owners would be approximately \$10 per animal. In addition to this method, owners of all other alternative livestock would have the option of tagging and tattooing their animals which would cost less than \$5.

Owners of all of these animals would be economically benefitted by permanent identification in cases of theft or insuring that the animals purchased are the ones listed on the bill of sale and health certificate.

Farms that allow on site harvesting of alternative livestock would benefit economically by charging an average of \$3,425 per person. Estimating 40 hunters the first year would increase their income by \$137,000. Additional income would be derived from conducting tours, allowing photographers to photograph the animals and allowing the filming of movies.

Louisiana businesses would benefit economically by the individuals using hotels, restaurants, shops, etc. Louisiana's economy would also be benefitted by individuals buying and selling an increased number of alternative livestock in the state and selling to out-of-state buyers.

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

It is estimated that there will be 10 new farms the first year that would hire three to five additional people creating 30 to 45 new jobs in the state. This number would increase as more farms become licensed.

Skip Rhorer  
Assistant Commissioner  
9805#048

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Department of Agriculture and Forestry Office of the Commissioner

Brucellosis Vaccination  
(LAC 7:XXI.101, 305, 307, 309, and 311)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner proposes to amend regulations governing livestock auction



market requirements. These rules comply with and are enabled by R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

No preamble concerning the proposed rules is available.

#### **Title 7**

### **AGRICULTURE AND ANIMALS**

#### **Part XXI. Diseases of Animals**

#### **Chapter 1. General Provisions**

##### **§101. Definitions**

\* \* \*

*Brucellosis Test Eligible*—all cattle which are one year of age and older except:

1. steers;
2. spayed heifers;
3. dairy cattle that are official brucellosis calfhooood vaccinates less than 20 months of age which are not parturient or preparturient (springers);
4. beef cattle that are official brucellosis calfhooood vaccinates less than 24 months of age which are not parturient or preparturient (springers).

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:230 (March 1985), amended LR 12:289 (May 1980), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 12:498 (August 1986), LR 14:129 (April 1988), LR 15:812 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 23:949 (August 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

#### **Chapter 3. Cattle**

##### **§305. Brucellosis Vaccination and Fee**

A. - C. ...

D. All heifer calves between 4 and 12 months of age not vaccinated for brucellosis which are sold through an approved livestock auction market and are to remain in Louisiana more than 360 days must be vaccinated with USDA approved brucellosis vaccine prior to being shipped from said approved livestock auction market. There shall be a fee to be paid by the buyer of \$2 for each heifer calf required to be vaccinated for brucellosis, which fee shall be known as the brucellosis vaccination fee. The brucellosis vaccination fee shall be collected on the date of the sale from the buyer by the approved livestock auction market and forwarded to the Louisiana Department of Agriculture and Forestry no later than the 10<sup>th</sup> day of the month following the month in which the fee was collected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2221 and R.S. 3:2223.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:75 (February 1989), amended LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

##### **§307. Livestock Auction Market Requirements**

A. - A.1.a. ...

b.i. All cattle that are offered for sale through Louisiana livestock auction markets, which are brucellosis test eligible, must be identified by an official back tag; those animals two years of age or older, shall have this official back tag placed

immediately behind the shoulder of the animal. The market shall furnish the Livestock Sanitary Board's official representative a copy of each check-in slip, showing the name of the auction market, the date, the name and complete address of each consignor, and the official back tag numbers applied to the consignor's livestock. The check-in slip shall be made available to the Livestock Sanitary Board's official representative, before the animals can be tested for brucellosis.

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

c.i. - iv. ...

d. All heifer calves, between 4 and 12 months of age not vaccinated for brucellosis, which are to remain in Louisiana more than 30 days must be vaccinated with USDA approved Brucellosis vaccine prior to being shipped from an approved livestock auction market. The responsibility for the brucellosis vaccination of those heifer calves sold through a Louisiana livestock auction market and remaining in Louisiana more than 30 days after the sale shall be placed upon the buyer and the livestock auction market through which said heifer calves are sold. Failure to accomplish this vaccination shall be a violation of this regulation and violators shall be subject to penalties which may be imposed by the Louisiana Livestock Sanitary Board as granted in R.S. 3:2093.

d.i. - g.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:237 (March 1985), amended LR 11:615 (June 1985), amended LR 12:501 (August 1986), LR 12:598 (September 1986), LR 13:556 (October 1987), LR 14:220 (April 1988), LR 14:695 (October 1988), LR 15:813 (October 1989), LR 17:30 (January 1991), LR 18:837 (August 1992), LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

##### **§309. Governing the Sale of Cattle in Louisiana by Livestock Dealers**

All cattle which are sold or offered for sale by livestock dealers must meet the general requirements of §115 and the following specific requirements:

A. - 2.b.ii. ...

3.a. All heifer calves between 4 and 12 months of age must be vaccinated with USDA approved Brucellosis vaccine prior to being sold if they are to remain in Louisiana more than 30 days. The responsibility for the brucellosis calfhooood vaccination of those heifer calves sold by a livestock dealer and remaining in Louisiana more than 30 days after the sale shall be placed upon the buyer and the livestock dealer through which said calves are sold. Failure to accomplish this vaccination shall be a violation of this regulation and violators shall be subject to penalties which may be imposed by the Louisiana Livestock Sanitary Board as granted in R.S. 3:2093.

A.3.b. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:562, R.S. 3:2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:237

(March 1985), LR 11:651 (June 1985), amended LR 12:502 (August 1986), LR 13:558 (October 1987), LR 14:221 (April 1988), LR 17:31 (January 1991), LR 18:838 (August 1992), LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

**§311. Governing the Sale of Purchases, within Louisiana, of all Livestock not Governed by Other Regulations (Brucellosis Requirements)**

A. ...

1. Heifer calves 4 to 12 months of age, which are to remain in Louisiana more than 30 days after being sold must be vaccinated with USDA approved brucellosis vaccine prior to being sold.

2. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:238 (March 1985), LR 11:615 (June 1985), amended 12:502 (August 1986), LR 13:559 (October 1987), LR 17:31 (January 1991), LR 18:837 (August 1992), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

All interested persons may submit written comments on the proposed rules through June 26, 1998, to Dr. Maxwell Lea, Jr., Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above.

Bob Odom  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Brucellosis Vaccination**

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

Currently, there are about 98,000 calves vaccinated yearly at Louisiana livestock auctions. These vaccinations cost the state about \$39,200 a year (\$.40 per calf). Under the proposed rule there will be a 90 percent reduction in vaccinations. About 9,800 calves will be vaccinated at a cost of \$3,920. This results in an estimated reduction of costs of \$35,280 to state governmental units.

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

There is a \$2 per calf fee charged for vaccinations at the livestock auctions. Of this fee, \$.25 is collected by the state. Due to the 90 percent reduction in vaccinations, there will be a decrease in revenues of \$22,050.

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

Louisiana cattle producers selling nonvaccinated calves at livestock auction markets will benefit by this rule change because they will no longer have to pay a \$2 per head fee to have their calves vaccinated against brucellosis. It is estimated 98,000 calves per year are vaccinated saving this group \$196,000 per year.

Louisiana cattle producers buying nonvaccinated calves at livestock auction markets to take back to a Louisiana farm will be adversely affected by this rule change. Approximately 90 percent of the calves sold at Louisiana auction markets move

directly out of state. The 10 percent returning to Louisiana farms will need to be vaccinated to protect them against this devastating disease. Producers who buy these calves to take back to farms will have to pay a vaccination fee of \$2 per head for a total cost of \$19,600. The accredited veterinarians who vaccinate calves at auction markets will be adversely affected because they will be vaccinating 90 percent fewer calves. The veterinarians receive a \$1.75 per head of the fee charged, thus decreasing their revenues by \$154,350.

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

It is estimated that the proposed action will have no impact on competition or employment in the public or private sectors.

Skip Rhorer  
Assistant Commissioner  
9805#049

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Agriculture and Forestry  
Office of the Commissioner**

Forestry Productivity Program  
(LAC 7:XXXIX.Chapter 13)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner proposes to adopt regulations governing the Louisiana Forestry Productivity Program, enacted by Act 1377 of 1997. These rules comply with and are enabled by R.S. 3:3101 et seq.

No preamble concerning the proposed rules is available.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XXXIX. Forestry**

**Chapter 13. Forestry Productivity Program  
§1301. Authority**

The Commissioner of Agriculture and Forestry adopts the following regulations under the authority of R.S. 3:4413 for the purpose of implementing the provisions of R.S. 3:4410 - 4416, the Louisiana Forestry Productivity Program, enacted by Act 1377 of 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

**§1303. Definitions**

The terms defined in this Section have the meanings given to them herein, for purposes of these regulations, except where the context expressly indicates otherwise.

*Approved Forestry Practice*—a forestry practice approved by the Department, for which the landowner is authorized to receive reimbursement under the cooperative agreement.

*Commissioner*—commissioner of the Louisiana Department of Agriculture and Forestry.

*Cooperative Agreement*—the written and signed contract including all other documents made a part of the agreement or incorporated by reference between the Department and a

landowner, together with any written and signed amendments or addendums to the original cooperative agreement, establishing the terms of the agreement between the Department and the landowner under the Louisiana Forestry Productivity Program.

*Department*—the Louisiana Department of Agriculture and Forestry, Office of Forestry.

*Forestry Practice*—any procedure or method used in the establishment and management of timber species.

*Fund*—the Forestry Productivity Fund established at R.S. 3: 4411.B.

*Landowner*—any individual, corporation, partnership, association, trust, joint venture, other legal entity or combination thereof who owns five contiguous acres or more of land located in Louisiana. For purposes of these regulations a joint ownership of property is considered to be one landowner separate and apart from the individuals or entities who own the property jointly.

*Program*—the Forestry Productivity Program authorized by R.S. 3:4410- 4416.

*State*—collectively, the State of Louisiana, the Department of Agriculture and Forestry, the State Forestry Commission and the Commissioner of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

**§1305. Application and Fee**

A. Any landowner desiring to apply for participation in this program must first submit an application to the Department on a form supplied by the Department.

B. Each landowner submitting an application must also submit a \$25 nonrefundable application fee at the time the landowner's application is initially submitted to the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

**§1307. Extent of State Participation**

A. Financial assistance by the state to any one landowner participating in this program shall be limited to a total value of ten thousand dollars during a fiscal year.

B. The state's participation under any cooperative agreement shall be limited to either or both of the following types of assistance:

1. a direct grant, for the purpose of assisting the landowner in implementing an approved forestry practice authorized by a cooperative agreement through the use of the landowner's resources or through the landowner's contacts with private firms; or

2. utilization of the state's personnel, equipment, or materials to implement an approved forestry practice authorized by a cooperative agreement, if private sector services are unavailable.

C. A direct grant shall not exceed 50 percent of the cost of implementing the cooperative agreement or the maximum cost share rates established by these regulations, whichever is less. In the event that state personnel, equipment or materials are

utilized to implement an approved forestry practice the landowner shall be invoiced by the Department for the cost of implementing the forestry practice. The landowner shall promptly pay such invoice and may subsequently submit the paid invoice for reimbursement under this program and these rules and regulations.

D. The maximum cost share rates are established as follows:

MAXIMUM COST-SHARE RATES—50 percent of the cost not to exceed the following rates.		
<b>FPP1</b>	<b>ARTIFICIAL REGENERATION COMPONENT</b>	
Code	(Tree Planting)	Maximum C/S Rate
01	Pine (loblolly or slash, planting and seedling cost)	\$40/acre
02	Hardwood (planting and seedling cost)	\$70/acre
03	Labor Only (pine or hardwood)	\$23/acre
04	Longleaf Pine (planting and seedling cost)	\$65/acre
<b>Direct Seeding</b>		
05	Pine (seed and labor cost)	\$12/acre
06	Hardwood (seed and labor cost)	\$28/acre
<b>Site Preparation</b>		
11	Light (discing, mowing, or sub-soiling)	\$10/acre
12	Burn Only (cut-over areas or agricultural lands)	\$8/acre
13	Chemical and Burn (aerial, ground, or injection)	\$60/acre
14	Mechanical and Burn	\$60/acre
15	Post-site Preparation (aerial, ground, or injection)	\$45/acre
<b>FPP2</b>	<b>SITE PREPARATION FOR NATURAL REGENERATION</b>	
21	Burning Only	\$8/acre
22	Chemical or Mechanical	\$45/acre
23	Chemical and Burning	\$60/acre
<b>FPP3</b>	<b>CONTROL OF COMPETING VEGETATION</b>	
31	Chemical Release (aerial, ground, or injection)	\$45/acre
32	Precommercial Thinning (mechanical)	\$41/acre
33	Burning Only (longleaf pine)	\$4/acre

SITE PREPARATION FOR NATURAL REGENERATION		
	Burning Only	\$8/acre
	Chemical or Mechanical	\$45/acre
	Chemical and Burning	\$60/acre

CONTROL OF COMPETING VEGETATION		
	Chemical Release (aerial, ground, or injection)	\$45/acre
	Precommercial Thinning (mechanical)	\$41/acre
	Burning Only (longleaf pine)	\$4/acre

E. The commissioner, with the advice of the State Forester's Forestry Planning Committee, shall review annually the cost share rates established in this Section and determine if any of the rates require adjustment.

F. The state shall not provide reimbursement under this program for any forestry practice implemented by a landowner unless a cooperative agreement is on file with the department prior to implementation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4412 and R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

**§1309. Land and Landowners Eligibility, Exclusions and Limitations**

A. Any landowner owning five contiguous acres or more in Louisiana suitable for growing a timber species approved by the Department is eligible for participation in this program unless excluded by these regulations or otherwise excluded by law.

B. The following landowners are not eligible to participate in this program:

1. landowners owning less than five contiguous acres of land;
2. public utilities companies;
3. landowners engaged in the manufacturing or production of forestry products;
4. any federal, state, or local government agency or political subdivision;
5. corporations with publicly traded stock;
6. any landowner with joint ownership in an eligible tract of land unless all joint owners and usufructaries or duly authorized agent or agents, if any, sign the cooperative agreement;
7. any entity, other than a natural person, including but not limited to trusts, joint ventures, partnership, limited liability companies or successions, which have a set legal existence of less than ten years unless all persons or legal entities who would, by law, be entitled to receive title to the land upon dissolution of the entity sign the cooperative agreement.

C. The following lands are not eligible to participate in this program:

1. any tract of land that is less than five contiguous acres;
2. lands owned by any landowner not eligible for participation;
3. land subject, at the time of application, to a reforestation contract with any federal, state or local government agency or under a private reforestation program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:44413 and R.S. 3:4414.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

**§1311. Obligations of the Landowner**

A. The landowner shall abide by the provision of the law establishing this program, these regulations, and the cooperative agreement.

B. The landowner shall maintain the land subject to the cooperative agreement in forestry usage in accordance with the cooperative agreement for a period of at least ten years from the date the Department issues a certification of performance of the terms of the cooperative agreement.

C. The landowner shall not sell, convey, or otherwise lose control of land subject to a cooperative agreement under this program without placing a provision in the act transferring the land requiring the new landowner to assume responsibility for abiding by the terms of the cooperative agreement and to maintain the approved forestry practices for the life of the cooperative agreement.

D. The landowner shall reimburse the department the cost of the state's involvement in the cooperative agreement plus court costs and reasonable attorney fees if the landowner violates the law establishing the program, these regulations or the cooperative agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

**§1313. Approved Forestry Practices**

Forestry practices approved by the commissioner for purposes of this program are:

1. site preparation for reforestation by natural or artificial means;
2. planting of seeds or seedlings;
3. timber stand improvement through removal of undesirable vegetation or trees; and
4. post planting procedures that to improve the growth, productivity, or viability of trees planted under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

**§1315. Forestry Practice Implementation Period**

Each landowner shall have eighteen months to complete the forestry practice or practices authorized by the cooperative agreement. A landowner may apply, in writing, for an extension of up to six months in which to complete the practice or practices. The department may grant the extension if it determines that the practice or practices were not completed as a result of circumstances beyond the landowner's control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413 and R.S. 3:4415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

**§1317. Payment by the Department**

A. Payment by the department to any landowner under any cooperative agreement entered into under this program shall be made by the department only out of monies that are in the fund at the time payment is due.

B. The department shall make payment under any cooperative agreement only when:

1. the landowner has completed, to the department's

satisfaction, all forestry practices stated in the cooperative agreement;

2. the landowner has complied with all other terms of the cooperative agreement;

3. the landowner has submitted invoices paid by him for all forestry practices authorized by the cooperative agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

**§1319. Repayment by Landowners to the Department**

A. The Department may seek repayment from a landowner when:

1. the landowner has, for any reason, received monies over and above the amount allowed by law or these regulations;

2. the landowner has failed to maintain the approved forestry practices for the life of the cooperative agreement;

3. the landowner has failed to abide by the terms of the cooperative agreement;

4. the landowner sells, conveys, or otherwise loses control of land subject to a cooperative agreement under this program and the new landowner does not abide by the terms of the cooperative agreement or does not maintain the approved forestry practices for the life of the cooperative agreement;

5. the department determines that a landowner has committed program violations or abuses that require repayment from the landowner or has violated any of the provisions of §1311 of these regulations.

B. A landowner may appeal a department's demand for repayment of monies paid the landowner under this program by filing with the Commissioner a written request for an administrative review by him of the department's demand for repayment. The landowner's request for an administrative review must be postmarked within 15 days after the landowner receives the department's demand for repayment. A copy of the request must also be sent to the state forester who, upon receipt of the landowner's request shall forward all of the department's pertinent documentation to the commissioner with a copy to the landowner.

C. The landowner's request for an administrative adjudicatory hearing shall contain the following information:

1. the name, address and telephone number of the landowner and of any party that the landowner believes may be adversely affected by the commissioner's determination;

2. a statement of the facts known to the landowner and the reasons why he believes that the department is not entitled to repayment; and

3. a copy of all invoices and documents relating to the cooperative agreement.

D. The commissioner, upon receipt of all documentation from the department and the landowner shall either review the information and make a decision or appoint a hearing officer to conduct an administrative adjudicatory hearing and submit a report and recommendation to the Commissioner for a final decision. Any administrative adjudicatory hearing shall be conducted in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413 and R.S. 3:4415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

**§1321. Competitive Research and Cooperative Extension Grants**

A. A competitive grant process is hereby created, subject to the following provisions, in order to provide for research and cooperative extension activities to enhance reforestation, increase productivity; and to further knowledge regarding the proper application of forestry principles.

B. Each fiscal year the commissioner shall set aside a portion of the monies in the fund to be used for competitive grants.

C. All competitive grants shall be awarded on a matching fund basis, with no more than 50 percent of the cost of the program being funded to be paid by the fund.

D. No grant shall be awarded under this program for any purposes other than research or cooperative extension activities intended to enhance reforestation, increase productivity, or to further knowledge regarding the proper application of forestry principles.

E. All grant proposals must be submitted, in writing, to the department no later than May 1 of each year. Each grant proposal must state in detail the purpose, goals, procedures, completion date and budget of the project as well as any additional information requested by the department.

F. The commissioner may award grants, no later than July 1 of each year, if the commission determines that an award of a grant will fulfill the purposes of the program. Upon the award of a grant the department and the grant recipient will enter into a written cooperative agreement detailing the terms and conditions of the grant.

G. Any grant that is awarded for a project that extends beyond the fiscal year in which the initial grant award is made may be renewed for the following fiscal year but any payment of monies by the department under the extended grant shall be subject to the availability of grant money in the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413 and R.S. 3:4416.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

All interested persons may submit written comments on the proposed rules through June 26, 1998, to Don Feduccia, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, Louisiana 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above.

Bob Odom  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Forestry Productivity Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The Louisiana Department of Agriculture and Forestry,

Office of Forestry will expend approximately \$3,486,865 on the Forest Productivity Program (FPP) in FY 1998-99. An estimate of \$20,000 of that amount may come from self-generated revenue directly related to this rule. The remainder is dedicated revenue from La. R.S. 3:4413. Of the total expenditure amount, \$346,686 is allotted to fund 12 new positions and the remaining amount is to fund the activities of the FPP. No local government impact will occur.

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

Approximately \$3,466,865 in dedicated revenue is expected for the Office of Forestry in FY 98-99, with an additional \$20,000 in self-generated revenue for the agency. The monies collected in dedicated revenue are expected to increase in subsequent fiscal years. No local government impact will occur.

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

The FPP will provide approximately \$3,140,179 the first year in state cost-share assistance to forest landowners for the purpose of reforestation in Louisiana. Those funds will be spent with forestry service providers including tree nurseries, tree planters, site preparation vendors, and other providers of goods and services related to reforestation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This program will result in a very significant increase in reforestation activity in Louisiana. A host of private sector businesses will benefit from the FPP due to the increase in reforestation activities. Specific areas of increase will be tree seedling sales, tree planting services, site preparation services, and other associated business activities which support reforestation efforts. There will be a smaller public sector impact within the Office of Forestry where tree seedling demand will increase, and some site preparation activities, such as prescribed burning will also increase.

Skip Rhorer  
Assistant Commissioner  
9805#047

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Economic Development  
Racing Commission**

Coupled Entries; Fields (LAC 35:XIII.11113)

The Louisiana State Racing Commission hereby gives notice that it intends to repeal LAC 35:XIII.11113 "Coupled Entries; Fields" to eliminate the prohibition of coupled entries and fields in trifecta races.

**Title 35  
HORSE RACING  
Part XIII. Wagering  
Chapter 111. Trifecta  
§11113. Coupled Entries; Fields**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 11:616 (June 1985), repealed by the Department of Economic Development, Racing Commission, LR 24:

The domicile office of the Louisiana State Racing Commission is open from 8AM to 4PM and interested parties may contact Paul D. Burgess, executive director; C. A. Rieger, assistant director; or Tom Trenchard, administrative manager, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information.

All interested persons may submit written comments relative to this proposed rule through June 6, 1998, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Paul D. Burgess  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Coupled Entries; Fields**

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

There are no costs to implement this action.

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

This action is not anticipated to affect revenue collections.

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

This action benefits patrons and horsemen by no longer prohibiting coupled entries and fields in races with trifecta wagering.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action has no effect on competition nor employment.

Paul D. Burgess  
Executive Director  
9805#054

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 904—Guidelines for the Submission of a Charter School Proposal (LAC 28:I.904)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted Bulletin 904, Guidelines for the Submission of a Charter School Proposal. The bulletin contains regulations and guidelines pertaining to the submission of Type 2 and Type 4 Charter School Proposals. The guidelines describe the educational program; financial component; eligibility criteria; application requirements; and, the application review and approval process. The *Louisiana Administrative Code* will be amended to include LAC 28:I.904 as follows:

**Title 28**  
**EDUCATION**

**Part I. Board of Elementary and Secondary Education**  
**Chapter 9. Bulletins, Regulations, and State Plans**

**Subchapter A. Bulletins and Regulations**

**§904. Guidelines for Submission of a Charter School Proposal**

A. Bulletin 904, Guidelines for Submission of a Charter School Proposal, is adopted.

B. This Bulletin contains regulations and guidelines pertaining to the submission of Type 2 and Type 4 charter school proposals. It includes guidelines for describing the educational program and financial component of the proposed charter school. Also included are eligibility criteria, application requirements, and the application review and approval process. These guidelines comply with Louisiana's revised Charter Schools Demonstration Program Law, Act 477 of 1997, which is included in the guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3971-3973, 3981-3983, 3991-3993, 3995-3999, and 4001; and R.S. 39:75(C)(1)(b).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 24:

Copies of the Guidelines for the Submission of a Charter School Proposal, Bulletin 904, may be seen in its entirety at the Office of the State Register, 900 Riverside North, Baton Rouge, or at the office of the State Board of Elementary and Secondary Education, 626 North Fourth Street, Room 104, Baton Rouge, LA.

Interested persons may submit written comments until 4:30 p.m., July 10, 1998 to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

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

**RULE TITLE: Bulletin 904—Guidelines for**  
**the Submission of a Charter School Proposal**

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

BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$40. Funds are available.

Costs associated with the implementation of Act 477 of 1997 are dependent upon the number of charters granted in each fiscal year. Type 2 Charter Schools will cause an increase in state expenditures as the state will fund both the state and local share of costs for students. As per the FY 97-98 MFP Budget Letter, the state cost per student is \$2,730, while the local cost is \$1,824. Also, the number of non-public school students transferring into charter schools will determine any additional increases in state expenditures.

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

Act 477 of 1997 states that the monies in the Charter School Start-Up Loan Fund shall be invested by the state treasurer and interest earned shall be credited to the fund. The fund currently totals \$3 million, while the appropriation from this fund for FY 97-98 is \$1.3 million. Revenues generated will be dependent

upon both the amount available from the fund for investment and market conditions.

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

Students attending these charter schools are expected to benefit from a less structured learning environment. As many of these schools will be directed toward at-risk children, there will be increased instructional flexibility to deal with problems which are not typical to mainstream students.

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

Charter schools could attract a number of teachers from the local school systems because the law requires that 75 percent of the charter school teachers must be certified. Also, the law allows these teachers to leave the local system for up to three years with the ability to then return to their previous school. These factors could potentially combine to create teacher shortages in some local school systems.

Weegie Peabody  
Executive Director  
9805#043

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Environmental Quality**  
**Office of Air Quality and Radiation Protection**  
**Air Quality Division**

Emissions (LAC 33:III.5116, 5122, and 5311)(AQ174\*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Regulatory Division Regulations, LAC 33:III.5116, 5122, and 5311 (AQ174\*).

This proposed rule is identical to a federal regulation found in 40 CFR part 61, subparts L, N, O, and P; 40 CFR part 63, subparts L and EE; 62 FR 37720 (subparts U & JJJ) July 15, 1997, Number 135; 62 FR 42918 (subpart N) August 11, 1997, Number 154; 62 FR 52382 (subpart LL) October 7, 1997, Number 194; and 62 FR 64736 (subpart O) December 9, 1997, Number 236, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed rule incorporates by reference, into LAC 33:III.Chapters 51 and 53, additional federal regulations in 40 CFR parts 61 and 63, National Emission Standards for Hazardous Air Pollutants (NESHAP). These changes will expedite both the EPA approval process and the state implementation of delegation of authority. Authorization for EPA to delegate authority of that program to the state is established in the Clean Air Act Amendments of 1990, section 112. This rulemaking is applicable to stationary sources

statewide. The state has received delegation of authority from EPA to implement NESHAP by "straight" delegation, which requires the state to incorporate into their regulations, rules as promulgated by EPA without change. Louisiana incorporated certain NESHAP regulations by reference on January 20, 1997. In agreement with the revised delegated authority mechanism and with EPA grant objectives, the department is now incorporating additional NESHAP regulations by reference. The basis and rationale for this proposed rule are to mirror the federal regulations. If the rule is not adopted, it would be a hindrance to Louisiana's authority to implement the NESHAP Program. Louisiana would also fail to meet its 1997/98 EPA grant objectives related to this proposed rule and to delegation revisions.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S. 49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33  
ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program**

**Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

**§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Code of Federal Regulations* at 40 CFR part 61, revised as of July 1, 1997, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the State of Louisiana.

40 CFR 61	Subpart/Appendix Heading
* * *	
[See Prior text in Subpart A-J]	
Subpart L	National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants
Subpart N	National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants
Subpart O	National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters
Subpart P	National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities
* * *	
[See Prior Text in Subpart V-Appendix C]	

B. Corrective changes are made to 40 CFR part 61 subpart A, section 61.04(b)(T), to read as follows: State of Louisiana: Air Toxics Section Program Manager, Air Quality Regulatory Division, Louisiana Department of Environmental Quality, Box 82135, Baton Rouge, LA 70884-2135.

C. Copies of documents incorporated by reference in this Chapter are available for review at the Air Quality Division Information Center, Louisiana Department of Environmental Quality, or may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), LR 23:1658 (December 1997), amended LR 24:

**Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources**

**§5122. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR part 63, revised as of July 1, 1997, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the State of Louisiana.

40 CFR 63	Subpart/Appendix Heading
* * *	
[See Prior Text in Subpart A-I]	
Subpart L	National Emission Standards for Coke Oven Batteries
* * *	
[See Prior Text in M-DD]	
Subpart EE	National Emission Standards for Magnetic Tape Manufacturing Operations
* * *	
[See Prior Text in Subpart GG-Appendix D]	

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Federal Register* as promulgated from July 2, 1997, through December 31, 1997, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the State of Louisiana.

40 CFR 63	Federal Register Citation	Date Promulgated	Subpart/Appendix Heading
Subpart N	62 FR 42918	August 11, 1997	National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks



Subpart O	62 FR 64736	December 9, 1997	National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations
Subpart U	62 FR 37720	July 15, 1997	National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins
Subpart LL	62 FR 52383	October 7, 1997	National Emission Standards for Hazardous Air Pollutants for Source Categories; National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants
Subpart JJJ	62 FR 37720	July 15, 1997	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:

**Chapter 53. Area Sources of Toxic Air Pollutants**  
**Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources**

**§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources**

Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR part 63, revised as of July 1, 1997, and specifically listed in the following table are hereby incorporated by reference as they apply to area sources in the State of Louisiana.

40 CFR 63	Subpart/Appendix Heading
Subpart A	General Provisions
Subpart M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities
Subpart X	National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:

A public hearing will be held on June 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested

persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ174\*. Such comments must be received no later than June 24, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ174\*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.:

7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen  
Assistant Secretary

9805#042

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Air Quality and Radiation Protection  
Air Quality Division**

Federal Transportation Conformity  
(LAC 33:III.Chapter 14)(AQ172\*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.Chapter 14.Subchapter B (AQ172\*).

This proposed rule is identical to a federal regulation found in 40 CFR part 63, subpart A as amended in 62 FR 43802-43818, August 15, 1997, Number 158, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

The proposed rule repeals the existing state transportation conformity rule with the exception of two sections. The rule incorporates by reference the federal requirements established in 40 CFR part 93, subpart A, that transportation plans,

programs, and projects which are developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Act conform to state or federal implementation plans. The state is required to submit a State Implementation Plan (SIP) revision to EPA that includes an enforceable transportation conformity rule. Promulgation of this rule will enable the state to submit the required transportation conformity SIP. The basis and rationale for this proposed rule are to mirror the amendments to the federal transportation conformity regulations published on August 15, 1997 in 62 FR 43802-43818.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S. 49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part III. Air**

**Chapter 14. Conformity**

**Subchapter B. Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Act**

LAC 33:III.Chapter 14.Subchapter B is hereby repealed with the exception of LAC 33:III.1431. In addition, §1441 is being renumbered to §1434.

**§1432. Incorporation by Reference**

40 CFR part 93, subpart A, sections 101-123 found in the *Federal Register*, volume 62, No. 158, August 15, 1997, pages 43802-43818 are hereby incorporated by reference with the exclusion of sections 102(d) and 105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 24:

**§1433. Definitions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1434. Consultation (Previously §1441)**

\* \* \*

[See Prior Text in A-E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repromulgated LR 24:

**§1435. Applicability**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1437. Priority**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1439. Frequency of Conformity Determinations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1441. Consultation—moved to §1434**

**§1443. Content of Transportation Plans**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1445. Relationship of Transportation Plan and TIP Conformity with the NEPA Process**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1447. Fiscal Constraints for Transportation Plans and TIPs**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1449. Criteria and Procedures for Determining Conformity of Transportation Plans, Programs, and Projects: General**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1451. Criteria and Procedures: Latest Planning Assumptions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1453. Criteria and Procedures: Latest Emissions Model**  
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1455. Criteria and Procedures: Consultation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1457. Criteria and Procedures: Timely Implementation of TCMs**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1459. Criteria and Procedures: Currently Conforming Transportation Plan and TIP**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1461. Criteria and Procedures: Projects from a Plan and TIP**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1463. Criteria and Procedures: Localized CO and PM<sub>10</sub> Violations (Hot-Spots)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1465. Criteria and Procedures: Compliance with PM<sub>10</sub> Control Measures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1467. Criteria and Procedures: Motor Vehicle Emissions Budget (Transportation Plan)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1469. Criteria and Procedures: Motor Vehicle Emissions Budget(s) (TIP)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1471. Criteria and Procedures: Motor Vehicle Emissions Budget (Project not from a Plan and TIP)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1473. Criteria and Procedures: Localized CO Violations (Hot-Spots) in the Interim Period**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1475. Criteria and Procedures: Interim Period Reductions in Ozone and CO Areas (Transportation Plan)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1477. Criteria and Procedures: Interim Period Reductions in Ozone and CO Areas (TIP)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1479. Criteria and Procedures: Interim Period Reductions for Ozone and CO Areas (Project not From a Plan and TIP)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1481. Criteria and Procedures: Interim Period Reductions for PM<sub>10</sub> and NO<sub>2</sub> Areas (Transportation Plan)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1483. Criteria and Procedures: Interim Period Reductions for PM<sub>10</sub> and NO<sub>2</sub> Areas (TIP)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1485. Criteria and Procedures: Interim Period Reductions for PM<sub>10</sub> and NO<sub>2</sub> Areas (Project not from a Plan and TIP)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1487. Transition from the Interim Period to the Control Strategy Period**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1489. Requirements for Adoption or Approval of Projects by Recipients of Funds Designated Under Title 23 U.S.C. or the Federal Transit Act**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1491. Procedures for Determining Regional Transportation-Related Emissions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1493. Procedures for Determining Localized CO and PM<sub>10</sub> Concentrations (Hot-Spot Analysis)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1495. Using the Motor Vehicle Emissions Budget in the Applicable Implementation Plan (or Implementation Plan Submission)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1496. Enforceability of Design Concept and Scope and Project-Level Mitigation and Control Measures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1497. Exempt Projects**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1498. Projects Exempt from Regional Emissions Analysis**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

**§1499. Special Provisions for Nonattainment Areas Which are not Required to Demonstrate Reasonable Further Progress and Attainment**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:

A public hearing will be held on June 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. This hearing will also be for a revision to the State Implementation Plan (SIP) to incorporate this proposed rule. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an

accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ172\*. Such comments must be received no later than June 24, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ172\*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.:

7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen  
Assistant Secretary

9805#039

## NOTICE OF INTENT

### Department of Environmental Quality Office of Air Quality and Radiation Protection Air Quality Division

Federal Transportation Conformity  
(LAC 33:III.1431 and 1441)(AQ173)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.1431 and 1441 (AQ173).

This proposed rule establishes policy, criteria, and procedures for demonstrating and assuring conformity of transportation plans, programs, and projects that are developed, funded, or approved by the U.S. Department of Transportation and by Metropolitan Planning Organizations under Title 23 U.S.C. or the Federal Transit Act of state or federal air quality implementation plans developed in accordance with section 110 and part D of the Clean Air Act. To be consistent with the federal transportation conformity regulations, LAC 33:III.1431 and 1441 are being amended. The proposed rule amends the interagency consultation process requirements in accordance with the federal transportation conformity rule that was amended August 15, 1997. In addition, the proposed rule amends the public consultation procedures requirements. The federal

transportation conformity rule has been amended three times. This proposed rule incorporates the changes. This action is mandated by section 176(c) of the Clean Air Act, as amended (42 U.S.C. 7401 et seq.), and the related requirements of 23 U.S.C. 109(j). Federal requirements for transportation conformity are established in 40 CFR part 63, subpart A and in 40 CFR 51.390. The basis and rationale for this proposed rule are to comply with the federal transportation conformity requirements for states published on August 15, 1997 in 62 FR 43802-43818.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

## Title 33

### ENVIRONMENTAL QUALITY

#### Part III. Air

#### Chapter 14. Conformity

#### Subchapter B. Conformity to State or Federal

#### Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Laws

#### §1431. Purpose

The purpose of this regulation is to implement section 176(c) of the Clean Air Act (CAA), as amended (42 U.S.C. 7401 et seq.), the related requirements of 23 U.S.C. 109(j), and regulations under 40 *Code of Federal Regulations* (CFR) part 93, subpart A with respect to the conformity of transportation plans, programs, and projects that are developed, funded, or approved by the United States Department of Transportation (DOT) and by metropolitan planning organizations (MPOs) or other recipients of funds under title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. 1601 et seq.). This regulation sets forth policy, criteria, and procedures for demonstrating and ensuring conformity of such activities to applicable implementation plans developed according to section 110 and part D of the CAA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), amended LR 24:

#### §1441. Consultation

A. Pursuant to 40 CFR 93.105 interagency consultation (federal, state, and local) shall be undertaken before making conformity determinations and before adopting applicable State Implementation Plan (SIP) revisions.

\* \* \*

[See Prior Text in B-B.6.c]

- d. FHWA—division administrator or designee;
- e. FTA—director, Office of Program Development or designee;
- f. EPA—regional administrator or designee; and
- g. local publicly-owned transit agencies—general manager or designee.

7. Before adoption and approval of conformity analyses prepared for plans, Transportation Improvement Plans (TIPs), and projects, the Metropolitan Planning Organization (MPO)

and/or Department of Transportation and Development (DOTD) shall distribute a final draft of the documents, including supporting technical materials, to the consulting agencies for review and comments. Lead agencies shall respond to significant comments made by the consulting agencies on plans, TIPs, projects, or SIPs in writing within 30 working days. Comments and responses to comments shall be distributed for review by all agencies identified in Subsection B.2 of this Section. Following resolution of all significant issues, final documents shall be revised accordingly and submitted to the designated lead agency for formal adoption and approval.

\* \* \*

[See Prior Text in B.8-C.1.b]

c. the MPO shall submit a list of exempt projects to agencies specified in Subsection B.2 of this Section to evaluate whether projects otherwise exempted from meeting the requirements of 40 CFR part 93, subpart A (see sections 126 and 127) should be treated as nonexempt in cases where potential adverse emissions impacts may exist for any reason. The MPO shall allow 30 days for comments;

d. the MPO and/or DOTD, in cooperation with DEQ, shall make a determination, as required by 40 CFR 93.113(c)(1), whether past obstacles to implementation of TCMs that are behind the schedule established in the applicable implementation plan have been identified and are being overcome and whether state and local agencies with influence over approvals or funding for TCMs are giving highest priority to approval or funding for TCMs. This process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures;

e. the MPO and/or DOTD, in cooperation with DEQ, shall identify, as required by 40 CFR 93.123(b), projects located at sites in  $PM_{10}$  nonattainment areas that have vehicle and roadway emission and dispersion characteristics that are essentially identical to those at sites which have violations verified by monitoring and, therefore, require quantitative  $PM_{10}$  hot-spot analysis;

f. the MPO shall notify the agencies specified in Subsection B.2 of this Section of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in 40 CFR 93.126 or 93.127 and allow a 30-day comment period; and

g. DOTD, in consultation with applicable agencies specified in Subsection B.2 of this Section, shall cooperatively choose the appropriate conformity test(s) and methodologies for use in isolated rural nonattainment and maintenance areas, as required by 40 CFR 93.109(g)(2)(iii).

\* \* \*

[See Prior Text in C.2]

a. DEQ, in cooperation with the MPO and DOTD, shall evaluate events that will trigger new conformity determinations in addition to those triggering events established in 40 CFR 93.104. DEQ may require a new conformity determination in the event of any unforeseen circumstances; and

\* \* \*

[See Prior Text in C.2.b-C.3]

4. The MPO, in accordance with Subsection B of this Section and with the cooperation of DOTD and local transportation agencies and recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws, shall coordinate and ensure that plans for construction of regionally significant projects that are not FHWA/FTA projects including projects for which alternate locations, design concept and scope, or the no-build option are still being considered, as well as all those by recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws, are disclosed to the MPO on a regular basis and ensure that any changes to those plans are immediately disclosed. The sponsors of non-FHWA/FTA projects and recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws shall disclose to the MPO on a regular basis significant projects and their status.

5. The MPO, in accordance with Subsections B and C.4 of this Section, and other recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws, shall cooperatively assume the location and design concept and scope of projects that are disclosed to the MPO as required by Subsection C.4 of this Section, but whose sponsors have not yet decided these features in sufficient detail to perform the regional emissions analysis according to the requirements of 40 CFR 93.122.

\* \* \*

[See Prior Text in C.6-D.4]

E. Public Consultation Procedures. Consistent with the requirements of 23 CFR 450.316(b), relating to public involvement, affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process that provides opportunity for public review and comment. This process shall, at a minimum, provide reasonable public access to technical and policy information considered by the agency at the beginning of the public comment period and before taking formal action on conformity determinations for all TPs and TIPs. Any charges imposed for public inspection and copying of conformity-related materials shall be consistent with the fee schedule contained in 49 CFR 7.95. In addition, any such agency must specifically address in writing any public comments claiming that known plans for a regionally significant project that is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. Any such agency shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), amended LR 24:

A public hearing will be held on June 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. This hearing will also be for a revision to the State Implementation Plan (SIP) to incorporate this proposed rule. Interested persons are invited to attend and submit oral comments on the proposed

amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ173. Such comments must be received no later than July 1, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ173.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen  
Assistant Secretary

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

**RULE TITLE: Federal Transportation Conformity**

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

No costs or savings to state or local governmental units are anticipated as a result of the implementation of this proposed rule.

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

Revenue collections of state or local governmental units will not be affected by this proposed rule.

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

The proposed amendment to the rule will result in no additional estimated economic costs or economic benefits to directly affected persons or nongovernmental groups.

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

Implementation of this proposed rule will not affect competition and employment in the public and private sectors.

Gus Von Bodungen  
Assistant Secretary  
9805#038

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Air Quality and Radiation Protection  
Air Quality Division**

Lead-Based Paint Activities  
(LAC 33:III.2801)(AQ140)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.2801.B (AQ140).

This proposed rule amends LAC 33:III.2801.B by changing "individuals" to "persons." The department is seeking authorization for its lead program from the federal government. The department believes that making this one word change will make the state's rule consistent with the intent of the federal rule and remove an impediment to authorization of the state's program. The basis and rationale for this proposed rule are to make the state's rule consistent with the intent of the federal rule and clarify an area of concern by the Environmental Protection Agency (EPA) in their review of the state's authorization package, which was submitted to EPA on March 5, 1998.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 28. Lead-Based Paint Activities—Recognition, Accreditation, Licensure, and Standards for Conducting Lead-Based Paint Activities**

**§2801. Scope and Applicability**

\* \* \*

[See Prior Text in A]

B. This Chapter applies to all persons and contractors who are engaged in lead-based paint activities, as defined in LAC 33:III.2803, except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level.

\* \* \*

[See Prior Text in C - G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and R.S. 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1662 (December 1997), amended LR 24:

A public hearing will be held on June 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ140. Such comments must be received no later than July 1, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ140.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Lead-Based Paint Activities**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This revision has no implementation costs to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This revision will have no effects on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
This revision will have no costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This revision will have no effect on competition and employment.

Gus Von Bodungen  
Assistant Secretary  
9805#037

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Air Quality and Radiation Protection  
Air Quality Division**

New Stationary Sources  
(LAC 33:III.Chapters 5, 15, 21, 23, 25, and 30)(AQ171\*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.Chapters 5, 15, 21, 23, 25, and 30 (AQ171\*).

This proposed rule is identical to a federal regulation found in 40 CFR Part 60, July 1, 1997, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed rule updates the reference to the Code of Federal Regulations (CFR) contained in LAC 33:III.Chapter 30 to those regulations published in 40 CFR part 60 in July 1997. This revision clarifies that all 40 CFR part 60 references that appear in LAC 33:III.Chapters 5, 15, 21, 23, 25, and 30 are as incorporated by reference in LAC 33:III.Chapter 30. Areas of state and federal authority are more clearly defined with this proposed rule. The basis and rationale for this proposed rule are to update the CFR reference and clarify the department's authority related to 40 CFR part 60 and proper reporting procedures.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 5. Permit Procedures**

**§509. Prevention of Significant Deterioration**

\* \* \*

[See Prior Text in A-A.2]

B. Definitions. For the purpose of this Part the terms below shall have the meaning specified herein as follows:

\* \* \*

[See Prior Text]

*Reconstruction*—will be presumed to have taken place where the fixed capital cost of the new component exceeds 50 percent of the fixed capital cost of a comparable entirely new source. Any final decision as to whether reconstruction has occurred must be made in accordance with the provisions of 40 CFR 60.15(f).(1)-(3), as incorporated by reference in LAC 33:III.Chapter 30.

\* \* \*

[See Prior Text in B. Secondary Emissions-S.4]



AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:

**Chapter 15. Emission Standards for Sulfur Dioxide**  
**§1503. Emission Limitations**

As used in this Section a *three-hour average* means the average emissions for any three consecutive one-hour periods (each commencing on the hour), provided that the number of three-hour periods during which the SO<sub>2</sub> limitation is exceeded is not greater than the number of one-hour periods during which the SO<sub>2</sub> limitation is exceeded.

A. Sulfuric Acid Plants—New and Existing. The emissions of sulfur dioxide and acid mist from new sulfuric acid production units that commence construction or modification after August 17, 1971, shall be limited to that specified in 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, i.e., 4.0 pounds/ton of 100 percent H<sub>2</sub>SO<sub>4</sub> (2 kilograms/metric ton) and 0.15 pounds/ton of 100 percent H<sub>2</sub>SO<sub>4</sub> (.075 kilograms/metric ton) respectively (three-hour averages). Emissions from existing units shall be limited as follows: SO<sub>2</sub>—not more than 2000 ppm by volume (three-hour average); acid mist—not more than 0.5 pounds/ton of 100 percent H<sub>2</sub>SO<sub>4</sub> (three-hour average).

B. Sulfur Recovery Plants—New and Existing. The emission of sulfur oxides calculated as sulfur dioxide from a new sulfur recovery plant that commences construction or modification after October 4, 1976, shall be limited to that specified in 40 CFR 60.104(a)(2), as incorporated by reference in LAC 33:III.Chapter 30. The emission of sulfur oxides calculated as sulfur dioxide from an existing plant shall be limited to a sulfur dioxide concentration of not more than 1,300 ppm by volume (three-hour average).

\* \* \*

[See Prior Text in C-Table 4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:374 (April 1992), LR 22:1212 (December 1996), LR 23:1677 (December 1997), LR 24:

**§1507. Exceptions**

A. Start-up Provisions

1. A four-hour (continuous) start-up exemption from the emission limitations of LAC 33:III.1503.A may be authorized by the administrative authority for plants not subject to 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, that have been shut down. A report, in writing, explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emission shall be submitted to the administrative authority within seven calendar days of the occurrence.

\* \* \*

[See Prior Text in A.2-B]

1. A four-hour (continuous) exemption from emission limitations of LAC 33:III.1503.A may be extended by the administrative authority to plants not subject to 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emission shall be submitted to the administrative authority within seven calendar days of the occurrence.

\* \* \*

[See Prior Text in B.2-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), LR 23:1678 (December 1997), LR 24:

**Chapter 21. Control of Emission of Organic Compounds**

**Subchapter A. General**

**§2108. Marine Vapor Recovery**

\* \* \*

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

2. Vapor processing systems utilizing a flare stack to destruct the collected VOCs will be exempt from testing and must be designed and operated in accordance with 40 CFR 60.482-10(d), as incorporated by reference in LAC 33:III.Chapter 30.

\* \* \*

[See Prior Text in E.3-H.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 14:704 (October 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:

**§2122. Fugitive Emission Control for Ozone Nonattainment Areas**

\* \* \*

[See Prior Text in A-A.5]

6. Applicable facilities as defined in Subsection A.1 of this Section, which are subject to New Source Performance Standards, 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.Chapter 30, may become exempt from this Section by:

a. submitting a written notice to the administrative authority\* informing them of the facility's request to become exempt from this Section and how 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.Chapter 30, will be administered to obtain that exemption;

b. applying 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.Chapter 30, to leak limitations specified in Subsection C.1 of this Section rather than 10,000 ppm as specified in 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.Chapter 30;

c. including connectors as leak sources monitored and repaired using the restrictions in 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.Chapter 30, which apply to valves; and

d. increasing monitoring frequency only when the leaking sources monitored and repaired using the restrictions in 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.Chapter 30, which apply to valves, equal or exceed 2 percent of the valves monitored at or above 10,000 ppm.

\* \* \*

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

d. Any pump or valve in heavy liquid service observed leaking by sight, sound, or smell shall be monitored within five days by the method specified in 40 CFR part 60, appendix A (Method 21), as incorporated by reference in LAC 33:III.Chapter 30. If the pump or valve is determined to be leaking in excess of the applicable limits given in this Subsection, it shall be repaired according to Subsection C.3 of this Section.

\* \* \*

[See Prior Text in C.2-G.6]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1102 (October 1994), repromulgated LR 20:1279 (November 1994), amended LR 22:1129 (November 1996), LR 22:1212 (December 1996), repromulgated LR 23:197 (February 1997), amended LR 23:1678 (December 1997), LR 24:22 (January 1998), LR 24:

## **Subchapter B. Organic Solvents**

### **§2123. Organic Solvents**

\* \* \*

[See Prior Text in A-E.5]

6. Performance test procedures described in 40 CFR 60.444, as incorporated by reference in LAC 33:III.Chapter 30;

\* \* \*

[See Prior Text in E.7-G. Repair and Maintenance Thermoplastic Coating]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:23 (January 1998), LR 24:

## **Subchapter J. Limiting Volatile Organic Compound (VOC) Emissions from Reactor Processes and Distillation Operations in the Synthetic Organic Chemical Manufacturing Industry (SOCMI)**

### **§2147. Limiting VOC Emissions from SOCMI Reactor Processes and Distillation Operations**

\* \* \*

[See Prior Text in A-D.2]

3. The following methods in 40 CFR part 60, appendix A, as incorporated by reference in LAC 33:III.Chapter 30, shall be used to demonstrate compliance with the emission limit or percent reduction efficiency requirement listed in Subsection C.1.a of this Section.

\* \* \*

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

4. When a flare is used to comply with the control requirements of this Subchapter, the flare shall comply with the requirements of 40 CFR 60.18, as incorporated by reference in LAC 33:III.Chapter 30.

\* \* \*

[See Prior Text in D.5-Figure 1]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:380 (April 1995), amended LR 22:1212 (December 1996), LR 23:1508 (November 1997), LR 23:1510 (November 1997), LR 23:1679 (December 1997), LR 24:

### **§2160. Procedures**

The following are Procedures F.1, F.2, G.1, G.2, L, and T to be used with the test protocols above:

\* \* \*

[See Prior Text in A-A.4.c.i.(d)]

d. Alternative Procedure. The direct interface sampling and analysis procedure described in 40 CFR part 60, appendix A, Method 18, 7.2-7.2.5, as incorporated by reference in LAC 33:III.Chapter 30, may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

\* \* \*

[See Prior Text in A.5-C.4.c.iv]

d. Alternative Procedure. The direct interface sampling and analysis procedure described in 40 CFR part 60, appendix A, Method 18, 7.2-7.2.5, as incorporated by reference in LAC 33:III.Chapter 30, may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

\* \* \*

[See Prior Text in C.5-D.4.c.iv]

d. Alternative Procedure. The direct interface sampling and analysis procedure described in 40 CFR part 60, appendix A, Method 18, 7.2-7.2.5, as incorporated by reference in LAC 33:III.Chapter 30, may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

\* \* \*

[See Prior Text in D.5-F.6.b.iii]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:

**Chapter 23. Control of Emissions for Specific Industries<sup>1</sup>**

**Subchapter D. Nitric Acid Industry**

**§2307. Emission Standards for the Nitric Acid Industry**

\*\*\*

[See Prior Text in A-C.1]

a. A four-hour start-up exemption from emission regulations may be authorized by the administrative authority for plants not subject to 40 CFR part 60, subpart G, as incorporated by reference in LAC 33:III.Chapter 30, which have been shut down. It is recognized that existing nitrogen oxide abatement equipment is effective only at normal operating temperatures. This provision allows the necessary time to bring up a facility from a cold start to near steady state condition. A report, in writing, explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emissions, shall be submitted to the administrative authority within seven calendar days of the occurrence.

\*\*\*

[See Prior Text in C.1.b-C.2]

a. A four-hour exemption from emission regulations may be extended by the administrative authority to plants not subject to 40 CFR part 60, subpart G, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to the administrative authority within seven calendar days of the occurrence.

\*\*\*

[See Prior Text in C.2.b-H.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1680 (December 1997), LR 24:

**Chapter 25. Miscellaneous Incineration Rules**

**Subchapter B. Biomedical Waste Incinerators**

**§2511. Standards of Performance for Biomedical Waste Incinerators**

\*\*\*

[See Prior Text in A-A.2]

B. Definitions. The words and terms used in this Subchapter are defined in LAC 33:III.Chapter 51, and LAC 33:III.111 and 40 CFR 60.2, as incorporated by reference in LAC 33:III.Chapter 30, unless otherwise specifically defined as follows:

\*\*\*

[See Prior Text in B. Antineoplastic Agents-L]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of

Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1098 (October 1994), amended LR 21:1081 (October 1995), LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:

**Chapter 30. Standards of Performance for New Stationary Sources (NSPS)**

**Subchapter A. Incorporation by Reference (IBR)**

**§3003. BR 40 Code of Federal Regulations (CFR) Part 60**

A. Except as modified in this Section, regulations at 40 CFR part 60 as revised July 1, 1997, and specified below in Tables 1 and 1.A are hereby incorporated by reference as they apply to the State of Louisiana.

Table 1. 40 CFR Part 60	
40 CFR Part 60 Subpart	Subpart Heading
*** [See Prior Text in A-Ca]	
Cb	Emissions Guidelines and Compliance Schedules for Municipal Waste Combustors That Are Constructed on or Before December 19, 1995
Cc	Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills
Cd	Emissions Guidelines and Compliance Times for Sulfuric Acid Production Units
D	Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction Is Commenced After August 17, 1971
*** [See Prior Text in Da-K]	
Ka	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984
Kb	Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984
*** [See Prior Text in L-M]	
N	Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973
*** [See Prior Text in Na-X]	
Y	Standards of Performance for Coal Preparation Plants
*** [See Prior Text in Z-LL]	
MM	Standards of Performance for Automobile and Light-Duty Truck Surface Coating Operations
*** [See Prior Text in NN-SS]	
TT	Standards of Performance for Metal Coil Surface Coating
*** [See Prior Text in UU-MMM]	

NNN	Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations
* * *	
[See Prior Text in OOO-WWW]	

\* \* \*

[See Prior Text in Table 1.A. 40 CFR Part 60 Appendices]

B. Final regulations published in the *Federal Register* on September 15, 1997, and specified below in Table 2, are hereby incorporated by reference as they apply to the State of Louisiana.

Table 2. 40 CFR Part 60			
40 CFR Part 60 Subpart/Appendix	Subpart Heading/Appendix	Federal Register Citation	Date Promulgated
Subpart A	General Provisions	62 FR 48379	September 15, 1997
* * *			
[See Prior Text in Subpart Ce-Subpart Ec]			

C. Corrective modification and clarification are made as follows:

1. whenever the referenced regulations (i.e., 40 CFR part 60) provide authority to "the Administrator," such authority in accordance with these regulations shall be exercised by the assistant secretary of the Office of Air Quality and Radiation Protection subject to continuing supervision by the secretary, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR part 60) to be provided to "the Administrator" shall be provided to the Office of Air Quality and Radiation Protection where the state is designated authority by EPA as "the Administrator" or shall be provided to the Office of Air Quality and Radiation Protection and EPA where EPA retains authority as "the Administrator";

2. 40 CFR Part 60 Subpart A, Section 60.4 (b)(T), to read as follows: State of Louisiana: Program Administrator, Air Quality Division, Louisiana Department of Environmental Quality, Post Office Box 82135, Baton Rouge, Louisiana 70884-2135; and

3. the availability to the public of information provided to or otherwise obtained by the state under this Chapter shall be governed by LAC 33:I.501-509.

\* \* \*

[See Prior Text in D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:

A public hearing will be held on June 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ171\*. Such comments must be received no later than June 24, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ171\*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen  
Assistant Secretary

9805#040

## NOTICE OF INTENT

### Department of Environmental Quality Office of Waste Services Hazardous Waste Division

Universal Waste  
(LAC 33:V.105,305,1501,2201 and Chapter 38)  
(HW059)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division regulations, LAC 33:V.Chapters 1, 3, 15, 22, and 38 (HW059).

This proposed rule will allow waste antifreeze and fluorescent lamps to be handled as universal wastes rather than hazardous wastes. As this change will facilitate recycling, regulating these items as universal wastes is more cost-effective and environmentally beneficial. The basis for this rule is to utilize LAC 33:V.Chapter 38. The rationale is to improve implementation of the hazardous waste program by regulating potentially hazardous waste antifreeze and

fluorescent lamps as universal wastes instead of as hazardous wastes. This is expected to improve the management practices for these wastes by increasing the likelihood that the wastes will be diverted from nonhazardous and hazardous waste management systems to recycling.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

### Title 33

## ENVIRONMENTAL QUALITY

### Part V. Hazardous Waste and Hazardous Materials

#### Subpart 1. Department of Environmental Quality—Hazardous Waste

#### Chapter 1. General Provisions and Definitions

##### §105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

\* \* \*

[See Prior Text in A-D.7.a]

- b. pesticides as described in LAC 33:V.3805;
- c. thermostats as described in LAC 33:V.3807;
- d. lamps as described in LAC 33:V.3809; and
- e. antifreeze as described in LAC 33:V.3811.

\* \* \*

[See Prior Text in E-N.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid And Hazardous Waste, Hazardous Waste Division, LR 23:564 (May 1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:

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

#### §305. Scope of the Permit

\* \* \*

[See Prior Text in A-C.11.a]

- b. pesticides as described in LAC 33:V.3805;
- c. thermostats as described in LAC 33:V.3807;
- d. lamps as described in LAC 33:V.3809; and
- e. antifreeze as described in LAC 33:V.3811.

\* \* \*

[See Prior Text in D-G.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 23:567 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

#### Chapter 15. Treatment, Storage, and Disposal Facilities

##### §1501. Applicability

\* \* \*

[See Prior Text in A-C.11.a]

- b. pesticides as described in LAC 33:V.3805;
- c. thermostats as described in LAC 33:V.3807;
- d. lamps as described in LAC 33:V.3809; and
- e. antifreeze as described in LAC 33:V.3811.

\* \* \*

[See Prior Text in D-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 23:565 (May 1997), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

#### Chapter 22. Prohibitions on Land Disposal

##### Subchapter A. Land Disposal Restrictions

##### §2201. Purpose, Scope, and Applicability

\* \* \*

[See Prior Text in A-I.5.a]

- b. pesticides as described in LAC 33:V.3805;
- c. thermostats as described in LAC 33:V.3807;
- d. lamps as described in LAC 33:V.3809; and
- e. antifreeze as described in LAC 33:V.3811.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22

(January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 24:

## **Chapter 38. Universal Wastes**

### **Subchapter A. General**

#### **§3801. Scope and Applicability**

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

\* \* \*

[See Prior Text in B - C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

#### **§3809. Applicability—Lamps**

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

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

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

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

C. Generation of Waste Lamps

1. The date a used lamp becomes a waste is the date the generator permanently removes it from its fixture.

2. The date an unused lamp becomes a waste is the date the generator discards it.

3. A waste lamp is a hazardous waste if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

#### **§3811. Applicability—Antifreeze**

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

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

1. antifreeze that is not yet a waste under LAC 33:V.Chapter 49. Subsection C of this Section describes when antifreeze becomes a waste; and

2. antifreeze that is not yet a hazardous waste. Antifreeze is a hazardous waste if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

C. Generation of Waste Antifreeze

1. Used or unused antifreeze becomes a waste on the

date it is discarded (e.g., when sent for reclamation).

2. Waste antifreeze is a hazardous waste if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

#### **§3813. Definitions**

*Antifreeze*—an ethylene glycol based mixture that lowers the freezing point of water and is used as an engine coolant.

\* \* \*

[See Prior Text]

*Lamp*—the bulb or tube portion of a lighting device specifically designed to produce radiant energy, most often in the ultraviolet (UV), visible, and infra-red (IR) regions of the electromagnetic spectrum. Examples of common electric lamps include, but are not limited to, incandescent, fluorescent, high intensity discharge, and neon lamps.

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

*Mercury-Containing Lamp*—an electric lamp in which mercury is purposely introduced by the manufacturer for the operation of the lamp.

\* \* \*

[See Prior Text]

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

\* \* \*

[See Prior Text]

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

1. batteries as described in LAC 33:V.3803;
2. pesticides as described in LAC 33:V.3805;
3. thermostats as described in LAC 33:V.3807;
4. lamps as described in LAC 33:V.3809; and
5. antifreeze as described in LAC 33:V.3811.

\* \* \*

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:570 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

### **Subchapter B. Standards for Small Quantity Handlers of Universal Waste**

#### **§3821. Waste Management**

\* \* \*

[See Prior Text in A-C.3.b]

D. Universal Waste Lamps. A small quantity handler of universal waste must manage universal waste lamps in a way that prevents releases of any universal wastes or a component of any universal waste to the environment, as follows:

1. a small quantity handler of universal waste must contain unbroken lamps in packaging that will minimize breakage during normal handling conditions; and

2. a small quantity handler of universal waste must contain broken lamps in packaging that will minimize the releases of lamp fragments and residues.

E. Universal Waste Antifreeze. A small quantity handler of universal waste must manage universal waste antifreeze in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste antifreeze must be contained in one or more of the following:

1. a container that remains closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a container that does not meet the requirements of Subsection E.1 of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of Subsection E.1 of this Section;

3. a tank that meets the requirements of LAC 33:V.1915.C; or

4. a transport vehicle or vessel that is closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:571 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

### §3823. Labeling/Marking

A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

\* \* \*

[See Prior Text in A.1-4]

5. universal waste lamps (i.e., each lamp), or a container in which the lamps are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Lamps," or "Waste Lamps," or "Used Lamps;"

6. universal waste antifreeze, or a container in which the antifreeze is contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Antifreeze," or "Waste Antifreeze," or "Used Antifreeze."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:572 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

## Subchapter C. Standards for Large Quantity Handlers of Universal Waste

### §3841. Notification

\* \* \*

[See Prior Text in A-B.3]

4. a list of all of the types of universal waste managed by the handler (e.g, batteries, pesticides, thermostats, lamps, antifreeze); and

5. a statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste (e.g, batteries, pesticides, thermostats, lamps, antifreeze) the handler is accumulating above this quantity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:574 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

### §3843. Waste Management

\* \* \*

[See Prior Text in A-C.3.b]

D. Universal Waste Lamps. A large quantity handler of universal waste must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. a large quantity handler of universal waste must contain unbroken lamps in packaging that will minimize breakage during normal handling conditions; and

2. a large quantity handler of universal waste must contain broken lamps in packaging that will minimize the releases of lamp fragments and residues.

E. Universal Waste Antifreeze. A large quantity handler of universal waste must manage universal waste antifreeze in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste antifreeze must be contained in one or more of the following:

1. a container that remains closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a container that does not meet the requirements of Subsection E.1 of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of Subsection E.1 of this Section;

3. a tank that meets the requirements of LAC 33:V.Chapter 19, except for LAC 33:V.1915.C;

4. a transport vehicle or vessel that is closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:574 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

### §3845. Labeling/Marking

A large quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

\* \* \*

[See Prior Text in A.1-4]

5. Universal waste lamps (i.e., each lamp), or a container in which the lamps are contained, must be labeled or

marked clearly with any one of the following phrases: "Universal Waste - Lamps," or "Waste Lamps," or "Used lamps."

6. Universal waste antifreeze, or a container in which the antifreeze is contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Antifreeze," or "Waste Antifreeze," or "Used Antifreeze."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:575 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

**§3855. Tracking Universal Waste Shipments**

\* \* \*

[See Prior Text in A-A.1]

2. the quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, lamps, antifreeze); and

\* \* \*

[See Prior Text in A.3-B.1]

2. the quantity of each type of universal waste sent (e.g., batteries, pesticides, thermostats, lamps, antifreeze); and

\* \* \*

[See Prior Text in B.3-C.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:576 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

**Subchapter E. Standards for Destination Facilities**

**§3877. Tracking Universal Waste Shipments**

\* \* \*

[See Prior Text in A-A.1]

2. the quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, lamps, antifreeze); and

\* \* \*

[See Prior Text in A.3-B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:578 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

A public hearing will be held on June 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by HW059. Such comments must be received no later than July 1, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address.

You may contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of HW059.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

H. M. Strong  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Universal Waste**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No significant costs to state or local governments are anticipated as a result of the implementation of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There should be no significant effect on current revenue collections of state or local governments as a result of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Generators of waste fluorescent lamps and antifreeze will benefit to the extent that they avoid the additional costs of hazardous waste regulation including fees and the hazardous waste disposal tax.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
Adoption of this rule will ease the regulatory burden on industry. Competition will not be significantly affected since all parties must follow the same rules. Employment in the regulated industries will not be affected much since, in this case, the environmental compliance costs are a small part of total business costs. Employment in the recycling industry will be stimulated as the proposed rule will encourage recycling.

H.M. Strong  
Assistant Secretary  
9805#035

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Louisiana Lottery Corporation**

On-Line Lottery Games (LAC 42:XV.105)

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq., and R.S. 47:9001 et seq., hereby gives notice of its intent to amend the rules and



regulations pertaining to the operations of on-line lottery games, in particular LAC 42:XV.105, to allow the Louisiana Lottery Corporation to offer the following on-line lottery games: "Cash Quest" and "Pick 4."

**Title 42**

**LOUISIANA GAMING**

**Part XV. Lottery**

**Chapter 1. On-Line Lottery Games**

**§105. General Provisions**

A. These game rules authorize the corporation to offer the following on-line lottery games.

1. Pick 3 Daily Game. An on-line numbers game permitting a player to choose a three-digit number, the winner being determined by a drawing.

2. Lotto. An on-line lotto game permitting a player a choice of six numbers out of a specified field of numbers, the winner being determined by a drawing.

3. Easy 5. An on-line lotto game permitting a player a choice of five numbers out of a specified field of numbers, the winner being determined by a drawing.

4. Cash Quest. An on-line lotto game providing a player multiple sets of four numbers out of a specified field of numbers, the winner being determined by a drawing.

5. Pick 4 Game. An on-line numbers game permitting a player to choose a four-digit number, the winner being determined by a drawing.

B. Introduction of a new on-line lottery game may only be accomplished by amendment of these game rules to include the game as an authorized game. These game rules shall apply to the on-line lottery games listed in this Section. The detailed information regarding each on-line game will be contained in a game directive promulgated by the president. The game directive must be signed by the president prior to the start of the game. Each game directive will be distributed and posted at every corporation office and will be available for public inspection during the sales period of the particular game.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on October 22, 1992 and promulgated in *The Advocate* November 3, 1992, amended October 21, 1994, promulgated in *The Advocate* October 28, 1994, repromulgated LR 23:63 (January 1997), amended LR 24:

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than June 25, 1998, at 9 a.m., to John Carruth, Louisiana Lottery Corporation, Box 90008, Baton Rouge, LA 70879.

A public hearing will be held on June 26, 1998 at 9 a.m., at the offices of the Louisiana Lottery Corporation, 11200 Industriplex Boulevard, Suite 190, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

Charles R. Davis  
President

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: On-Line Lottery Games**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO**

**STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Louisiana Lottery Corporation (corporation) was created by R.S. 47:9000 et seq. and exists as a quasi-public corporation. All costs of the corporation are funded by revenue generated by the corporation. The direct costs associated with any on-line game operated by the corporation totals approximately 60.175 percent of sales, including prize expense (50.0 percent), retailer commissions (5.5 percent), and on-line vendor commissions (4.675 percent). With sales estimates for the new games of almost \$10 million for the fiscal year ending June 30, 1999 and over \$19 million for the fiscal year ending June 30, 2000, the direct expenses are projected to be \$6 million and \$11.5 million, respectively. The general and administrative costs associated with the new games are projected to be \$20,000 for the fiscal year ending June 30, 1999 with no increase in general or administrative costs in subsequent years. Attachment IV outlines all costs associated with the revenue from the proposed new games.

**Attachment IV**

	% to		% to		% to	
	FY 98-99	Revenue	FY 99-2000	Revenue	FY 2000-2001	Revenue
<b>Additional Revenue from</b>						
<b>the New Games</b>	<u>\$9,910,117</u>	<u>100.00%</u>	<u>\$19,072,300</u>	<u>100.00%</u>	<u>\$20,194,200</u>	<u>100.00%</u>
<b>Expenses</b>						
<b>Direct Operating Expenses</b>						
Prize Expense (50% of sales)	\$4,955,059	50.00%	\$9,536,150	50.00%	\$10,097,100	50.00%
Retailer Commissions (estimated @5.50% of sales)	545,056	5.50%	1,048,977	5.50%	1,110,681	5.50%
Online Vendor Commissions (estimated @4.675% of sales)	<u>\$463,298</u>	<u>4.675%</u>	<u>\$891,630</u>	<u>4.675%</u>	<u>\$944,079</u>	<u>4.675%</u>
<b>Total Direct Operating Expenses</b>						
<b>Expenses</b>	<u>\$5,963,413</u>	<u>60.175%</u>	<u>\$11,476,757</u>	<u>60.175%</u>	<u>\$12,151,860</u>	<u>60.175%</u>
<b>General Operating Expenses</b>						
Automated Drawing Machine Modifications	<u>\$20,000</u>	<u>0.20%</u>	<u>\$0</u>	<u>0.00%</u>	<u>\$0</u>	<u>0.00%</u>
<b>Total All Operating Expenses</b>						
<b>Expenses</b>	<u>\$5,983,413</u>	<u>60.38%</u>	<u>\$11,476,757</u>	<u>60.18%</u>	<u>\$12,151,860</u>	<u>60.18%</u>
<b>Required Transfer to the</b>						
State	<u>3,468,541</u>	<u>35.00%</u>	<u>6,675,305</u>	<u>35.00%</u>	<u>7,067,970</u>	<u>35.00%</u>
<b>Funds Used to Cover</b>						
<b>Overhead Costs of the Corporation</b>	<u>458,163</u>	<u>4.62%</u>	<u>920,238</u>	<u>4.83%</u>	<u>974,370</u>	<u>4.82%</u>

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

As required by R.S. 47:9029, the Louisiana Lottery Corporation transfers not less than 35 percent of gross revenues to the lottery proceeds fund in the state treasury. As a result of the introduction of the new games, sales are expected to increase by approximately \$10 million for the fiscal year ending June 30, 1999 and over \$19 million for the fiscal year ending June 30, 2000. The corresponding additional revenue to the lottery proceeds fund is estimated to be \$3.5 million for the fiscal year ending June 30, 1999 and \$6.7 million for the fiscal year ending June 30, 2000. Please note that the additional revenue is estimated based on the start dates of October 1998 for Cash

Quest and March 1999 for Pick 4. The first full year of sales will be the fiscal year ending June 30, 2000.

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

The corporation pays approximately 50 percent of sales as prizes, the remaining 50 percent is used to generate revenue to the state, compensate retailers, and fund the operations of the lottery. The distribution of each dollar received from the new games is shown in Attachment IV (above).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The additional revenue from the new games will be generated from consumer's discretionary income. The specific effects on competition and employment cannot be determined.

Charles R. Davis  
President  
9805#034

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

Mobile Dental Clinics (LAC 46:XXXIII.312)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to enact LAC 46:XXXIII.312, Mobile Dental Clinics. No preamble has been prepared.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 3. Dentists**

**§312. Mobile Dental Clinics**

A. Definition. *Mobile Dental Clinic* or *Mobile Dental Unit* means any self-contained facility in which dentistry will be practiced which may be moved, towed, or transported from one location to another.

B. Application for Permit. A licensed dentist who wishes to operate a mobile dental clinic shall apply to the board for a permit on an application form to be provided by the board and by providing evidence of compliance with the requirements of this section and paying all appropriate fees.

C. Exempt from the requirements of this rule are all federal, state, or local governmental agencies.

D. Requirements

1. The applicant shall certify that:

a. there is a written agreement for emergency follow-up care for patients treated in the mobile dental clinic and that such agreement includes identification of and arrangements for treatment in a dental facility which is permanently established in the immediate area. Such agreement shall be filed with the initial application and all subsequent renewals thereof;

b. the mobile dental clinic has communication facilities which will enable the operator thereof to contact necessary parties in the event of a medical or dental emergency;

c. the mobile dental clinic conforms to all applicable federal, state, and local laws, regulations, and ordinances dealing with radiographic equipment, flammability, construction, sanitation, zoning, and Federal Centers for Disease Control Guidelines and the applicant possesses all applicable parish and city licenses or permits to operate the unit.

2. The applicant shall maintain an official business or mailing address of record which shall not be a post office box and which shall be filed with the board. The board shall be notified within 30 days of any change in the address of record. All written or printed documents available from or issued by the mobile dental clinic shall contain the official address of record for the mobile dental clinic. When not in transit, all dental and official records shall be maintained at the official office address of record.

3. Each mobile dental clinic shall:

a. have ready access to a ramp or lift;

b. have a properly functioning sterilization system;

c. have ready access to an adequate supply of potable water, including hot water;

d. have ready access to toilet facilities;

e. have a covered galvanized, stainless steel, or other non-corrosive metal container for deposit of refuse and waste materials;

f. prominently display all applicable licenses and permits in compliance with LAC 46:XXXIII.104.

4. The applicant shall identify and advise the board within 30 days of any personnel change relative to all licensed dentists, dental hygienists, laboratory technicians, and auxiliary personnel associated with the mobile dental clinic by providing their full name, address, telephone numbers, and license numbers where applicable.

5. The applicant shall provide the exact street address or location of each and every place within this state where the mobile or movable dental office will provide dental services, and the dates and times such services will be provided at each location. This notification shall be updated within 10 days of any addition or deletion of a location and shall be sent to the board in writing.

E. Transferability. A permit to operate a mobile dental clinic is not transferable.

F. Renewal. A permit to operate a mobile dental clinic expires at the same time as the permit holder's dental license. The permit holder may apply for renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, La 70112. Written comments must be submitted to and received by the Board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument,

or public hearing must be made in writing and received by the Board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Mobile Dental Clinics**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
A cost of \$100 is estimated to implement this rule. Notification of this rule change will be provided to our licensees via newsletter and/or pamphlet which is already budgeted. Further, those dentists who are already identified as providing a mobile dentistry will be notified by regular U.S. Mail.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections by the Board of Dentistry or any other state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no costs and/or economic benefit to directly affected persons or non-governmental groups. At present, there is no regulation concerning mobile dental clinics, and this rule is intended to bring those mobile dental clinics into compliance with all applicable federal, state, and local laws and regulations. As such, each mobile dental clinic may incur costs to bring them into compliance.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
9805#014

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Medical Examiners**

Clinical Exercise Physiologists—Licensure  
(LAC 46:XLV.3741, 3743, and 3763)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (Board) pursuant to the authority vested in the Board by the Louisiana Clinical Exercise Physiologists Licensing Act, R.S. 37:3421-3433, the Louisiana Medical Practice Act, R.S. 37:1270(B)(6), and in accordance with applicable provisions of the Administrative Procedure Act, proposes to amend its existing rules governing the licensure of clinical exercise physiologists, LAC 46:XLV, Subpart 2, Chapter 37, §§3741, 3743 and 3763, to implement and provide for the annual renewal of licensure on or before the first day of month in which the licensee was born. The proposed rule amendments, which are set forth below, add new Subsections B to §§3741 and 3743; amend §3743.C; and remove the word "calendar"

from §3763.B. All other provisions of the sections, some of which are re-lettered, remain as originally promulgated.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLV. Medical Professions  
Subpart 2. Licensure and Certification  
Chapter 37. Clinical Exercise Physiologists  
Subchapter E. Licensure Issuance, Expiration, Renewal  
and Termination**

**§3741. Expiration of License**

A. ...  
B. Notwithstanding the provisions of §3741.A, every license issued by the board under this Chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of month in which the licensee was born.

C. The timely submission of an application for renewal of license shall operate to continue the expiring license in full force and effect pending the board's issuance or denial of issuance, of the renewal license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:405 (April 1997), amended LR 24:

**§3743. Renewal of License**

A. ...  
B. Notwithstanding the provisions of §3743.A, every license issued by the board under this Chapter to be effective on or after January 1, 1999, shall be renewed in the year 2000, and each year thereafter, on or before the first day of the month in which the licensee was born. Renewal fees shall be prorated if the license is to be effective for more than one year.

C. An application for renewal of license shall be mailed by the board to each person holding a license at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:405 (April 1997), amended LR 24:

**Subchapter G. Continuing Professional Education  
§3763. Failure to Satisfy Continuing Professional  
Education Requirements**

A. ...  
1. - 3. ...  
B. The license of a clinical exercise physiologist which has expired by nonrenewal or has been revoked for failure to satisfy continuing professional education requirements of these rules may be reinstated by the board upon written application to the Board, accompanied by payment of the reinstatement fee prescribed by §3745.B hereof, together with documentation and certification that the applicant has, for each year since the date on which the applicant's license lapsed, expired or was revoked, completed an aggregate of 10 contact hours (1.0

CEU) of qualifying continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:405 (April 1997), amended LR 24:

Inquiries concerning the proposed amendments may be directed in writing to Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rule amendments, in writing, to the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana 70130. Written comments must be submitted to and received by the Board within 60 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the Board within 20 days of the date of this notice.

Delmar Rorison  
Executive Director

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

**RULE TITLE: Clinical Exercise Physiologists —Licensure**

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

It is not anticipated that the proposed rule amendments will result in any additional costs to the Board of Medical Examiners.

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

It is not anticipated that the proposed rule amendments will have any effect on the board's revenue collections.

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

It is not anticipated that the proposed rule amendments will have any adverse costs and/or economic impact on the affected licenses, as the proposed rule amendments will not result in any fee increase to such licensees. During the implementation year for the modified renewal cycle, licensure fees will be prorated to the licensees' birth month during the year 2000.

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

It is not anticipated that the proposed rule amendments will have any significant impact on competition or employment in either the public or private sector.

Delmar Rorison  
Executive Director  
9805#057

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Medical Examiners**

**Occupational Therapists and Occupational  
Therapy Assistants—Licensure  
(LAC 46:XLV.1945, 1947, and 1975)**

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Occupational Therapy Practice Act and the Medical Practice Act, R.S. 37:3012(A), (B) and 37:1270(B)(6), and the provisions of the Administrative Procedure Act, intends to amend its rules governing the licensure of occupational therapists and occupational therapy assistants, LAC 46:XLV, Subpart 2, Chapter 19, §§1945, 1947 and 1975, to implement and provide for the annual renewal of licensure on or before the first day of the month in which the licensee was born. The proposed rule amendments, which are set forth below, include new Subsections B in §§1945 and 1947, amend Subsection C of §1947 and remove the word "calendar" from §1975.B.1. All other provisions of the Sections, some of which are re-lettered, remain as originally promulgated.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLV. Medical Professions**

**Subpart 2. Licensure and Certification**

**Chapter 19. Occupational Therapists and Occupational  
Therapy Assistants**

**Subchapter F. License Issuance, Termination, Renewal  
and Reinstatement**

**§1945. Expiration of License**

A. ...

B. Notwithstanding the provisions of §1945.A, every license issued by the board under this Chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the licensee was born.

C. The timely submission of an application for renewal of a license shall operate to continue the expiring license in full force and effect pending issuance of the renewal license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 24:

**§1947. Renewal of License**

A. ...

B. Notwithstanding the provisions of §1947.A, every license issued by the board under this Subchapter to be

effective on or after January 1, 1999, shall be renewed in the year 2000, and each year thereafter, on or before the first day of the month in which the licensee was born. Renewal fees shall be prorated if the license is to be effective for more than one year.

C. An application for renewal of license form shall be mailed by the board to each person holding a license at least thirty days prior to the expiration date of the license each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

D. The renewal of a license which has expired for 60 days or less may be renewed by submitting to the board an application for renewal upon forms supplied by the board together with the late renewal fee prescribed in Chapter 81 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 24:

**Subchapter H. Continuing Professional Education**  
**§1975. Failure to Satisfy Continuing Professional Education Requirements**

A. ...

1. - 3. ...

B. The license of an occupational therapist or occupational therapy assistant whose license has expired by nonrenewal or has been revoked for failure to satisfy the continuing professional education requirements of these rules may be reinstated by the board upon written application to the board, accompanied by payment of a reinstatement fee, in addition to all other applicable fees and costs, of Fifty Dollars (\$50.00), together with documentation and certification that:

1. the applicant has, during each year since the date on which the applicant's license lapsed, expired, or was revoked, completed 12 contact hours (1.2 CEUs) of qualifying continuing professional education and the following additional continuing professional education, as applicable:

B.1.a. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1006 (September 1994), amended LR 24:

Inquiries concerning the proposed amendments may be directed, in writing, to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information, or comments on the proposed rule amendments, in writing, to the Louisiana State Board of Medical Examiners, at 630 Camp Street, New Orleans, Louisiana, 70130. Written comments must be submitted to and received by the Board within 60 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made, in writing, and

received by the Board within 20 days of the date of this notice.

Delmar Rorison  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT**  
**FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Occupational Therapists and Occupational Therapy Assistants—Licensure**

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

It is not anticipated that the proposed rule amendments will result in any additional costs to the Board of Medical Examiners.

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

It is not anticipated that the proposed rule amendments will have any effect on the Board's revenue collections.

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

It is not anticipated that the proposed rule amendments will have any adverse costs and/or economic impact on the affected licensees, as the proposed rule amendments will not result in any fee increase to such licensees. During the implementation year for the modified renewal cycle, licensure fees will be prorated to the licensees' birth month during the year 2000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendments will have any significant impact on competition or employment in either the public or private sector.

Delmar Rorison  
Executive Director  
9805#059

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Hospitals**  
**Board of Medical Examiners**

Physician Assistants—Licensure  
(LAC 46:XLV.1517)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1270(B)(6), the Physician Assistants Practice Act, R.S. 37:1360.23(B) and (F), and in accordance with applicable provisions of the Administrative Procedure Act, proposes to amend its rules governing the licensure of physician assistants, LAC 46:XLV, Subpart 2, Chapter 15, §1517, to implement and provide for the annual renewal of licensure on or before the first day of the month in which the licensee was born. The proposed rule amendments, which are set forth below, amend §1517.B. Section 1517.A and §1517.C - F remain as originally promulgated.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part XLV. Medical Professions**

**Subpart 2. Licensing and Certification**

**Chapter 15. Physician Assistants**

**§1517. Expiration of Licensure; Renewals; Modification;  
Notification of Intent to Practice**

A. ...

B. Notwithstanding the provisions of §1517.A, every license issued under this Chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the licensee was born. Every license issued under this Chapter shall be renewed on or before December 31, 1998 for the year 1999, as well as through the first day of the month in which the licensee was born in the year 2000, and each year thereafter, by submitting to the board an application for renewal upon forms supplied by the board, together with satisfactory documentation of current certification or recertification by the National Commission on Certification of Physicians' Assistants. Each application for renewal shall be accompanied by a fee of \$100. Renewal fees shall be prorated if the license is to be effective for more than one year.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:1360.23(B), (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1104 (November 1991), LR 22:201 (March 1996), LR 24:

Inquiries concerning the proposed amendments may be directed in writing to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rule amendments, in writing, to the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana, 70130. Written comments must be submitted to and received by the Board within 60 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the Board within 20 days of the date of this notice.

Delmar Rorison  
Executive Director

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

**RULE TITLE: Physician Assistants—Licensure**

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

It is not anticipated that the proposed rule amendments will result in any additional costs to the Board of Medical Examiners.

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

It is not anticipated that the proposed rule amendments will have any effect on the Board's revenue collections.

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

It is not anticipated that the proposed rule amendments will have any adverse costs and/or economic impact on the affected licensees, as the proposed rule amendments will not result in any fee increase to such licensees. During the implementation year for the modified renewal cycle, licensure fees will be prorated to the licensees' birth month during the year 2000.

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

It is not anticipated that the proposed rule amendments will have any significant impact on competition or employment in either the public or private sector.

Delmar Rorison  
Executive Director  
9805#060

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Medical Examiners**

Physicians and Surgeons—Licensure  
(LAC 46:XLV.415 and 417)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1270(B)(6), and the provisions of the Administrative Procedure Act, intends to amend its rules governing the licensure of physicians and surgeons, LAC 46:XLV, Subpart 2, Chapter 3, §§415 and 417, to implement and provide for the annual renewal of licensure on or before the first day of the month in which the licensee was born. The proposed rule amendments, which are set forth below, include a new §415.B and §417.B and amend §417.C. All other provisions of the Sections, some of which are re-lettered, remain as originally promulgated.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part XLV. Medical Professions**

**Subpart 2. Licensure and Certification**

**Chapter 3. Physicians and Surgeons**

**Subchapter I. License Issuance, Termination, Renewal  
and Reinstatement**

**§415. Expiration of Licenses and Permits**

A. ...

B. Notwithstanding the provisions of §415.A, every license issued by the board under this Chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the licensee was born.

C. The timely submission of a properly completed application for renewal of a license, but not a permit, as provided by §417 of this Chapter, shall operate to continue the expiring licensing in full force and effect pending issuance of

the renewal license.

D. Permits are not subject to renewal, except as expressly provided in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1280.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 22:212 (March 1996 [withdrawn LR 22:280 April 1996]), LR 24:

#### **§417. Renewal of License**

A. ...

B. Notwithstanding the provisions of §417.A, every license issued by the board under this Chapter to be effective on or after January 1, 1999, shall be renewed in the year 2000, and each year thereafter, on or before the first day of the month in which the licensee was born. Renewal fees shall be prorated if the license is to be effective for more than one year.

C. An application for renewal of license form shall be mailed by the board to each person holding a license issued under this Chapter at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1280 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 24:

Inquiries concerning the proposed amendments may be directed in writing to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rule amendments, in writing, to the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana, 70130. Written comments must be submitted to and received by the Board within 60 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the Board within 20 days of the date of this notice.

Delmar Rorison  
Executive Director

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Physicians and Surgeons—Licensure**

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

It is not anticipated that the proposed rule amendments will result in any additional costs to the Board of Medical Examiners.

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

It is not anticipated that the proposed rule amendments will have any effect on the Board's revenue collections.

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

It is not anticipated that the proposed rule amendments will have any adverse costs and/or economic impact on the affected licensees, as the proposed rule amendments will not result in any fee increase to such licensees. During the implementation year for the modified renewal cycle, licensure fees will be prorated to the licensees' birth month during the year 2000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendments will have any significant impact on competition or employment in either the public or private sector.

Delmar Rorison  
Executive Director  
9805#060

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Board of Medical Examiners**

Podiatrists—Licensure  
(LAC 46:XLV.1359-1361)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, the Louisiana Podiatry Practice Act, R.S. 37:621, and the provisions of the Administrative Procedure Act, intends to adopt rules governing the licensure and certification of podiatrists, LAC 46:XLV, Subpart 2, Chapter 13, §§1359 and 1361, to implement and provide for the annual renewal of licensure on or before the first day of the month in which the licensee was born. The proposed rules, as well as an index to future rules which may be adopted, are set forth below.

#### **Title 46**

#### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XLV. Medical Professions**

#### **Subpart 2. Licensure and Certification**

#### **Chapter 13. Podiatrists**

#### **Subchapter A. General Provisions**

§1301. Scope of Chapter [Reserved]

§1303. Definitions [Reserved]

#### **Subchapter B. Requirements and Qualifications for Licensure**

§1305. Scope of Subchapter [Reserved]

§1307. Qualifications for Licensure [Reserved]

§1309. Procedural Requirements [Reserved]

§1311. Waiver of Examination Requirements  
[Reserved]

#### **Subchapter C. Board Approval of Podiatry Schools and Colleges**

§1313. Scope of Subchapter [Reserved]

§1315. Applicability of Approval [Reserved]

§1317. List of Approved Schools [Reserved]

**Subchapter D. Licensure by Reciprocity**

§1319. Definitions [Reserved]

§1321. Qualifications for Podiatry Licensure by Reciprocity [Reserved]

**Subchapter E. Application**

§1323. Purpose and Scope [Reserved]

§1325. Application Procedure [Reserved]

§1327. Effect of Application [Reserved]

**Subchapter F. Examination**

§1329. Designation of Examinations [Reserved]

§1331. Eligibility for Examination [Reserved]

§1333. Observance of Examination [Reserved]

§1335. Subversion of Examination Process [Reserved]

§1337. Finding of Subversion [Reserved]

§1339. Sanctions for Subversion of Examination [Reserved]

§1341. Passing Scores [Reserved]

§1343. Restriction, Limitations on Examinations [Reserved]

§1345. Examinations in or for Another State [Reserved]

§1347. Lost, Stolen or Destroyed Examinations [Reserved]

**Subchapter G. Temporary License**

§1349. Temporary License in General [Reserved]

§1351. License Pending Examination [Reserved]

§1353. Provisional Temporary Permit Pending Application for Visa [Reserved]

§1355. License Pending Reexamination [Reserved]

**Subchapter H. Licensure Issuance, Termination, Renewal, Reinstatement**

§1357. Issuance of License [Reserved]

§1359. Expiration of License or Permit

A. Every license or permit issued by the board under this Chapter, the expiration date of which is not stated thereon or provided by these rules, shall expire, and thereby become null, void and to no effect, on the last day of the year in which such license or permit was issued.

B. Notwithstanding the provisions of §1359.A, every license, but not a permit, issued by the board under this Chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year, on the first day of the month in which the licensee was born.

C. The timely submission of a properly completed application for renewal of a license, as provided in §1361, shall operate to continue the expiring licensing in full force and effect pending issuance of the renewal license.

D. Permits are not subject to renewal, except as expressly provided in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:621.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

**§1361. Renewal of License**

A. Every license issued by the board under this Chapter shall be renewed annually on or before its date of expiration by submitting to the board a properly completed application for renewal, upon forms supplied by the board, together with the renewal fee prescribed by the Board.

B. Notwithstanding the provisions of §1361.A, every license issued by the board under this Chapter to be effective on or after January 1, 1999, shall be renewed in the year 2000,

and each year thereafter, on or before the first day of the month in which the licensee was born. Renewal fees shall be prorated if the license is to be effective for more than one year.

C. An application for renewal of license form shall be mailed by the board to each person holding a license issued under this Chapter at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:621.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

**§1363. Reinstatement of Expired License [Reserved]**

**Subchapter I. Podiatry Advisory Committee**

§1365. Constitution of Committee [Reserved]

§1367. Composition; Appointment [Reserved]

§1369. Delegated Duties and Responsibilities [Reserved]

Inquiries concerning the proposed rules may be directed in writing to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana, 70130. Written comments must be submitted to and received by the Board within 60 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the Board within 20 days of the date of this notice.

Delmar Rorison  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Podiatrists—Licensure**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is not anticipated that the proposed rules will result in any additional costs to the Board of Medical Examiners.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is not anticipated that the proposed rules will have any effect on the Board's revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
It is not anticipated that the proposed rules will have any adverse costs and/or economic impact on the affected licensees, as the proposed rules will not result in any fee increase to such licensees. During the implementation year for the modified renewal cycle, licensure fees will be prorated to the first day of the month in which the licensee was born during the year 2000.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
It is not anticipated that the proposed rules will have any significant impact on competition or employment in either the public or private sector.

Delmar Rorison  
Executive Director

Richard W. England  
Assistant to the



**NOTICE OF INTENT****Department of Health and Hospitals  
Board of Medical Examiners****Registered Dispensing Physicians—Registration  
Renewal/Expiration (LAC 46:XLV.6523 and 6525)**

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and R.S. 37:1204, and the provisions of the Administrative Procedure Act, intends to amend its existing rules governing the licensure of registered dispensing physicians, LAC 46:XLV, Subpart 3, Chapter 65, §§6523 and 6525, to implement and provide for the annual renewal of registration on or before the first day of the month in which the registrant was born. The proposed rule amendments, which are set forth below, include a new Subsection B to each Section and amend §6525.C. All other provisions of the Sections, some of which are re-lettered, remain as originally promulgated.

**Title 46****PROFESSIONAL AND OCCUPATIONAL  
STANDARDS****Part XLV. Medical Professions****Subpart 3. Practice****Chapter 65. Dispensation of Medications****Subchapter C. Registration****§6523. Expiration of Registration**

A. ...

B. Notwithstanding the provisions of §6523.A, every registration issued by the board under this Chapter, to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the registrant was born.

C. The timely submission of an application for renewal of registration as a dispensing physician, as provided by §6525 of this Chapter, shall operate to continue the expiring registration in effect pending certification of renewal registration or other final action by the board on such application for renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

**§6525. Renewal of Registration**

A. ...

B. Notwithstanding the provisions of §6525.A, every registration issued by the board under this Chapter to be effective on or after January 1, 1999 shall be renewed in the year 2000, and each year thereafter, on or before the first day of the month in which the registrant was born. Renewal fees shall be prorated if the registration is to be effective for more than one year.

C. An application for registration renewal form shall be mailed by the board to each registrant at least 30 days prior to the expiration of the registration each year. Such form shall

be mailed to the most recent address of each registrant as reflected in the official records of the board.

D. Registration as a dispensing physician which has expired by virtue of nonrenewal shall not be reinstated by the board except upon the applicant's satisfaction of the qualifications, requirements and procedures prescribed by this Chapter for original application for registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

Inquiries concerning the proposed amendments may be directed in writing to Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rule amendments, in writing, to the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana, 70130. Written comments must be submitted to and received by the Board within 60 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the Board within 20 days of the date of this notice.

Delmar Rorison  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Registered Dispensing  
Physicians—Registration Renewal/Expiration**

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

It is not anticipated that the proposed rule amendments will result in any additional costs to the Board of Medical Examiners.

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

It is not anticipated that the proposed rule amendments will have any effect on the Board's revenue collections.

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

It is not anticipated that the proposed rule amendments will have any adverse costs and/or economic impact on the affected licensees, as the proposed rule amendments will not result in any fee increase to such licensees. During the implementation year for the modified renewal cycle, licensure fees will be prorated to the licensees' birth month during the year 2000.

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

It is not anticipated that the proposed rule amendments will have any significant impact on competition or employment in either the public or private sector.

Delmar Rorison  
Executive Director  
9805#056

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Medical Examiners

Respiratory Therapists and Respiratory  
Therapy Technicians—Licensure  
(LAC 46:XLV.2541, 2543 and 2565)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Respiratory Act, R.S. 37:3351-3361, and particularly 37:3355(3) and 37:3357, the Louisiana Medical Practice Act, R.S. 37:1270(B)(6), and the provisions of the Louisiana Administrative Procedure Act, intends to amend its rules governing the licensure of respiratory therapists and respiratory therapy technicians, LAC 46:XLV, Subpart 2, Chapter 25, §§2541, 2543 and 2565, to implement and provide for the annual renewal of licensure on the first day of the month in which the licensee was born. The proposed rule amendments, which are set forth below, add a new Subsection B to §2541, amend Subsection B of §2543 and replace the word "calendar" with the word "year" in §2565.B.1. All other provisions of the Sections, some of which are re-lettered, remain as originally promulgated.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLV. Medical Professions

#### Subpart 2. Licensure and Certification

#### Chapter 25. Respiratory Therapists and Respiratory Therapy Technicians

#### Subchapter E. Licensure, Issuance, Termination, Renewal, Temporary Issuance and Reinstatement

#### §2541. Expiration of License

A. ...

B. Notwithstanding the provisions of §2541.A, every license issued by the board under this Chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the licensee was born.

C. The timely submission of an application for renewal of a license, as provided by §2543 hereof, shall operate to continue the expiring license in force and effect pending the board's issuance, or denial of issuance, of the renewal license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 24:

#### §2543. Renewal of License

A. ...

B. Notwithstanding the provisions of §2543.A, every license issued by the board under this Chapter to be effective on or after January 1, 1999, shall be renewed in the year 2000,

and each year thereafter, on or before the first day of the month in which the licensee was born. Renewal fees shall be prorated if the license is to be effective for more than one year. An application for renewal of license shall be mailed by the board to each person holding a license issued under this Chapter at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensed respiratory therapist or licensed respiratory therapy technician as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 24:

#### Subchapter G. Continuing Professional Education §2565. Failure to Satisfy Continuing Professional Education Requirements

A. ...

1. - 3. ...

B. The license of a respiratory therapist or respiratory therapy technician whose license has expired by nonrenewal or has been revoked for failure to satisfy the continuing professional education requirements of these rules may be reinstated by the board upon written application to the board, made not more than two years from the date of expiration or revocation, accompanied by payment of a reinstatement fee, in addition to all other applicable fees and costs, of fifty dollars (\$50.00), together with documentation and certification that:

1. the applicant has, for each year since the date on which the applicant's license lapsed, expired or was revoked, completed eight (8) hours (0.8 CEU) of qualifying continuing professional education, and if the application for reinstatement is made more than one year following the date on which such license lapsed, expired or was revoked, the applicant shall evidence completion of an additional four (4) hours of qualifying continuing professional education since the date on which the applicant's license lapsed, expired or was revoked; or

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), amended LR 24:

Inquiries concerning the proposed amendments may be directed in writing to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rule amendments, in writing, to the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana, 70130. Written comments must be submitted to and received by the Board within 60 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the Board

within 20 days of the date of this notice.

Delmar Rorison  
Executive Director

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

**RULE TITLE: Respiratory Therapists and  
Respiratory Therapy Technicians—Licensure**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is not anticipated that the proposed rule amendments will result in any additional costs to the Board of Medical Examiners.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is not anticipated that the proposed rule amendments will have any effect on the Board's revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
It is not anticipated that the proposed rule amendments will have any adverse costs and/or economic impact on the affected licensees, as the proposed rule amendments will not result in any fee increase to such licensees. During the implementation year for the modified renewal cycle, licensure fees will be prorated to the licensees' birth month during the year 2000.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
It is not anticipated that the proposed rule amendments will have any significant impact on competition or employment in either the public or private sector.

Delmar Rorison  
Executive Director  
9805#058

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

Services Financing replaces previous criteria governing repairs of electric wheelchairs with the following:

- (1) repairs for electric wheelchairs may be considered if the recipient is in an educational or training program or is employed; or
- (2) repairs of electric wheelchairs may also be considered for recipients who already own an electric wheelchair, even if they are not currently enrolled in an educational or training program, or not employed, if the following conditions are met:

- (a) the electric wheelchair is the recipient's only wheelchair;
- (b) the only alternative to the repairs is replacement by a new manual type wheelchair;
- (c) the repairs do not cost more than the estimated replacement cost of a new appropriate, manual type chair; and
- (d) only basic repairs, not major modifications or reconstruction, of the chair is being requested.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Friday, June 26, 1998 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

**NOTICE OF INTENT**

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

**Medicaid—Electric Wheelchair Repairs**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing to adopt the following rule as authorized by LA R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Current policy governing electric wheelchair repairs require that repairs must be prior authorized and that authorization is granted only if the recipient is in an educational or training program or is employed. The Bureau seeks to amend the previous prior authorization criteria by establishing additional criteria for the coverage of repairs to electric wheelchairs under the Durable Medical Equipment Program.

**Proposed Rule**

The Department of Health and Hospitals, Bureau of Health

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Medicaid—Electric Wheelchair Repairs**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no costs or savings to the state as a result of this proposed rule. However, \$80 will be incurred in SFY 1998 for the state's administrative expense of promulgating this proposed rule as well as the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated effect on revenue collections. However, \$80 will be incurred in SFY 1998 for the federal share of promulgating this proposed rule as well as the final rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Repairs to electric wheelchairs of persons not in educational or training programs, or employed will be covered when the only alternative is replacements by new manual type, custom wheelchairs. Therefore, there are no costs and/or economic benefits. Medicaid recipients requiring repairs to electric wheelchairs must meet the established criteria for prior authorization of these devices offered through the Durable Medical Equipment Program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins  
Director  
9805#046

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

Video Poker—Code of Conduct of Licensees  
(LAC 42:XI.2417)

The Gaming Control Board hereby gives notice that it intends to amend LAC 42:XI.2417 in accordance with R.S. 27:15 and 24, et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42**

**LOUISIANA GAMING  
Part XI. Video Poker**

**Chapter 24. Video Draw Poker**

**§2417. Code of Conduct of Licensees**

- A.1. - 3. ...
- B. Unsuitable Conduct
  - 1. - 5. ...

6.a. No licensee or any partner, shareholder, officer, director or employee of a licensee shall play or participate in the play of any video draw poker device operated under authority of the licensee's video draw poker license.

b. The prohibition contained in §2417.B.6.a. shall not apply to certified technicians performing service and/or repairing a video draw poker device at any licensed establishment.

c. No licensee shall permit the operation of any video draw poker device at any time the licensed establishment is not open for business to the general public.

- C. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone number (504) 342-2465, and may submit written comments relative to these proposed rules, through June 9, 1998, to 339 Florida Boulevard, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain  
Chairman

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

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

There are no implementation costs to state or local

government units estimated.

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

There is no determinable effect on revenue collections of state or local government units.

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

No significant cost and/or economic benefit to directly affected persons or non-governmental groups is estimated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain  
Chairman  
9805#036

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of Motor Vehicles**

Compulsory Liability Insurance  
(LAC 55:III.Chapter 17)  
(Repeal of LAC 37:VII.125 and 127)

Notice is hereby given that the Department of Public Safety and Corrections, Office of Motor Vehicles proposes to adopt new rules relating to notification of the initiation, termination, or modification of liability security pursuant to R.S. 32:863.2, and to repeal the existing rules contained in LAC 37:VII.125 and 127. These rules implement the significant change in the reporting period for liability insurance information from 45 days to 15 working days. These rules also contain the only acceptable reporting method for compliance in accordance with R.S. 32:861-866.

The Fiscal and Economic Impact Statement for Administrative Rules has been approved by the Legislative Fiscal Office and follows this notice of intent.

**Title 55**

**PUBLIC SAFETY**

**Part III. Motor Vehicles**

**Chapter 17. Compulsory Insurance**

**Subchapter B. Reporting of Initiation and any Subsequent Change in Insurance Coverage**

**§1751. Definitions**

As used in this subchapter, the following terms have the meanings described below.

*Department*—Department of Public Safety and Corrections, Office of Motor Vehicles.

*Edit Error*—a record submitted by an insurance company or servicing agent unacceptable for filing purposes due to the absence of information in a required field or the presence of invalid information in the key data fields identified and detailed in the technical filing specifications given to the security provider by the department pursuant to LAC 55:III.Chapter 17, Subchapter B. Any record which is returned to an insurance company or servicing agent as an edit error is not a filing and counts against the overall match rate. The filing must be corrected and re-reported within 15 days. (Disposition code is "E.")

*Filing Report*—a report prepared by the department for an insurance company or servicing agent following completion of processing (record matching) containing the disposition of each record. It is the responsibility of the insurance company or servicing agent to review and take the necessary corrective action as required by these regulations. This return report is written on the same medium submitted by the insurance company, i.e., tape or cartridge.

*Fleet Policy*—a policy insuring a business with a fleet of five or more vehicles registered in Louisiana, issued on a fleet basis, by any insurance company, either admitted or non-admitted, writing motor vehicle liability insurance.

*Hit*—a record submitted by an insurance company or servicing agent which matches the department vehicle registration record. (Disposition code is "H.")

*Insurance Company Code*—a unique number assigned to each insurance company. National Association of Insurance Commissioners Code (NAIC code) will be used or a temporary identification number assigned by the department to an insurance company for the purpose of R.S. 32:863.2 of the Compulsory Motor Vehicle Liability Security Law.

*Insured Owner*—the name of the lessee or owner of the listed motor vehicle as obtained by the security provider.

*Magnetic Tape*—a magnetically encoded computer tape or cartridge which is machine readable by the installed computer system of the department and which conforms with the technical filing specifications given to the security provider by the department.

*Match Rate*—the percentage of hits relative to the total number of filings reported.

*Nonrenewal*—

a. a nonrenewal of a motor vehicle liability insurance policy shall include:

i. a refusal by the insurer to issue a superseding policy or a renewal of such policy;

ii. a request by the insured that a superseding policy not be issued or such policy not be renewed; or

iii. a failure of the insured to make the first premium payment due upon a superseding policy or a renewal of such policy offered by the insurer;

b. nonrenewals are to be reported in the same manner as cancellations or terminations.

*Notification*—the furnishing of information by a security provider to the department concerning liability security or lack of liability security on a motor vehicle, or a change or correction of data concerning the item of security, the vehicle or the lessee or owner, as required by R.S. 32:863.2 of the Motor Vehicle Liability Security Law and these regulations.

*Owner*—every person who holds the legal title to a motor vehicle or in the event a motor vehicle is the subject of an agreement for the conditional sale, lease or transfer of the possession, however, thereof, with the right of purchase upon performance of the condition stated in the agreement and with an immediate right of possession vested in the conditional vendee, lessee, possessor or in the event such or similar transaction is had by means of a mortgage, and the mortgagor of a vehicle is entitled to possession, then such conditional vendee, lessee, possessor or mortgagor shall be deemed the owner for the purpose of this Chapter.

*Owner ID Number*—driver's license number for an individual lessee or owner (the leftmost nine characters of driver's license number) or federal tax identification number for the lessee or owner if the lessee or owner is not a natural person.

*Recall of Notification*—a notice submitted to the department by a security provider or servicing agent, which rescinds a notification previously submitted to the department in error.

*Record*—insurance information pertaining to the items required by law and these regulations for an individual vehicle or fleet coverage.

*Resolved No-Hit Exception*—a no-hit exception which is resolved during the department's exception matching process and results in a match to the department's vehicle registration record. Effective October 1, 1998, the department will no longer attempt to resolve no-hits. (Disposition code is "R.")

*Return Date*—the department will provide a return date in its filing report. The date, in year, month, date (YYMMDD) format, will be placed in character positions 237-242 of the returned filing record. The return date will be the date the department writes the filing report to tape and will equal the date in the DATE-PROCESSED field of the trailer record.

*Security Provider*—a liability insurance company or other provider of liability security required under the Compulsory Motor Vehicle Liability Security Law (R.S. 32:861 et seq.).

*Servicing Agent*—any person or organization duly designated by a security provider to prepare, transmit or deliver records on behalf of such insurance company.

*Tape Receipt*—a two-part document furnished and prepared by an insurance company or servicing agent containing information prescribed in the technical filing specifications. Such receipt, along with a self-addressed return envelope, must accompany each magnetic tape or cartridge transmitted to the department, one copy of which, when duly endorsed and dated upon delivery and returned to the insurance company, shall constitute proof that such magnetic tape or cartridge was received by the department.

*Termination/Cancellation of Liability Security*—any cancellation or termination of liability security on a motor vehicle (whether caused by the insurer or insured).

*Unresolved No-Hit Exception*—a no-hit exception which is not resolved during the department's exception matching process. Insurance company must respond with corrected information within 15 days from department's returned filing report. (Disposition code is "U.") (See §1761.B.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

### **§1753. Introduction**

A. Effective July 1, 1988, security providers shall report to the Department of Public Safety and Corrections, Office of Motor Vehicles, certain information, on a vehicle-by-vehicle basis, with certain exceptions, in accordance with the Compulsory Motor Vehicle Liability Security Law (R.S. 32:861 et seq.), the Compulsory Security Law, and with these regulations regarding the initiation of liability coverage.

B. Effective July 9, 1988, security providers shall report to the Department of Public Safety and Corrections, Office of

Motor Vehicles, certain information, on a vehicle by vehicle basis, with certain exceptions, in accordance with the Compulsory Motor Vehicle Liability Security Law (R.S. 32:861 et seq.), the Compulsory Security Law, and with these regulations regarding the termination, withdrawal, cancellation, lapsing, or otherwise rendering ineffective of liability coverage.

C. As required by law and LAC 55:III.Chapter 17, Subchapter B, reports shall be made to the department whenever a liability policy on a motor vehicle is issued, procured, recalled, reinstated, terminated, canceled, or to change binder status to active policy number. Such information must be transmitted to the department in an efficient and timely manner in accordance with these regulations. Security providers shall not provide information to the department except as required by law or LAC 55:III.Chapter 17, Subchapter B. Examples of information which shall not be submitted to the department by security providers include, but are not limited to, the following:

1. information on non-liability coverage such as collision and comprehensive policies;
2. information on liability policies not in compliance with the Compulsory Security Law such as umbrella policies with excess coverage and non-ownership policies;
3. addition or deletion of other drivers.

D. The notification required by R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B, shall be made in the manner and form required by the department as set forth in these regulations. A separate notice shall be submitted for each vehicle. The failure of a security provider to properly notify the department may result in the imposition of the fee authorized in R.S. 32:863.2(B).

E. The purpose of the required information is to enforce the Motor Vehicle Safety Responsibility Law, R.S. 32:851 et seq., and particularly the Compulsory Security Law, R.S. 32:861 et seq. Consistently with this purpose, the information maintained by the department shall only be provided to a person making proper written request under R.S. 32:863.2(C) and R.S. 32:871 only after an accident is reported in accordance with R.S. 32:871. The information will be provided on a single individual or vehicle basis only. In order to preserve the proprietary information of security providers, insurance coverage information compiled by company, by zip code, or by other classifications shall not be made available to inquirers. Additionally, the department will not develop or maintain any composite list by insurance company or insurance company identifier except for unresolved no-hits and edit errors. The department will cooperate fully with the insurance industry in preserving the security of customer lists and related data.

F. *Louisiana Administrative Code* 55:III.Chapter 17, Subchapter B provides for adjustments to technical specifications of reporting requirements. The security providers will be advised by mail of any changes in the technical specifications of the reporting requirements. The department will always attempt to give 90 days notice of these adjustments so that security providers may have enough time to implement the changes, however, legislative changes or

other circumstances may result in notice of less than 90 days. Such mailings may be called "Advisory Bulletins" or "Memorandums" from the assistant secretary, Office of Motor Vehicles. These bulletins or memorandums may also contain clarifications, helpful hints, and such additional information as may be deemed applicable to compliance with the Compulsory Security Law. Moreover, in the event that an unusual situation is not covered by these regulations, a reasonable procedure consistent with the Compulsory Security Law will be followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

#### **§1755. Failure to Comply with Reporting Requirements**

A. In cases where, after written notice, a security provider fails to supply the information required by R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B in the manner approved by the department for the security provider, or fails to provide the information required by R.S. 32:863.3 and LAC 55:III.Chapter 17, Subchapter B within the 15 working day period established in R.S. 32:863.2, the fees as provided by R.S. 32:863.2(B) may be imposed. A security provider will not be charged a fee for providing data based on a reasonable assumption, such as assuming in good faith that the owner's address is the same as the named insured's address. Special consideration shall be given to unusual problems in compliance, proved in writing.

B. The security provider shall have 30 days from the date of the notice imposing a fee to make a written request for an administrative hearing to review the imposition of the fee. The security provider may also make a written request for an informal review of the imposition of the fee described in §1755.A. A request for an informal review shall suspend the running of the 30-day period contained in this Subsection. Upon completion of the informal review and the issuance of a written determination by the Office of Motor Vehicles, the remaining balance of the 30-day period within which to request an administrative hearing shall resume running.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

#### **§1757. Questions Regarding Procedures and Technical/Data Issues**

A. Procedural questions concerning LAC 55:III.Chapter 17, Subchapter B, or the official questions concerning policies of the department shall be referred to the Louisiana Department of Public Safety and Corrections, 17 Office of Motor Vehicles, Box 64886, Baton Rouge, LA 70896, Attention: Cancellation Unit, telephone (504) 925-7285, (504) 925-6983, or FAX (504) 922-0158.

B. Technical/data questions concerning the official policies of the department should be referred to the Louisiana Department of Public Safety and Corrections, Data Processing Center, 8001 Independence Boulevard, Baton Rouge, LA 70806, DMB Project Leader, telephone (504) 925-6246, or FAX (504) 925-4019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

#### **§1759. Match Rate and Reporting Period**

A. The department shall enforce a 92 percent match rate insofar as reporting liability insurance information in accordance with R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B. The 92 percent match rate is one of the criteria used to evaluate compliance with reporting requirements.

B. The match rate is evaluated on any given one year reporting period. The match rate will not be evaluated for a period to exceed one year. This reporting period will be used in determining any possible fee assessments for failure to report or successfully report information in accordance with LAC 55:III.Chapter 17, Subchapter B. The department will send to the security provider at least once a year a report of said company's current match rate. The notice provided for in this Section may be combined with any notice issued pursuant to §1755.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

#### **§1761. Credit for Correcting Unresolved No-Hits**

A. A direct "match" or "hit" is based on the Vehicle Identification Number (VIN). When the vehicle identification number does not match with Louisiana motor vehicle records and fails the vehicle identification number edit check, the record is coded "Unresolved." In accordance with LAC 55:III.Chapter 17, Subchapter B, the security provider has 15 days from receipt of the return filing to correct the vehicle identification number and resubmit the report. The failure to resubmit the report or the failure to submit corrected vehicle identification number data results in a "no-hit" filing which goes against the match rate.

B. A credit is given when an identified "Unresolved" is resubmitted with the correct vehicle identification number and matches with the Department's motor vehicle files. The program will "+1" in Hits and "-1" in the Unresolved category. Any vehicle data resubmitted with corrected vehicle identification number information will be coded as transaction "C" or "1" and will not count against the match rate a second time if the corrected information is unmatched and it will also not apply as a credit to the original error. In cases of resubmitted information, the original "unresolved" will be counted against the match rate only once.

C. If a security provider submits a vehicle identification number (VIN) for a 1981 or newer vehicle, and the Department's VIN check determines that the VIN is valid, but the VIN is not matched to a VIN in the department's records, the company is returned a disposition "R," resolved. In these records, the insurance company VIN and the VIN returned as the "Matched" VIN are identical. Effective October 1, 1998, the disposition code will change to "H," Hit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

#### **§1763. Reporting an Initiation of Coverage and Cancellation of Coverage at the Same Time**

All records must be submitted in chronological order. The

last record received from a security provider for a vehicle is considered to reflect the status of the vehicle with the company. Multiple filings for a single vehicle having the same company code and owner-ID will result in the last record received being maintained by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

#### **§1765. Recalling Notification by Security Provider**

When a security provider discovers that a cancellation or initiation of coverage was reported by mistake, the security provider shall submit to the department a notice of recall of notification. All the data but the transaction type must be the same as originally submitted in order to match the recall with the notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

#### **§1767. Warning on Notice of Acknowledgment of Termination to Insured**

The Notice of Acknowledgment of Termination sent to an insured shall contain the following warning notice:

"If you do not keep your liability insurance in force during the entire registration period, your registering privileges will be subject to revocation. By law your insurance carrier is required to report specific termination information to the Secretary of the Department of Public Safety and Corrections."

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

#### **§1769. Timely Insurance Filings**

A. In accordance with LAC 55:III.Chapter 17, Subchapter B, the security provider shall notify the department after motor vehicle liability security is initiated, terminated, or modified. Such notification shall be made within 15 working days of the effective date of the initiation or termination of coverage and shall not be reported prior to the effective date. The security provider has 15 days from receipt of the department's returned filings to correct the "Unresolved No-Hit Exception" and resubmit the report.

B. Any report submitted prior to the effective date will result in an edit error. An edit error is not a filing. Edit errors shall be corrected and resubmitted.

C. A security provider who violates §1769 may be subject to possible fee assessments pursuant to R.S. 32:863.2(B) even though a 92 percent match rate is maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

#### **§1771. Manual Filings**

A. Eligibility. The department may authorize a security provider to use manual filing of reports of initiation, termination and other reportable information changes by a security provider insuring less than 250 motor vehicles registered in this state on a calendar year basis.

B. Authorization. Any requests shall be in writing and made on a company by company basis. A request for authorization should be mailed to the Department of Public

Safety and Corrections, Office of Motor Vehicles, Box 64886, Baton Rouge, LA 70896, Attention: Cancellation Unit. If approval is granted, these filings shall to be mailed to Cancellation Unit.

C. Conditions of Filing. A security provider must notify the department after motor vehicle liability security is initiated, terminated, or in certain ways modified. Such notification shall be made within 15 working days of the effective date of the initiation, termination, or modification.

D. Format and Content. Each notification must be transmitted by an official of the company on the company's letterhead in a typewritten or typeset format. Multiple notices may be reported under a single submission. However, notices so submitted shall be numbered in a sequential order beginning with the designation "Notice 1:". Information items shall be inset, and single spaced separated by a double space. Notices must be submitted as specified in the manual filing data field requirements using the formats provided in LAC 55:III.Chapter 17, Subchapter B.

E. Alternative Format. A security provider may, at its option, develop its own form based upon the sample below, provided that the same formatting and display of information are utilized. Any alternative format is subject to prior approval by the department.

F. Frequency of Filing. Security providers shall not submit written notices more frequently than weekly.

G. Confirmation of Receipt. The department shall provide a filing report to the security provider. If the notice information provided by an insurance company is not in accordance with format and reporting requirements, or does not match a corresponding registration record, or if there are discrepancies in informational content, the company will be so advised. All filings will contain a disposition code indicating the disposition of each notice.

H. Recalling Notification. When a security provider discovers that a cancellation or initiation of coverage was reported by mistake, the security provider shall submit to the department a notice of recall of notification. All the data but the transaction type must be the same as originally submitted in order to match the recall with the notification. (See Record Format and Field Descriptions.)

I. Field Requirements. The following fields are required for reporting new business, termination or modification of liability security. (See Record Format and Field Descriptions):

1. vehicle identification number (VIN);
2. year of vehicle;
3. make or model of vehicle;
4. insurance company code;
5. type of transaction;
6. lessee or owner's address(to be reported only for termination);
7. lessee or owner's city(to be reported only for termination);
8. lessee or owner's state(to be reported only for termination);
9. lessee or owner's zip code;
10. policy number (or "binder");
11. termination, change date, or effective date;
12. lessee or owner's name;

13. lessee or owner's name indicator;
  14. lessee or owner's identification number;
- J. Sample Manual Filing

INSURANCE COMPANY LETTERHEAD ( RESERVED )  
( FOR )  
( DPS&C USE )

DATE: \_\_\_\_\_

TO: Louisiana Department of Public Safety & Corrections

Pursuant to R.S. 32:863.2 of the Louisiana Compulsory Motor Vehicle Liability Security Law and the Rules and Regulations of the Department, the following information is hereby submitted for filing with your office.

MANUAL REPORTING  
OF  
LIABILITY SECURITY

NOTICE 1:

VIN: 12345678901234567  
YEAR: 85  
MAKE/MODEL: FORD  
INS. CO. CODE: 11000  
TYPE OF TRANSACTION: 0  
LESSEE OR OWNER ADDRESS: 100 South Swan Street  
LESSEE OR OWNER CITY: New Orleans  
LESSEE OR OWNER STATE: Louisiana  
LESSEE OR OWNER ZIP CODE: 70110  
POLICY NUMBER (OR "BINDER"): 0013081883  
TERMINATION, CHANGE DATE OR EFFECTIVE DATE: 880115  
LESSEE OR OWNER NAME: Motorist Michael A  
LESSEE OR OWNER NAME: 2  
LESSEE OR OWNER IDENTIFICATION NUMBER: 1234567

NOTICE 2:

VIN: 2314567890232224567  
YEAR: 85  
etc .

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

**§1773. Guidelines for Fleet Filings**

A. Eligibility. Any insurance company writing motor vehicle liability insurance in Louisiana and insuring a fleet of five or more vehicles registered in Louisiana for which vehicle identification number (VIN) information is not maintained on each vehicle must manually report said fleet coverage as specified in LAC 55:III.Chapter 17, Subchapter B. If the insurance company maintains the VIN number of each vehicle within the fleet, the filing shall be reported on a vehicle-by-vehicle basis.

B. Conditions of Filing. A security provider must notify the department after motor vehicle liability security has begun, ended, or in certain ways modified. Such notification shall be made within 15 working days of the effective date of the beginning, ending, or modification. After the initiation has been reported, the cancellation is not to be reported until the entire fleet policy has been canceled. (Do not report the addition or deletion of individual vehicles.)

C. Format and Content. Each notification must be transmitted by an official of the company on the company's



letterhead in a typewritten or typeset format. Multiple notices may be reported under a single submission. However, notices so submitted shall be numbered in a sequential order beginning with the designation "Notice 1:." Information items shall be inset, and single spaced separated by a double space. Notices must be submitted as specified in the manual filing data field requirements using the formats provided in these rules and regulations.

D. No Special Forms Required. A company may, at its option, develop its own form based upon our sample, provided that the same formatting and display of information are utilized, and the form has received prior approval of the department.

E. Frequency of Filing. Insurance companies may submit written notices daily.

F. Confirmation of Receipt. The department shall provide a filing report to the insurance company. If the notice information provided by an insurance company is not in accordance with format and reporting requirements or if there are discrepancies in informational content, the company will be so advised. All filings will contain a disposition code indicating disposition of such notice.

G. Number of Vehicles. The estimated number of vehicles in a fleet is reported in lieu of vehicle identification number information on a vehicle-by-vehicle basis.

H. Recalling Notification. When a security provider discovers that a cancellation or initiation of coverage was reported by mistake, the security provider must submit to the department a notice of recall of notification. All the data but the transaction type must be the same as originally submitted in order to match the recall with the notification. (See Record Format and Field Descriptions.)

I. Fields. The following fields are required for reporting new business, termination, or modification of liability security (See Record Format and Field Descriptions.):

1. insurance company code;
2. type of transaction;
3. lessee or owner's address (to be reported only for termination);
4. lessee or owner's city (to be reported only for termination);
5. lessee or owner's state (to be reported only for termination);
6. lessee or owner's zip code;
7. policy number (or "binder");
8. termination, change date, or effective date;
9. lessee or owner's name;
10. lessee or owner's name indicator;
11. lessee or owner's federal tax identification number driver's license number for individual;
12. estimated number of vehicles in fleet.

J. Sample Fleet Filing

INSURANCE COMPANY LETTERHEAD ( RESERVED )  
 ( FOR )  
 ( DPS&C USE )

DATE: \_\_\_\_\_

To: Louisiana Department of Public Safety & Corrections

Pursuant to R.S. 32:863.2 of the Louisiana Compulsory Motor Vehicle Liability Security Law and the Rules and Regulations of the Department, the following information is hereby submitted for filing with your office:

MANUAL REPORTING  
 OF  
 LIABILITY SECURITY

NOTICE 1:

INS. CO. CODE: 11000  
 TYPE OF TRANSACTION: 0  
 LESSEE OR OWNER ADDRESS: 321 Tulane Avenue  
 LESSEE OR OWNER CITY: New Orleans  
 LESSEE OR OWNER STATE: Louisiana  
 LESSEE OR OWNER ZIP CODE: 70734  
 POLICY NUMBER ( OR BINDER): 0013081883  
 TERMINATION, CHANGE DATE, OR EFFECTIVE DATE: 880201  
 LESSEE OR OWNER NAME: JRS TOOL CO.  
 LESSEE OR OWNER NAME INDICATOR: 4  
 LESSEE OR OWNER IDENTIFICATION NUMBER: 721234567  
 ESTIMATED NUMBER OF VEHICLES: 25

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

**§1775. Fee Assessments**

A. The failure by a security provider to report the required information, failure to timely report the required information and/or failure to maintain at least a 92 percent match rate may result in the insurance company being assessed a \$50 fee per vehicle coverage in accordance with R.S. 32:863.2(B).

B. The department's motor vehicle records will be checked against liability insurance filings on an ongoing basis. Fees will continue to be assessed to those companies in noncompliance with the statute and LAC 55:III.Chapter 17, Subchapter B. Further, in cooperation with the insurance commissioner's office, continuous violations and noncompliance could result in additional administrative or judicial action.

C. Fees will not be assessed to those security providers who continue to report all insured vehicles, report on a timely basis, and maintain at least a 92 percent match rate during any given one-year reporting period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

**§1777. Transaction Types and How the Transaction Types are Used**

A. Described below are the transaction types and how each may be used for cancellations.

1. 0 = Termination. A termination or cancellation notice is submitted whenever liability security is canceled or terminated as described in the following circumstances.

a. An individual sells a vehicle and drops it from his policy. A cancellation notice is submitted.

b. An individual drops liability coverage from his policy but maintains comprehensive coverage on his vehicles. A cancellation notice is submitted for each vehicle affected.

c. A notice with a transaction type of "0" was returned as an edit error. It is resubmitted with corrected information.

2. 1 = Recall. The recall is used whenever a cancellation

notice is submitted in error. A cancellation notice was incorrectly reported. The cancellation date was reported as February 2 instead of February 13. A recall of the February 2 cancellation notice is submitted followed by a cancellation notice of having a canceled date of February 13.

3. 2 = Re-reporting. A re-reporting is used whenever the department returns a cancellation notice with a disposition of "U." A cancellation notice was returned with a disposition of "U." Corrected information is available and the cancellation notice is resubmitted.

4. 4 = Back-dated. Back-dating is used whenever a company back-dates a cancellation at the request of the insured, and where it would be impossible to submit a cancellation notice within 15 working days of the date of cancellation. As an example, an individual notifies his insurance company that he sold one of his vehicles two months ago. He requests a credit for two months of coverage. A back-dated cancellation notice is submitted with the cancellation date equaling the date the vehicle was sold.

B. Described below are the transaction types and how each may be used for initiations of coverage.

1. A = Initiation. An initiation notice is submitted whenever liability security is initiated (new business).

a. An individual purchases a vehicle and has it added to an existing policy. An initiation notice is submitted for the new vehicle.

b. A notice with a transaction type of "A" was returned as an edit error. It is resubmitted with corrected information.

2. B = Recall. The recall is used whenever an initiation notice is submitted in error. As an example, an initiation notice was incorrectly reported with a starting date reported as February 2 instead of February 13. A recall of the February 2 initiation notice is submitted followed by an initiation notice having a starting date of February 13.

3. C = Re-reporting. A re-reporting is used whenever the department returns an initiation notice with a disposition of "U." As an example, an initiation notice was returned with a disposition of "U." Corrected information is available and the initiation notice is resubmitted.

4. E = Back-dated. Back-dating is used whenever a company back-dates new business at the request of the insured, and where it would be impossible to submit an initiation notice within 15 working days of the date of inception of the policy. As an example, an individual notifies his insurance company that he purchased a vehicle two months ago. The insured's company back-dates the coverage to the date the vehicle was purchased. A back-dated initiation notice is submitted with the starting date equal to the date the vehicle was purchased.

5. F = Change. A change notice is submitted only for changing the policy number from a binder to an active policy number. As an example, an initiation notice was submitted with a policy number of "Binder." A change notice is submitted with an active policy number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

**§1779. Contact Person Information**

A. Certain updated information is periodically needed by the department in order for the department to implement and enforce the provisions of R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B. Each security provider shall give the department the name of a contact person within the insurance company to provide the most updated information or to correct problems as they arise.

B. The contact information sheet shall be completed and returned to this department. The contact sheet shall be submitted during January of each year and whenever there is a change in any of a security provider's contact personnel. A contact information sheet shall be submitted for each insurance company.

C. The security provider shall furnish the name of the company representative responsible for compliance with each of the following areas:

1. administrative reporting requirements
2. data processing;
3. commercial lines;
4. personal lines;
5. manual/fleet filings;
6. other personnel responsible for filings or fee assessments.

CONTACT PERSON INFORMATION SHEET  
LA. OFFICE OF MOTOR VEHICLES  
CANCELLATION UNIT  
P.O. BOX 64886  
BATON ROUGE, LA 70896

Certain updated information is needed periodically by this agency in order for us to contact the correct person within your insurance company to provide the most updated information or to correct problem areas. The contact information sheet is to be completed and returned to this department. The contact sheet must be submitted during the month of January each year and whenever there is a change in any of your company's contact personnel. A contact information sheet must be submitted for each insurance company. Please furnish the name of the representative responsible for compliance with administrative reporting requirements, data processing, commercial lines, personal lines, manual/fleet filings, and other personnel responsible for filings or fee assessments. This information will assist us in contacting your company's representative(s) in regard to specific compliance regulations.

NAIC# \_\_\_\_\_ NAME OF INSURANCE COMPANY \_\_\_\_\_

ADMINISTRATIVE COMPLIANCE	DATA PROCESSING
NAME: _____	NAME: _____
ADDRESS: _____ _____	ADDRESS: _____ _____
PHONE: ( ) _____	PHONE: ( ) _____
FAX: ( ) _____	FAX: ( ) _____
E-MAIL ADDRESS: _____	E-MAIL ADDRESS: _____

AREA OF RESPONSIBILITY: _____	AREA OF RESPONSIBILITY: _____
NAME: _____	NAME: _____
ADDRESS: _____ _____	ADDRESS: _____ _____
PHONE: ( ) _____	PHONE: ( ) _____
FAX: ( ) _____	FAX: ( ) _____
E-MAIL ADDRESS: _____	E-MAIL ADDRESS: _____

CONTACT PERSON INFORMATION SHEET  
LA. OFFICE OF MOTOR VEHICLES  
CANCELLATION UNIT  
P.O. BOX 64886  
BATON ROUGE, LA 70896

NAIC# \_\_\_\_\_ NAME OF INSURANCE COMPANY \_\_\_\_\_

AREA OF RESPONSIBILITY: _____	AREA OF RESPONSIBILITY: _____
NAME: _____	NAME: _____
ADDRESS: _____ _____	ADDRESS: _____ _____
PHONE: ( ) _____	PHONE: ( ) _____
FAX: ( ) _____	FAX: ( ) _____
E-MAIL ADDRESS: _____	E-MAIL ADDRESS: _____

AREA OF RESPONSIBILITY: _____	AREA OF RESPONSIBILITY: _____
NAME: _____	NAME: _____
ADDRESS: _____ _____	ADDRESS: _____ _____
PHONE: ( ) _____	PHONE: ( ) _____
FAX: ( ) _____	FAX: ( ) _____
E-MAIL ADDRESS: _____	E-MAIL ADDRESS: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

**§1781. Reporting Methods**

**A. Reporting via Magnetic Tape**

1. The magnetic tape/cartridge sent by a security provider or servicing agent shall be received during business hours only, 8 a.m. to 4:30 p.m., Monday through Friday, excluding state holidays, by the Louisiana Department of Public Safety and Corrections, Data Control, 8001 Independence Boulevard, Baton Rouge, LA 70806.

2. Each magnetic tape containing required notices shall be accompanied by, and uniquely identified with, a duly prepared tape receipt in accordance with the technical filing specifications. Such magnetic tape may contain all types of

notification. Insurance groups may report multiple companies on the same tape provided the servicing agent code is the same for all records on the tape.

3. When the department receives a magnetic tape from a security provider or servicing agent, an employee of the department shall endorse a copy of the tape receipt with the date of delivery and return such copy to the insurance company or servicing agent.

4. Each record accepted as a filing shall be deemed received by the department on the date the magnetic tape containing said record was delivered to the department as evidenced in the tape receipt.

B. Frequency of Filing and First Time Filing. A security provider may not submit notices more frequently than weekly. First time filings should be coordinated by contacting the department prior to the filing. All contact information must be provided and a test tape/cartridge processed and checked before live data will be processed on a routine basis.

C. Reporting via File Transfer Protocol. Effective October 1, 1998, security providers which currently file via magnetic tape shall begin filing using the file transfer protocol method. The only acceptable procedures for contacting the department's computer shall be via the Internet, dedicated data circuit, or dial-in access. All record formats shall be as described in LAC 55:III.Chapter 17, Subchapter B. The department will provide, upon request, all technical specifications to accomplish this connectivity. Any security provider requiring additional assistance may contact the Information Services Deputy Director of the Data Processing Center at (504) 925-6226. Section 1785.C shall not apply to security providers authorized to file reports manually or fleet coverage reports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

**§1783. Technical Specifications**

A. The technical specifications for magnetic tape and cartridges are contained in Office of Motor Vehicles policies, and shall be made available to a security provider upon the security provider notifying the department that the security provider will be submitting the reports required by R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B. The technical specifications are not contained in LAC 55:III.Chapter 17, Subchapter B, so as to allow for flexibility as technology changes.

B. The technical specifications for reporting via file transfer protocol are contained in Office of Motor Vehicles policies, and shall be made available to a security provider upon the security provider notifying the department that the security provider will be submitting the reports required by R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B. The technical specifications are not contained in LAC 55:III.Chapter 17, Subchapter B, so as to allow for flexibility as technology changes.

C. The department shall provide the security provider with the appropriate technical specifications, and the security provider shall acknowledge receipt of the technical specifications in writing, on company letterhead, dated, and signed by a company officer, director, or other person

authorized to sign on behalf of the company.

D. The failure of a security provider to submit a report pursuant to the technical specifications provided by the department pursuant to §1785.C shall be deemed a failure to provide the information required by R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B in the manner approved by the department for the security provider as provided in §1755 for purposes of assessing the fee authorized in R.S. 32:863.2(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

**§1785. Editing Vehicle Identification Numbers for Improved Match Rates**

A. In order to insure high match rates, security providers should check the vehicle identification numbers (VIN) for a valid check digit as 1981 and newer motor vehicles have a 17-digit vehicle identification number in which the check digit is the ninth character of the VIN.

B. A worksheet with instructions for computing the check digit follows §1787. A security provider may write a computer program from the information on the worksheet. A security provider may also obtain copies of the department's COBOL program to compute the check digit upon receipt of a written request. Such a program used at the insurance agent, or policy initiation level would greatly increase the likelihood that the VINs on 1981 and newer motor vehicles are correct when they enter the insurance company's database.

C. Security providers needing assistance may contact the DMB Project Leader of the Data Processing Center at (504) 925-6246.

COMPUTING THE VIN CHECK DIGIT  
(9TH CHARACTER OF THE 17-DIGIT VIN)

CHECK DIGIT COMPUTATION WORKSHEET

Nth VIN Digit	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	
LINE A																		
LINE B																		
LINE C																		
LINE D		8	7	6	5	4	3	2	10	0	9	8	7	6	5	4	3	2 =
									0									Final Sum

- On LINE A, enter 17-digit VIN.
- On LINE B, enter "Assigned Value" of each VIN character using the ASSIGNED VALUE TABLE below.
- Multiply the numbers in LINE B by the numbers in LINE C for each of the 17 digits in the VIN. Record the product of each of these separate computations in LINE D of the same column.
- Add together all the numbers recorded in LINE D and enter the FINAL SUM in the space provided.
- Divide the FINAL SUM by the number "11." If the remainder of this division is a single digit number, then this number must equal the ninth character of the 17-digit VIN. If

the remainder is the number "10," then the check digit (ninth character of VIN) must be the letter "X."

ASSIGNED VALUE TABLE

A-1	J-1	T-3	1-1	6-6	RECORD THE NUMBER ASSIGNED TO EACH VIN CHARACTER IN THE APPROPRIATE BOX ON LINE B.	
B-2	K-2	U-4	2-2	7-7		
C-3	L-3	V-5	3-3	8-8		
D-4	M-4	W-6	4-4	9-9		THE LETTERS "I," "O," AND "Q," ARE NEVER USED IN THE 17-DIGIT VIN.
E-5	N-5	X-7	5-5	0-0		
F-6	P-7	Y-8				
G-7	R-9	Z-9				
H-8	S-2					

Example:

1981 Ford Mustang **1FABP12A4BR101093**, FINAL SUM = 246  
   u  
**246 Divided By 11 = 22 R 4**

Year of Manufactured Code Values (10th Character of VIN)		
1980 - A	1990 - L	2000 - Y
1981 - B	1991 - M	2001 - 1
1982 - C	1992 - N	2002 - 2
1983 - D	1993 - P	2003 - 3
1984 - E	1994 - R	2004 - 4
1985 - F	1995 - S	2005 - 5
1986 - G	1996 - T	2006 - 6
1987 - H	1997 - V	2007 - 7
1988 - J	1998 - W	2008 - 8
1989 - K	1999 - X	2009 - 9

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

**§1787. Identification Card Specifications**

A. General Information

- Pursuant to R.S. 32:863, which became effective July 1, 1985, all vehicles registered in the state of Louisiana must contain within the vehicle, documentation indicating compliance with the Compulsory Motor Vehicle Liability Security Law. An identification card (ID card) may be used in lieu of the actual policy as a means of showing evidence of liability insurance coverage.
- The purpose of developing an approved ID card is to provide insured owners with a document to be used as proof of compliance with Louisiana's compulsory insurance laws.
- Those ID cards, in conformance with the attached specifications as to content, will be accepted as proof of liability insurance by law enforcement and the Office of Motor Vehicles.
- In order for the security provider to insure compliance with specification requirements, the security provider shall furnish the department with sample copies of the Louisiana Liability Insurance Identification Card provided

to the security provider's insured. The sample copies shall be mailed to the Louisiana Department of Public Safety and Corrections, Office of Motor Vehicles, Cancellation Unit, Box 64886, Baton Rouge, LA 70896-4886, or sent by FAX to (504) 922-0158, Attention: Cancellation Unit.

5. A security provider with any questions in regard to implementation of §1789 may call the Cancellation Unit at (504) 925-7285.

**B. Louisiana Identification Card Specifications**

1. The size of document need not be uniform.  
 2. The identification card should be a one-part form on at least 20-pound white paper stock.

3. The security provider shall designate on the card in either bold print or contrasting color the following information:

a. on the front of the identification card:

i. the following language, verbatim:

"Louisiana Auto Insurance Identification Card";

ii. the following language, verbatim:

"An insurer authorized to transact business in Louisiana has issued the Motor Vehicle Policy identified hereon. The coverage provided by this policy meets the minimum liability insurance limits prescribed by law.";

iii. the following language, verbatim:

"This card must be carried in the vehicle at all times as evidence of liability insurance.";

b. on the reverse or backside of the identification card, the following language, verbatim:

"IMPORTANT NOTICE. La. R.S. 32:863.1 requires that an operator of a motor vehicle produce upon demand by a law enforcement officer documentation of motor vehicle security which is required to be maintained within the vehicle at all times. Failure to comply may result in fines, revocation of registration privileges and block against the renewal or issuance of a driver's license.".

4. The security provider shall include the following information on the identification card:

a. on the front of the identification card:

i. the name, address, and NAIC number of the insurance company;

ii. the name of insured, policy number, effective date and expiration date;

iii. vehicle description: the year may be shown as two digits and the make may be abbreviated. The full 17-digit vehicle identification number, with the exception of those model vehicles 1981 or older, must be shown. Only when the insurer does not have the VIN information under a fleet policy, is the word "Fleet" to be entered. The federal tax identification number of the listed insured must be provided when "Fleet" is used;

iv. any excluded drivers on the policy shall be listed.

The inclusion of the following information is optional: the excluded driver's date of birth and/or operator's license number;

b. on the front or back of the identification card: the insurance agent's name, address and telephone number.

5. The identification card shall be provided to each liability policy holder at least annually or at each renewal, at the discretion of the security provider.

6. Other items may be included on the reverse side of the card, at the discretion of the security provider, including but

not limited to the company logo or trademark, or any other message including claim locations, what actions to take in the event of an accident or other claim.

**C. Example of Louisiana Identification Card**

<b>LOUISIANA AUTO INSURANCE IDENTIFICATION CARD</b>		
An insurer authorized to transact business in Louisiana has issued the Motor Vehicle Policy identified hereon. The coverage provided by this policy meets the minimum liability insurance limits prescribed by law.		
NAIC NUMBER	COMPANY	
POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
VEHICLE DESCRIPTION		
YEAR	MAKE/MODEL	VEHICLE IDENTIFICATION NUMBER
INSURED		
THIS CARD MUST BE IN THE VEHICLE AT ALL TIMES AS EVIDENCE OF INSURANCE		

<b>IMPORTANT NOTICE</b>
La. R.S. 32:863.1 requires that an operator of a motor vehicle produce upon demand by a law enforcement officer documentation of motor vehicle security which is required to be maintained within the vehicle at all times.
Failure to comply may result in fines, revocation of registration privileges and block against the renewal or issuance of a driver's license.
INSURANCE AGENT:
EXCLUDED DRIVERS:

**1. Sample with Vehicle Identification Number**

<b>LOUISIANA AUTO INSURANCE IDENTIFICATION CARD</b>		
An insurer authorized to transact business in Louisiana has issued the Motor Vehicle Policy identified hereon. The coverage provided by this policy meets the minimum liability insurance limits prescribed by law.		
NAIC NUMBER	COMPANY	
12345	Compulsory Insurance Company 1234 Liability Lane Security, LA 10000	
POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
ABC 12345	01/01/95	01/01/96
VEHICLE DESCRIPTION		
YEAR	MAKE/MODEL	VEHICLE IDENTIFICATION NUMBER
95	Chev/Cam	1GTCE1456PB123456
INSURED		
John Doe 203 Doe Street Baton Rouge, LA 70895		
THIS CARD MUST BE IN THE VEHICLE AT ALL TIMES AS EVIDENCE OF INSURANCE		

**IMPORTANT NOTICE**

La. R.S. 32:863.1 requires that an operator of a motor vehicle produce upon demand by a law enforcement officer documentation of motor vehicle security which is required to be maintained within the vehicle at all times.

Failure to comply may result in fines, revocation of registration privileges and block against the renewal or issuance of a driver's license.

INSURANCE AGENT:  
All Day Insurance Agency  
1000 Anywhere Street  
Baton Rouge, LA 70806  
Phone # (504) 123-4567

EXCLUDED DRIVERS: Johnny Doe DOB 10/01/75 DL# 1234567

**2. Sample with Fleet Information**

**LOUISIANA AUTO INSURANCE IDENTIFICATION CARD**

An insurer authorized to transact business in Louisiana has issued the Motor Vehicle Policy identified hereon. The coverage provided by this policy meets the minimum liability insurance limits prescribed by law.

NAIC NUMBER	COMPANY
12345	Compulsory Insurance Company 1234 Liability Lane Security, LA 10000

POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
ABC 12345	01/01/95	01/01/96

VEHICLE DESCRIPTION	VEHICLE IDENTIFICATION NUMBER
YEAR MAKE/MODEL	FLEET - FEDERAL TAX ID# 720000000

INSURED  
John Doe Trucking, Inc.  
203 Doe Street  
Baton Rouge, LA 70895

THIS CARD MUST BE IN THE VEHICLE AT ALL TIMES  
AS EVIDENCE OF INSURANCE

**IMPORTANT NOTICE**

La. R.S. 32:863.1 requires that an operator of a motor vehicle produce upon demand by a law enforcement officer documentation of motor vehicle security which is required to be maintained within the vehicle at all times.

Failure to comply may result in fines, revocation of registration privileges and block against the renewal or issuance of a driver's license.

INSURANCE AGENT:  
All Day Insurance Agency  
1000 Anywhere Street  
Baton Rouge, LA 70806  
Phone # (504) 123-4567

EXCLUDED DRIVERS: N/A

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:863.2.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

**§1789. Declaratory Orders and Rulings**

A. Any person desiring a ruling on the applicability of R.S. 32:863.2, or any other statute, or the applicability or validity of any rule, to the reporting of initiation and any subsequent change in insurance coverage shall submit a written petition to the assistant secretary for the Office of Motor Vehicles. The written petition shall cite all, constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

B. If the petition seeks an order or ruling on a report submitted to the Office of Motor Vehicles by a security provider, the person submitting the petition shall notify the security provider who submitted the report, if the person submitting the petition is not the security provider. Such notice shall be sent by certified mail, return receipt requested. In such case, the petition shall not be considered until proof of such notice has been submitted to the assistant secretary, or until the person petitioning for the order or ruling establishes that the security provider cannot be notified after a due and diligent effort. The notice shall include a copy of the petition submitted to the assistant secretary.

C. The assistant secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The assistant secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the assistant secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

D. Notice of the order or ruling shall be sent to the person submitting the petition as well as the security provider receiving notice of the petition at the mailing addresses provided in connection with the petition.

E. The assistant secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in this Section.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:863.2 and R.S. 49:962.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

**Title 37**

**INSURANCE**

**Part VII. Motor Vehicles**

**Chapter 1. Insurance**

**Subchapter B. Compulsory Motor Vehicle Liability Security**

**§125. Termination of Liability Insurance Coverage, Motor Vehicle Liability Bonds and Deposits of Security with State Treasurer**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicle, LR 11:874 (September 1985), amended LR 13:667 (November 1987), repealed LR 24:

### §127. Record Format and Field Descriptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 11:874 (September 1985), amended LR 13:667 (November 1987), repealed LR 24:

Persons having comments or inquiries may contact Stephen A. Quidd, attorney for the Office of Motor Vehicles by writing to Box 66614, Baton Rouge, LA 70896, by calling (504) 925-4068, or by sending a FAX to (504) 925-3974. These comments and inquiries must be received by June 20, 1998.

A public hearing on these rules is tentatively scheduled for Monday, June 29, 1998, in the Executive Conference Room at the Office of Motor Vehicles Headquarters at 109 South Foster Drive, Baton Rouge, LA 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing.

Thomas Normile  
Undersecretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Compulsory Liability Insurance

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

There should be no implementation costs or savings to the department as the department is currently accepting insurance coverage reports from security providers. These rules are being proposed to address changes in the law which shorten the reporting period for insurance companies from 45 days to 15 days. These rules also change the manner in which security providers submit reports to the department with certain exceptions.

There should be no implementation costs or savings to local governments as only the state administers this program.

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

There should be no effect on the revenue collections of either state or local governments. As stated above, local governments are not involved in the reporting process. The state only charges the fee authorized by R.S. 32:863.2 in those cases in which the security provider fails to report the required insurance information in a timely and appropriate manner. These fees have been assessed in the past and will continue to be assessed to those security providers who fail to report information in the approved manner.

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

Insurance companies are already required by state law to submit the reports of insurance information to the department, so there should be no increased costs. There may be a negligible reduction in the supply costs of these companies as they will no

longer have to buy the supplies such as the tapes or cartridges effective October 1, 1998.

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

There should be no effect on competition or employment as security providers are already required to submit insurance information to the department. The only changes are the 15-day reporting requirement mandated by state law, R.S. 32:863.2, and the manner in which the reports are to be submitted to the department. In both cases, the changes will apply equally to all security providers.

Thomas Normile  
Undersecretary  
9805#053

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Public Safety and Corrections Office of the State Fire Marshal

Boilers (LAC 55:V.Chapters 50-58)

In accordance with the provisions of R.S. 49:950 et seq., and R.S. 40:1563(D), relative to the authority of the Office of the State Fire Marshal to promulgate rules and regulations, notice is hereby given that the Office of the State Fire Marshal intends to repeal LAC 46:VIII, Chapters 3 - 13 in their entirety and replace these existing Boiler Inspectors rules with new rules in LAC 55:V.Chapters 50 - 58.

#### Title 55 PUBLIC SAFETY Part V. Fire Protection Subpart 2. Boilers

#### Chapter 50. General Provisions

#### §5001. Preface

A. The objective of these rules is to promote safe and efficient boiler practices for the construction, repair, alteration, operation and inspection of all boilers, and to provide for inspection during fabrication, assembly, modification, repair or alteration of those pressure vessels which are required by the owner or user to:

1. meet American Society of Mechanical Engineers (ASME) rules for construction, and the *National Board Inspection Code* (NBIC) rules for repair; and

2. be stamped as meeting those rules, thereby insuring better protection of life and property. To this end we invite the cooperation of all boiler and pressure vessel manufacturers, owners, users, operators and insurance companies.

B. It is intended that these rules will effect reasonable and adequate regulations governing the construction, maintenance, inspection and use of boilers, and provide for the inspection during fabrication, repair or alteration of those pressure vessels that are required by the owner or user to:

1. meet ASME and NBIC requirements; and
2. be stamped as meeting those rules.

C. These rules are not designed to provide an inspection program for unfired pressure vessels, except as provided for by the Act, however, inspections will be provided when requested by the owner or user. They are intended to promote uniform

standards for the design, fabrication, repair, alteration and inspection of steam and hot water boilers, and the inspection during fabrication, repair or alteration of those pressure vessels that are required by the owner or user to:

1. meet ASME and NBIC requirements; and
2. be stamped as meeting those rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

### §5003. Application

A. The rules herein promulgated apply to all boilers subject to the provisions of the Louisiana Revised Statutes of 1950, Title 23, Chapter 5, Part III, Sections 531 through 545, [Except boilers exempted by R.S. 23:540 and R.S. 23:541(D)], and to those pressure vessels that are required by the owner or user to:

1. meet ASME and NBIC requirements; and
2. be stamped as meeting those rules, as provided for by R.S. 23:531.

B. These rules shall conform as nearly as practicable to the *ASME Boiler and Pressure Vessel Codes*:

1. Section I—Power Boilers;
2. Section IV—Heating Boilers;
3. Section V—Nondestructive Examination;
4. Section VI—Recommended Rules for the Care and Operation of Heating Boilers;
5. Section VII—Recommended Guidelines for the Care of Power Boilers;
6. Section VIII—Pressure Vessels to the extent the rules and regulations apply;
7. Section IX—Welding and Brazing Qualifications;
8. ASME B31.1—Power Piping;
9. ASME C.S.D.-1—Controls and Safety Devices for Automatically Fired Boilers; and
10. NAPA 54—*National Fuel Gas Code*, with the addenda, code cases, and interpretations adopted by the council of the American Society of Mechanical Engineers; and the *National Board Inspection Code*, current edition.

C. Where the application of a rule would cause expense materially out of proportion to the increase of safety secured thereby, or would be unreasonable under the facts of the particular case, and safety can be secured in other ways, the assistant secretary may, upon adequate showing by the owner or user, grant an exemption or modification of the rule complained of, under such requirements as will secure a reasonable condition of safety.

D. The rules providing for inspection of new and existing installations shall apply to all boilers subject to the provisions of Act 264 of the Regular Session of 1938, as continued or substituted for by Title 23, Chapter 5, Part III, of the Louisiana Revised Statutes of 1950, regardless of whether inspected by an inspector employed by the Department of Public Safety or by an insurance company inspector, and shall apply to all boilers whether stationary or portable, insofar as is practical.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

### §5005. Definitions

*Act*—regulations affecting boilers, as enacted, amended and reenacted by the Legislature of Louisiana, herein referred to as the Louisiana Revised Statutes of 1950, Title 23, Chapter 5, Part III, Sections R.S. 23:531-545.

*Alteration*—a change in any item described on the original manufacturers' Data Report which effects the pressure containing capability of the boiler or pressure vessel. Nonphysical changes such as an increase in maximum allowable working pressure (internal or external) or design temperature shall be considered an alteration. A reduction in minimum temperature such that additional mechanical tests are required shall also be considered an alteration.

*Assistant Secretary*—as used herein shall be the fire marshal for the State of Louisiana.

*ASME*—the American Society of Mechanical Engineers.

*ASME Code*—the *American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code* published by that society, including addenda and code cases, approved by its council and adopted by the assistant secretary, shall hereafter be known as the *Louisiana Boiler Construction Code*. A copy of this code will be on file at the State of Louisiana, Department of Public Safety, Office of the State Fire Marshal, Boiler Inspection Section, Baton Rouge, Louisiana.

*Authorized Inspection Agency*—one of the following:

1. a department or division established by a jurisdiction which has adopted and does administer one or more sections of the *ASME Code*, one of which shall be Section I as a legal requirement, and whose inspectors hold valid commissions issued by the National Board of Boiler and Pressure Vessel Inspectors. For these rules this shall be the Boiler Inspection Section, Office of the State Fire Marshal, State of Louisiana;
2. an insurance company which has been licensed or registered by the appropriate authority of a state of the United States or a province of Canada, to write and does write boiler and pressure vessel insurance, and to provide inspection service of boilers and pressure vessels that they insure in such state or province, and whose inspectors meet the requirements of authorized inspector above.

*Authorized Inspector*—an inspector who holds a current commission as an inspector of boilers and other pressure vessels, issued by the National Board of Boiler and Pressure Vessel Inspectors; a certificate of competency and commission as a boiler inspector, issued by the Boiler Inspection Section, Office of the State Fire Marshal, State of Louisiana.

*Boiler*—a vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use external to itself, by the direct application of heat, that is heat resulting from the combustion of fuel, electrical elements, nuclear fuel, or waste gases. Vessels known as evaporators or heat exchangers and vessels in which steam and other vapor is generated by the use of heat resulting from operation of a processing system containing a number of pressure vessels such as used in the manufacture of chemical and petroleum products, would be exempted from jurisdictional inspection requirements. The term *boiler* shall include the following.



1. *Electric Boiler*—a power boiler or a hot water heating or supply boiler in which the source of heat is electricity.

2. *Heat Recovery Boiler*—a vessel or system of vessels comprised of one or more heat exchanger surfaces used for the recovery of waste heat. Vessels known as evaporators or heat exchangers in which steam and other vapors generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels such as used in the manufacturing of chemical and petroleum products, are to be exempted from jurisdictional inspection requirements.

3. *Heating Boiler*—a steam boiler operating at pressures not exceeding 15 psig, or a hot water boiler operating at pressures not exceeding 160 psig or temperatures not exceeding 250EF.

4. *High Pressure/High Temperature Water Boiler*—a water boiler intended for operation at pressures in excess of 160 psig and/or temperatures in excess of 250EF.

5. *Hot Water Heating Boiler*—a boiler in which no steam is generated, from which hot water is circulated for heating purposes and then returned to the boiler, and which operates at a pressure not exceeding 160 psig and/or a temperature of 250EF at or near the boiler outlet.

6. *Hot Water Supply Boiler*—a boiler completely filled with water that furnishes hot water to be used externally to itself at pressures not exceeding 160 psig or a temperature not exceeding 250EF at or near the boiler outlet.

7. *Miniature Boiler*—a power boiler or a high-temperature water boiler which does not exceed the following limits:

- a. 16 inches inside diameter of shell;
- b. 20 square feet heating surface (not applicable to electric boilers);
- c. 5 cubic feet gross volume exclusive of casing and insulation;
- d. 100 psig maximum allowable working pressure.

8. *Potable Boiler*—a boiler which is primarily intended for temporary location and the construction and usage permits it to be readily moved from one location to another.

9. *Potable Water Boiler*—a vessel in which water is heated and withdrawn for use external to itself at pressures not exceeding 160 psig and temperatures not exceeding 210EF. This shall include hot water heaters (fired and electric), supplying potable hot water, 50 gallons and over in capacity; coil water heaters and fired jacketed kettles. This includes all size hot water heaters when not exempt by R.S. 23:541(D).

10. *Power Boiler*—a boiler in which steam is generated at a pressure of more than 15 psig.

11. *Steam Heating Boiler*—a steam boiler for operation at pressures not exceeding 15 psig, used for heating purposes.

12. *Unfired Steam Boiler*—an unfired vessel intended for operation at a pressure in excess of 15 psig steam for the purpose of producing and controlling an output of thermal energy. Vessels known as evaporators or heat exchangers and vessels in which steam and other vapor is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels such as used in the manufacture of chemical and petroleum products, are to be exempted from jurisdictional inspection requirements.

13. *Waste Heat Boiler*—an unfired vessel or system of unfired vessels intended for operation in excess of 15 psig steam for the purpose of producing and controlling an output of thermal energy. Vessels known as evaporators or heat exchangers and vessels in which steam and other vapor is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels such as used in the manufacture of chemical and petroleum products, are exempted from jurisdictional inspection requirements.

*Certificate Inspection*—an inspection, the report of which is used by the chief inspector as justification for issuing, withholding or revoking the inspection certificate. This certificate inspection shall be an internal inspection when required, otherwise, it shall be as complete an inspection as possible.

1. *Internal Inspection*—as complete an examination as can be made of the internal and external surface of a boiler or pressure vessel while it is shut down and manhole plates, hand hole plates or other inspection opening closures are removed as required by the inspector.

2. *External Inspection*—an inspection made when a boiler or pressure vessel is in operation, if possible.

*Certificate of Competency*—a certificate issued to a person who has passed the examination prescribed by the assistant secretary.

*Certificate of Inspection*—a certificate issued by the chief inspector for the operation of a boiler or pressure vessel as required by the Act.

*Commission—National Board*—the commission issued by the National Board of Boiler and Pressure Vessel Inspectors to a holder of a certificate of competency who desires to make shop inspections or field inspections in accordance with the national board bylaws and whose employer submits the inspector application to the national board for such commission.

*Condemned Boiler or Pressure Vessel*—a boiler or pressure vessel that has been inspected and declared unsafe, or disqualified by legal requirements, by an inspector and a stamping or marking designating its condemnation has been applied by the chief inspector, deputy or special inspector.

*Existing Installation*—includes any boiler constructed, installed, placed in operation, or contracted for before July 7, 1938 and any pressure vessel (when required by the Act) before July 16, 1975.

*Inspector*—the chief inspector, any deputy inspector or special inspector.

1. *Chief Inspector*—the chief boiler and pressure vessel inspector, appointed under the Act.

2. *Deputy Inspector*—any inspector, employed by this state and appointed by the assistant secretary under the provisions of the Act.

3. *Special Inspector*—an inspector holding a Certificate of Competency, and who is regularly employed by an insurance company authorized to insure against loss from explosion of boilers or pressure vessels in this state.

*Jurisdiction*—a state, commonwealth, county or municipality of the United States or a province of Canada, which has adopted one or more sections of the *ASME Code*, or

other codes and standards accepted by the National Board of Boiler and Pressure Vessel Inspectors, and maintains a duly constituted department, bureau or division for the purpose of enforcement of such Code.

*National Board*—the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229, whose membership is composed of the chief inspectors of jurisdictions, who are charged with the enforcement of the provisions of the *ASME Code*.

*National Board Inspection Code*—the manual for boiler and pressure vessel inspectors published by the National Board of Boiler and Pressure Vessel Inspectors, from which copies may be obtained.

*New Boiler or Pressure Vessel*—includes all boilers constructed, installed, placed in operation or contracted for after July 7, 1938, or pressure vessels (when requested) after July 16, 1975.

*Nonstandard Boiler or Pressure Vessel*—a boiler or pressure vessel that does not bear the ASME stamp, the API-ASME stamp, or the stamp of any jurisdiction which has adopted a standard of construction equivalent to that required by these rules.

*Owner or User*—any person, firm or corporation legally responsible for the safe installation, operation and maintenance of any boiler or pressure vessel within this jurisdiction.

*Pressure Vessel*—a vessel in which the pressure is obtained from an external source, or by the application of heat from an indirect source, or from a direct source other than those boilers defined herein, and shall be those vessels within the scope of Section VIII of the *ASME Code*.

*PSIG*—pounds per square inch gauge.

*Reinstalled Boiler or Pressure Vessel*—a boiler or pressure vessel removed from its original setting and reinstalled at the same location or at a new location without change of ownership.

*Repair*—the work necessary to restore a boiler or pressure vessel to a safe and satisfactory operating condition, provided there is no deviation from the original design.

*Repair/Pressure Relief Valve*—the replacement, re-machining or cleaning of any critical part, lapping of seat and disk or any other operation which may affect the flow passage, capacity function or pressure retaining ability of the valve. Disassembly, reassembly and/or adjustments which affect the pressure relief valve function are also considered repair.

*Second Hand Boiler or Pressure Vessel*—a boiler or pressure vessel which has changed both locations and ownership since its primary use.

*Standard Boiler or Pressure Vessel*—a boiler or pressure vessel which bears the stamp of the state, the ASME stamp, the API-ASME stamp, both the ASME and national board stamp, or the stamp of another jurisdiction which has adopted a standard of construction equivalent to that required by this state.

*Water Heater*—a vessel in which water is heated by combustion of fuel or electricity, for use external to the system at pressures not exceeding 160 psig and shall include all controls and devices necessary to prevent water temperatures

from exceeding 210°F as well as storage vessels connected to the water heater (also defined as a *potable water boiler*).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

## **Chapter 52. Administration**

### **§5201. Compliance with Code Requirements**

A. No boiler shall be installed in this state unless it has been constructed, inspected and stamped in conformity with the *ASME Code* and registered with the National Board except:

1. those exempt by the Act;
2. those existing installations (see definitions);
3. those potable water heaters exempted by Part HLW-101, Section IV of the *ASME Code*, that are required by the Act, to comply with these rules. (Those heaters must be designed and constructed according to Underwriter's Laboratories or other nationally recognized standards, and shall bear their label on the completed unit);
4. those approved as "Louisiana Special."

B. Louisiana Special. If, due to a valid impediment to compliance with the original code of construction, a boiler cannot bear the required construction code and national board stamping, details in the English language and United States customary units of the proposed construction, material specifications and calculations, approved by a registered professional engineer experienced in boiler systems design, shall be submitted to the chief inspector by the owner or user and approval as Louisiana Special obtained before construction is started.

C. A boiler having a standard or special stamping of another state that has adopted a standard of construction equivalent to that required for Louisiana, may be accepted by the assistant secretary. The owner/user desiring to install such a boiler shall make application for the installation of same and shall file with the application of a manufacturer's data report covering the construction of the boiler in question and a copy of the approval for construction from the state in which the boiler was fabricated.

D. The stamping, ASME, NB, or Standard Label, shall not be concealed by lagging or paint and shall be exposed at all times unless a suitable cover is provided and identifies the stamping as beneath the cover, or a suitable record is kept of the location of the stamping so that it may be readily uncovered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

### **§5203. Boiler Inspections**

A. Upon completion of installation, all boilers shall be inspected by an inspector commissioned to inspect boilers in this state, and shall be inspected thereafter as follows.

1. Power boilers shall receive an internal certificate inspection annually, with the exception of those covered by R.S. 23:536(A), and may receive an external inspection while under pressure at approximately six months following the internal inspection.

2. High temperature and high pressure water boilers shall receive an external inspection annually, with an internal inspection done every six years based on the date of manufacture.

3. Low pressure boilers and potable water boilers shall receive a certificate inspection annually as follows.

a. Steam heating boilers shall receive an internal inspection every two years where construction permits, otherwise, a thorough external inspection shall be performed.

b. Hot water heating and hot water supply boilers shall receive an external inspection every two years and where construction permits an internal inspection every six years based on the date of manufacture.

c. All potable water boilers/water heaters shall receive an external inspection, including the functions of all controls and devices, at the initial installation, except those located in privately owned residences. Those potable water boilers/water heaters 50 gallons in capacity and larger (including any attached storage vessels) and/or 100,000 Btu/hr heat input, shall be issued a state jurisdiction number and a certificate to operate. Those heaters issued an operating certificate will require an external inspection every two years thereafter.

B. Upon application from the owner or user with the recommendation of a deputy inspector or special inspector, the chief inspector may authorize an extension of the internal inspection period, as provided for by the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5205. Second-Hand Installations to Comply with New Installation Requirements**

In any case where a second-hand boiler is installed, that is, both the ownership and location of which is changed, all fittings and appliances must comply with the applicable current *ASME Code* section for New Installations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5207. Application of State Serial Numbers**

A. Upon completion of the installation of a boiler, or at the time of the initial certificate inspection of an already installed boiler that has not been inspected and stamped according to these rules, each power boiler and high pressure high temperature water boiler shall be stamped by the inspector with a serial number of the state, consisting of letters and figures to be not less 5/16 inch in height and arranged as follows: 00000LA (state serial numbers 00001-49999 shall be referred to as high pressure numbers and used for power boilers and high pressure high temperature water boilers. Numbers 50000 and above shall be referred to as low pressure numbers and a decal provided for attachment to all other boilers).

B. All other low pressure boilers, potable water boilers and water heaters shall have securely attached to the front of the

unit, if possible, the low pressure decal provided by the boiler inspection section, containing the state serial number.

C. Pressure vessels when requested to be inspected by the owner or user shall have securely attached one of the low pressure decals provided by the boiler inspection section containing the state serial number, and shall be stamped under the same pressure and temperature guidelines provided for boilers by these rules.

D. State serial numbers that have been stamped or otherwise attached to a boiler shall not be defaced or removed except as provided for by these rules and regulations, and shall not be covered by insulation or other material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5209. Examination for an Inspector's Certificate of Competency**

A. Examination for an inspector's certificate of competency shall be held at the Office of the State Fire Marshal or any other location to be selected by the chief inspector, four times each year, namely the first Wednesday and one-half day Thursday in the months of March, June, September and December. An applicant for an examination shall have education and experience equal to at least one of the following:

1. from an accredited school, a degree in engineering plus one year of experience in design, construction, operation or inspection of high-pressure boilers and pressure vessels;

2. an associate degree in mechanical technology plus two years of experience in design, construction, operation or inspection of high-pressure boilers and pressure vessels;

3. a high school education or the equivalent plus three years of experience:

a. in high-pressure boiler and pressure vessel construction or repair; or

b. in charge of high-pressure boiler operation; or

c. in the inspection of high-pressure boilers and pressure vessels.

B. Applications for examination shall be in writing on a form to be furnished by the chief inspector stating the education of the applicant, a list of the applicant's employers, the applicant's period of employment and position held with each employer. Applications containing willful falsifications or untruthful statements shall be cause for rejection. Applications shall be submitted to the chief inspector at least 45 days prior to the date of examination. If the applicant's education and experience are acceptable to the chief inspector, the applicant shall be given a written examination prepared by the National Board of Boiler and Pressure Vessel Inspectors or the American Petroleum Institute, as applicable, dealing with the construction, maintenance and repair of boilers and pressure vessels and appurtenances, and the applicant shall be accepted or rejected on the merits of this examination. If the applicant is successful in meeting the requirements, a certificate of competency will be issued by the chief inspector,

when the applicant is employed on a full-time basis by an authorized inspection organization (see definitions). Upon the expiration of 90 days, an applicant who failed to pass the examination will be permitted to take another written examination and applicant's acceptance or rejection will be determined on the basis of this examination.

C. An NDE Level II examiner of *ASME Code* boilers and pressure vessels may be credited one year toward the experience requirements above, provided the applicant has five years of documented experience in that position and meets all other requirements.

D. A quality control inspector of *ASME Code* boilers and pressure vessels, applying under §5209.A.3, may be credited with 4 months of experience under the experience requirements of such section for each year of documented, diversified experience he/she possesses in the implementation of an ASME accepted written quality control/assurance system, up to a maximum of 24 months of such credit, provided that the applicant meets all other applicable requirements and provided that he/she has the balance of experience required under §5209.A.3 in actual work described in §5209.A.3.a, b, or c.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5211. Examination Fees**

A fee of \$25 will be charged for each applicant taking the examination for a certificate of competency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5213. Certificate of Competency and Identification Card**

A. Upon request of an employer, a certificate of competency and an identification card may be issued by the chief inspector to:

1. an inspector employed by the jurisdiction;
2. an inspector who is employed full-time by an insurance company which is authorized to insure and does insure against loss from explosions of boilers and pressure vessels in this jurisdiction;
3. an inspector employed as described in either one or two above who conducts shop or field inspections of new boilers, pressure vessels, or nuclear components in accordance with the applicable *ASME Code* requirements.

B. The request for the certificate of competency and identification card shall be completed on forms to be provided by the chief inspector and shall be accompanied by, when applicable, a facsimile of the applicant's commission and commission card, certificate of competency and identification card as named above, and a fee of \$40.

C. The certificate of competency and valid identification card shall be returned to the chief inspector when the inspector to whom they were issued is no longer employed by the organization employing that inspector at the time that the certificate was issued. Each person holding a valid certificate of competency and who conducts inspections as provided by the Act shall apply to the chief inspector on forms provided

and obtain a renewal identification card annually, not later than March 31 of each year. A fee of \$20 for each card shall accompany each applicant.

D. An inspector's certificate of competency may be suspended by the chief inspector after due investigation for neglect of duty, incompetency, untrustworthiness or conflict of interest of the holder thereof, or for willful falsification of any matter or statement contained in his/her application, or in a report of any inspection made by him/her. Written notice of any such suspension shall be given to the inspector and his/her employer by the chief inspector within not more than 10 days after the effective date of such suspension. Persons whose certificates of competency have been suspended shall be entitled to an appeal to the assistant secretary and to be present in person and represented by counsel at the hearing of the appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5215. Conflict of Interest**

An inspector shall not engage in the sale of any services, article or device relating to boilers, pressure vessels, or their appurtenances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5217. Inspection Reports to be Submitted by Inspectors**

A. Insurance companies inspecting boilers subject to the rules and regulations herein, shall be responsible for the proper invoicing of any fees due for the certificates of operation on any boilers inspected by such company.

B. Reports shall be submitted on approved forms or format within 30 from the date of the inspection. The copy of the report filed with the assistant secretary shall be filled out in ink or typewritten, and shall be signed by the inspector.

C. External inspection reports are required when they are used to support a request for an extension of internal inspection, when the design of a vessel does not provide for an internal inspection an annual external certificate inspection shall be completed, and to report unsafe conditions or code violations which would affect the safety of the boiler.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5219. Insurance Companies to Notify Chief Inspector of New, Canceled or Suspended Insurance on Boilers, Pressure Vessels, or Nuclear Systems**

All insurance companies shall notify the chief inspector, within 30 days, of all boilers, pressure vessels, or nuclear systems on which insurance is written, canceled, not renewed or suspended because of unsafe conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5221. Special Inspectors to Notify Chief Inspector of Unsafe Boilers**

If a special inspector, upon first inspection of a new risk,

finds that a boiler or any appurtenance thereof, is in such condition that the special inspector's company would refuse insurance, the company shall immediately notify the chief inspector and submit a report on the defects. If, upon inspection, a special inspector finds a boiler to be unsafe for further operation, the special inspector shall promptly notify the owner or user, stating what repairs or other corrective measures are required to bring the object into compliance with these rules. If the owner or user fails to make such repairs or adopt such other corrective measures promptly, the special inspector shall immediately notify the chief inspector. Until such corrections have been made, no further operation of the boiler involved shall be permitted. If an inspection certificate for the object is required and is in force, it shall be suspended by the chief inspector. When reinspection establishes that the necessary repairs have been made or corrective actions have been taken and that the boiler is safe to operate, the chief inspector shall be notified. At that time an inspection certificate, where applicable, will be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5223. Defective Conditions Disclosed at Time of External Inspection**

If, upon an external inspection, there is evidence of a leak or crack, sufficient covering of the boiler shall be removed to permit the inspector to satisfactorily determine the safety of the boiler. If the covering cannot be removed at that time, he/she may order the operation of the boiler stopped until such time as the covering can be removed and proper examination made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

### **Chapter 54. Existing Installations: Power, Steam, Hot Water Heating and Hot Water Supply Boilers**

#### **§5401. Age Limits of Existing Boilers**

A. The age limit of any boiler of nonstandard construction, installed prior to the date the Act became effective, shall be 30 years except that, a boiler having other than a lap-riveted longitudinal joint, after a thorough internal and external inspection, and when required by the inspector, a hydrostatic test of one and one half times the allowable working pressure held for a period of at least 30 minutes during which no distress or leakage develops, may be continued in operation at the working pressure determined by §5405. The age limit on any nonstandard boiler having lap-riveted longitudinal joints and operating at a pressure in excess of 50 psig shall be 20 years. This type of boiler, when removed from an existing setting shall not be reinstalled for a pressure in excess of 15 psig. A reasonable time for replacement, not to exceed one year, may be given at the discretion of the assistant secretary.

B. The age limit of boilers of standard construction installed prior to the date this law, Title 23, Chapter 5, Page III, of the Louisiana Revised Statutes of 1950, became effective shall be dependent on thorough internal and external inspection and where required by the inspector, a hydrostatic

pressure test not exceeding one and one-half times the allowable working pressure, if the boiler, under these test conditions, exhibits no distress or leakage, it may be continued in operation at the working pressure determined by §5403.

C. The shell or drum of a boiler in which a lap seam crack develops along a longitudinal lap-riveted joint shall be condemned. A lap seam crack is a crack found in lap seams extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5403. Maximum Allowable Working Pressure for Standard Boilers**

The maximum allowable working pressure for standard boilers shall be determined in accordance with the applicable provisions of the edition of the *ASME Code* under which they were constructed and stamped.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5405. Maximum Allowable Working Pressure for Nonstandard Boilers**

A. The maximum allowable working pressure for boilers fabricated by riveting shall be determined by the applicable rules of the 1971 Edition of Section I of the *ASME Code*.

B. The lowest factor of safety permissible on existing installations shall be 5 except for horizontal-return-tubular boilers having continuous longitudinal lap seams more than 12 feet in length, the factor of safety shall be 8. When this latter type of boiler is removed from its existing setting, it shall not be reinstalled for pressure in excess of 15 psig.

C. The maximum allowable working pressure for boilers of welded construction in service may not exceed that allowable in Section I of the *ASME Code* for new boilers of the same construction.

D. The maximum allowable working pressure on the shell of a boiler or drum shall be determined by the strength of the weakest course computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint, the inside diameter of the course, and the factor of safety allowed by these rules and regulations in accordance with the following formula:

$$\frac{TStE}{RFS} = \text{maximum allowable working pressure, psig}$$

where:

TS = specified minimum tensile strength of shell plate material, psi. When the tensile strength of steel or wrought-iron shell plate is not known, it shall be taken as 55,000 psi for steel and 45,000 psi for wrought iron.

t = minimum thickness of shell plate, in weakest course, inches.

E = efficiency of longitudinal joint, method of determining which is given in Paragraph PG-27 of Section I of the *ASME Code*.

R = inside radius of the weakest course of the shell of drum, inches.

FS = factor of safety which shall be at least 5.

E. The inspector may increase the factor of safety, if the condition and safety of the boiler warrant it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5407. Cast-Iron Headers and Mud Drums**

The maximum allowable working pressure on a water tube boiler, the tubes of which are secured to cast-iron or malleable-iron headers or which have cast-iron mud drums, shall not exceed 160 psig.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5409. Pressure on Cast-Iron Boilers**

The maximum allowable working pressure for any cast-iron boiler, except hot water boilers, shall be 15 psig.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5411. Safety Valves**

A. The use of weighted-lever safety valves or safety valves having either the seat or disk of cast-iron is prohibited; valves of this type of construction shall be replaced by direct, spring-loaded, pop-type valves that conform to the requirements of *ASME Code*, Section I.

B. Each boiler shall have at least one ASME/NB stamped and certified safety valve, and if it has more than 500 square feet of water-heating surface, or an electric power input of more than 1,100 KW, it shall have two or more safety valves of the same type.

C. The valve or valves shall be connected to the boiler, independent of any other steam connection and attached as close as possible to the boiler without unnecessary intervening pipe or fittings. Where alteration is required to conform to this requirement, owner or user shall be allowed reasonable time in which to complete the work as permitted by the chief inspector.

D. No valves of any description shall be placed between the safety valve and the boiler nor on the escape pipe, if used. When an escape pipe is used, it shall be at least the full size of the safety valve discharge and fitted with an open drain to prevent water lodging in the upper part of the safety valve or in the escape pipe. When an elbow is placed on a safety valve escape pipe, it shall be located close to the safety valve outlet or the escape pipe shall be anchored and supported securely. All safety discharges shall be so located or piped as to be carried clear from walkways or platforms.

E. The safety valve capacity of each boiler shall be such that the safety valve or valves will discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than 6 percent above the highest pressure to which any valve is set, and in no case to more than 6 percent above the maximum allowable working pressure.

F. One or more safety valves on every boiler shall be set at or below the maximum allowable working pressure. The remaining valves may be set within a range of 3 percent above the maximum allowable working pressure, but the range of setting of all the safety valves on a boiler shall not exceed 10 percent of the highest pressure to which any valve is set.

G. When boilers of different maximum allowable working pressures with minimum safety valve settings varying more than 6 percent are so connected that steam can flow toward the lower pressure units, the latter shall be protected by additional safety valve capacity, if necessary, on the lower pressure side of the system. The additional safety valve capacity shall be based upon the maximum amount of steam which can flow into the lower pressure system.

H. In those cases where the boiler is supplied with feedwater directly from water mains without the use of feeding apparatus (not to include return traps), no safety valve shall be set at a pressure greater than 94 percent of the lowest pressure obtained in the supply main feeding the boiler.

I. The relieving capacity of the safety valves on any boiler shall be done by one of the three following methods and, if found to be insufficient, additional valves shall be provided:

1. by making an accumulation test, which consists of shutting off all other steam discharge outlets from the boiler and forcing the fires to the maximum. The safety valve capacity shall be sufficient to prevent a rise of pressure in excess of 6 percent of the maximum allowable working pressure. This method should not be used on a boiler with a superheater or reheater;

2. by measuring the maximum amount of fuel that can be burned and computing the corresponding evaporative capacity (steam generating capacity) upon the basis of the heating value of this fuel. These computations shall be made as outlined in the Appendix of the *ASME Code*, Section I;

3. by measuring the maximum amount of feedwater that can be evaporated. When either of the methods outlined in §5411.I.2 or 3 is employed, the sum of the safety valve capacities shall be equal to or greater than the maximum evaporative capacity (maximum steam generating capacity) of the boiler.

J. Repairs to safety and safety-relief valves shall be conducted only by holders of the National Board "VR" Certificate of Authorization, or by owner/users that have obtained the state certificate of authorization to repair safety and safety-relief valves.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5413. Boiler Feeding**

A. Each boiler shall have a feed supply which will permit it to be fed at any time while under pressure.

B. A boiler having more than 500 square feet of water heating surface shall have at least two suitable means of feeding, at least one of which shall be a feed pump. A source of feed at a pressure 6 percent greater than the set pressure of the safety valve with the highest setting may be considered one of the means. Boilers fired by gaseous, liquid, or solid

fuel in suspension may be equipped with a single means of feeding water provided means are furnished for the shutoff of heat input prior to the water level reaching the lowest safe level.

C. The feedwater shall be introduced into a boiler in such a manner that the water will not be discharged directly against surfaces exposed to gases of high temperature to direct radiation from the fire. For pressures of 400 psig over, the feedwater inlet through the drum shall be fitted with shields, sleeves, or other suitable means to reduce the effects of temperature differentials in the shell or head.

D. The feed piping to the boiler shall be provided with a check valve near the boiler and a valve or cock between the check valve and the boiler. When two or more boilers are fed from a common source, there shall also be a valve on the branch to each boiler between the check valve and the source of supply. Whenever a globe valve is used on feed piping, the inlet shall be under the disk of the valve.

E. In all cases where returns are fed back to the boiler by gravity, there shall be a check valve and stop valve in each return line, the stop valve to be placed between the boiler and the check valve, and both shall be located as close to the boiler as practicable. It is recommended that no stop valves be placed in the supply and return pipe connections of a single boiler installation.

F. Where deaerating heaters are not employed, it is recommended that the temperature of the feedwater be not less than 120°F to avoid the possibility of setting up localized stress. Where deaerating heaters are employed, it is recommended that the minimum feedwater temperature be not less than 215°F so that dissolved gases may be thoroughly released.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5415. Water Level Indicators**

A. Each boiler, except forced-flow steam generators with no fixed steam and waterline, and high-temperature water boiler of the forced circulation type that have no steam and waterline, shall have at least one water gage glass. Boilers operated at pressures over 400 psig shall be provided with two water gage glasses which may be connected to a single water column or connected directly to the drum.

B. Two independent remote level indicators may be provided instead of one of the two required gage glasses for boiler drum water level indication in the case of power boilers with all drum safety valves set at or above 400 psig. When both remote level indicators are in reliable operation, the remaining gage glass may be shut off, but shall be maintained in serviceable condition.

C. When the direct reading of gage glass water level is not readily visible to the operator in his/her working area, two dependable indirect indications shall be provided, either by transmission of the gage glass image or by remote level indicators.

D. The lowest visible part of the water gage glass shall be at least 2 inches above the lowest permissible water level, at which level there will be no danger of overheating any part of

the boiler when in operation at that level. When remote level indication is provided for the operator in lieu of the gage glass, the same minimum level reference shall be clearly marked.

E. Connections from the boiler to the remote level indicator shall be at least ¾-inch pipe size to and including the isolation valve and from there to the remote level indicator at least ½-inch outside diameter (o.d.) tubing. These connections shall be completely independent of other connections for any function other than water level indication. For pressures of 400 psig or over, lower connections to drums shall be provided with shields, sleeves, or other suitable means to reduce temperature differentials in the shells or heads.

F. Boilers of the horizontal firetube types shall be so set that when the water is at the lowest reading in the water gage glass there shall be at least 3 inches of water over the highest point of the tubes, flues, or crown sheets.

G. Boilers of locomotives shall have at least one water glass provided with top and bottom shutoff cocks and lamp, and two gage cocks for boilers 36 inches in diameter and under, and three gage cocks for boilers over 36 inches in diameter.

H. The lowest gage cock and the lowest reading of water glass shall not be less than 2 inches above the highest point of crown sheet on boilers 36 inches in diameter and under, nor less than 3 inches for boilers over 36 inches in diameter. These are minimum dimensions, and on larger locomotives and those operating on steep grades, the height should be increased, if necessary, to compensate for change of water level on descending grades.

I. The bottom mounting for water glass and for water column if used must extend not less than 1½ inches inside the boiler and beyond any obstacle immediately above it, and the passage therein must be straight and horizontal.

J. Tubular water glasses must be equipped with a protecting shield.

K. All connections on the gage glass shall be not less than ½-inch pipe size. Each water gage glass shall be fitted with a drain cock or valve having an unrestricted drain opening of not less than ¼-inch diameter to facilitate cleaning. When the boiler operating pressure exceeds 100 psig the glass shall be furnished with a connection to install a valved drain to the ash pit or other safe discharge point.

L. Each water gage glass shall be equipped with a top and bottom shutoff valve of such through-flow construction as to prevent stoppage by deposits of sediments. If the lowest valve is more than 7 feet above the floor or platform from which it is operated, the operating mechanism shall indicate by its position whether the valve is open or closed. The pressure-temperature rating shall be at least equal to that of the lowest set pressure of any safety valve on the boiler drum and the corresponding saturated-steam temperature.

M. Straight-run globe valves shall not be used on such connections.

N. Automatic shutoff valves, if permitted to be used, shall conform to the requirements of Section I of the *ASME Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

### §5417. Water Columns

A. The water column shall be so mounted that it will maintain its correct position relative to the normal waterline under operating conditions.

B. The minimum size of pipes connecting the water column to a boiler shall be 1 inch. For pressures of 400 psig or over, lower water column connections to drums shall be provided with shields, sleeves or other suitable means to reduce the effect of temperature differentials in the shells or heads. Water glass fittings or gage cocks may be connected directly to the boiler.

C. The steam and water connections to a water column or a water gage glass shall be such that they are readily accessible for internal inspection and cleaning. Some acceptable methods of meeting this requirement are by providing a cross or fitting with a back outlet at each right-angle turn to permit inspection and cleaning in both directions, or by using pipe bends or fittings of a type which does not leave an internal shoulder or pocket in the pipe connection and with a radius of curvature which will permit the passage of a rotary cleaner. Screwed plug closures using threaded connections as allowed by Section I of the *ASME Code* are acceptable means of access for this inspection and cleaning. For boilers with all drum safety valves set at or above 400 psig, socket-welded plugs may be used for this purpose in lieu of screwed plugs. The water column shall be fitted with a connection for a drain cock or drain valve to install a pipe of at least ¾-inch pipe size to the ash pit or other safe point of discharge. If the water connection to the water column has a rising bend or pocket which cannot be drained by means of the water column drain, an additional drain shall be placed on this connection in order that it may be blown off to clear any sediment from the pipe.

D. The design and material of a water column shall comply with the requirements of Section I of the *ASME Code*. Water columns made of cast iron in accordance with SA-278 may be used for maximum boiler pressures not exceeding 250 psig. Water columns made of ductile iron in accordance with SA-395 may be used for maximum boiler pressures not exceeding 350 psig. For higher pressures, steel construction shall be used.

E. Shutoff valves shall not be used in the pipe connections between a boiler and a water column or between a boiler and the shutoff valves required for the gage glass, unless they are either outside-screw- and-yoke or lever-lifting type gate valves or stopcocks with lever permanently fastened thereto and marked in line with their passage, or of such other through-flow construction as to prevent stoppage by deposits of sediment, and to indicate by the position of the operating mechanisms whether they are in open or closed position; and such valves or cocks shall be locked or sealed open. Where stopcocks are used, they shall be of a type with the plug held in place by a guard or gland.

F. No outlet connections, except for control devices (such as damper regulators and feedwater regulators), drains, steam gages, or apparatus of such form as does not permit the escape of an appreciable amount of steam or water therefrom shall be placed on the pipes connecting a water column or gage glass to a boiler.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

### §5419. Gage Glass Connections

A. Gage glasses and/or gage cocks that are not connected directly to a shell or drum of the boiler shall be connected by one of the following methods.

1. The water gage glass or glasses and gage cocks shall be connected to an intervening water column.

2. When only water gage glasses are used, they may be mounted away from the shell or drum and the water column omitted, provided the following requirements are met:

a. the top and bottom gage glass fittings are aligned, supported, and secured so as to maintain the alignment of the gage glass; and

b. the steam and water connections are not less than one inch pipe size and each water glass is provided with a valved drain; and

c. the steam and water connections comply with the requirements of the following:

i. the lower edge of the steam connection to a water column or gage glass in the boiler shall not be below the highest visible water level in the water gage glass. There shall be no sag or offset in the piping which will permit the accumulation of water; and

ii. the upper edge of the water connection to a water column or gage glass and the boiler shall not be above the lowest visible water level in the gage glass. No part of this pipe connection shall be above the point of connection at the water column.

B. Each boiler (except those not requiring water level indicators) shall have three or more gage cocks located within the visible length of the water glass, except when the boiler has two water glasses located on the same horizontal lines.

C. Boilers not over 36 inches in diameter in which the heating surface does not exceed 100 square feet require two gage cocks.

D. The gage cock connections shall be not less than ½-inch pipe size.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

### §5421. Pressure Gages

A. Each boiler shall have a pressure gage so located that it is easily readable. The pressure gage shall be installed so that it shall at all times indicate the pressure in the boiler. Each steam boiler shall have the pressure gage connected to the steam space or to the water column or its steam connection. A valve or cock may be located near the boiler providing it is locked or sealed in the open position. No other shutoff valves shall be located between the gage and the boiler. The pipe connection shall be of ample size and arranged so that it maybe cleared by blowing out. For a steam boiler the gage or connection shall contain a siphon or equivalent device which will develop and maintain a water seal that will prevent steam from entering the gage tube. Pressure gage connections shall be suitable for the maximum allowable working pressure and temperature but, if the temperature exceeds 406EF, brass or



copper pipe or tubing shall not be used. The connections to the boiler, except the siphon, if used, shall not be less than ¼ inch inside the diameter standard pipe size but where steel or wrought iron pipe or tubing is used they shall not be less than ½ inch. The minimum size of a siphon, if used, shall be ¼ inch inside diameter. The dial of the pressure gage shall be graduated to approximately double the pressure at which the safety valve is set, but in no case no less than one and 1½ times this pressure.

B. Each force-flow steam generator with no fixed steam and water line shall be equipped with pressure gages or other pressure measuring devices located as follows:

1. at the boiler or superheater outlet (following the last section which involves absorption of heat); and
2. at the boiler or economizer inlet (preceding any section which involves absorption of heat); and
3. upstream of any shutoff valve which may be used between any two sections of the heat absorbing surface.

C. Each high-temperature water boiler shall have a temperature gage so located and connected that it shall be easily readable. The temperature gage shall be installed so that it at all times indicates the temperature in degrees Fahrenheit of the water in the boiler, at or near the outlet connection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5423. Stop Valves**

A. Each steam outlet from a boiler (except safety valve and water column connections) shall be fitted with a stop valve located as close as practicable to the boiler.

B. When a stop valve is so located that water can accumulate, ample drains shall be provided. The drainage shall be piped to a safe location and shall not be discharged on the top of the boiler or its settings.

C. When boilers provided with manholes are connected to a common steam main, the steam piping connected from each boiler shall be fitted with two stop valves having an ample free blow drain between them. The discharge of the drain shall be visible to the operator while manipulating the valves and shall be piped clear of the boiler setting. The stop valves shall consist preferably of one automatic nonreturn valve (set next to the boiler) and a second valve of the outside-screw-and-yoke type.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5425. Blowoff Piping**

A. A blowoff as required herein is defined as a pipe connection provided with valves located in the external piping through which the water in the boiler may be blown out under pressure, excepting drains such as are used on water columns, gage glasses, or piping to feedwater regulators, etc., used for the purpose of determining the operating conditions of such equipment. Piping connections used primarily for continuous operation, such as deconcentrators or continuous blowdown systems, are not classed as blowoffs but the pipe connections and all fittings up to and including the first shutoff valve shall be equal at least to the pressure requirements for the lowest set

pressure of any safety valve on the boiler drum and with the corresponding saturated-steam temperature.

B. A surface blowoff shall not exceed 2-½-inch pipe size, and the internal pipe and the terminal connection for the external pipe, when used, shall form a continuous passage, but with clearance between their ends and arranged so that the removal of either will not disturb the other. A properly designed steel bushing, similar to or the equivalent of those shown in Figure PG-59.1 of Section I of the *ASME Code* or a flanged connection shall be used.

C. Each boiler except forced-flow steam generators with no fixed steam and waterline and high-temperature water boilers shall have a bottom blowoff outlet in direct connection with the lowest water space practicable for external piping conforming to PG-58.3.6 of Section I of the *ASME Code*.

D. All water walls and water screens which do not drain back into the boiler, and all integral economizers, shall be equipped with outlet connections for a blowoff or drain line and conform to the requirements of PG-58.3.6 or PG-58.3.7 of the *ASME Code*.

E. Except as permitted for miniature boilers, the minimum size of piping and fittings shall be 1 inch, and the maximum size shall be 2½ inches, except that for boilers with 100 square feet of heating surface or less, the minimum size of pipe and fittings may be ¾ inch.

F. Condensate return connections of the same size or larger than the size herein specified may be used, and the blowoff may be connected to them. In such case, the blowoff shall be so located that the connection may be completely drained.

G. A bottom blowoff pipe when exposed to direct furnace heat shall be protected by firebrick or other heat resisting material which is so arranged that the pipe may be inspected.

H. An opening in the boiler setting for a blowoff pipe shall be arranged to provide free expansion and contraction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5427. Repairs, Renewals and Alterations**

A. Boiler Fittings and Appliances. Whenever repairs are made to fittings or appliances or it becomes necessary to replace them, the work shall comply with the requirements for new installations.

B. Boilers and Pressure Vessels. Repairs and alterations to boilers and pressure vessels shall be made, in accordance with the latest edition of the *National Board Inspection Code* (NBIC), only by, or on behalf of, an owner/user, a repair organization, or an individual having a valid Certificate of Authorization for use of the "R" Symbol stamp issued by the National Board of Boiler and Pressure Vessel Inspectors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5429. Conditions Not Covered by these Requirements**

All cases not specifically covered by these requirements shall be treated as new installations or may be referred to the chief inspector for instructions concerning the requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S.

40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5431. Standard Boilers**

The maximum allowable working pressure of standard boilers shall in no case exceed the pressure indicated by the manufacturer's identification stamped or cast on the boiler or on a plate secured to it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5433. Nonstandard Boilers**

A. Riveted Boilers. The maximum allowable working pressure on the shell of a nonstandard riveted heating boiler shall be determined in accordance with §5405.D, Power Boilers, except that in no case shall the maximum allowable working pressure of a steam heating boiler exceed 15 psig, or a hot water boiler exceed 160 psig or 250EF temperature.

B. Welded Boilers. The maximum allowable working pressure of a nonstandard steel or wrought iron heating boiler of welded construction shall not exceed 15 psig for steam. For other than steam service, the maximum allowable working pressure shall be calculated in accordance with Section IV of the *ASME Code*, but in no case shall it exceed 30 psig.

C. Cast Iron Boilers

1. The maximum allowable working pressure of a nonstandard boiler composed principally of cast iron shall not exceed 15 psig for steam service or 30 psig for hot water service.

2. The maximum allowable working pressure of a nonstandard boiler having cast iron shell or heads and steel or wrought iron tubes shall not exceed 15 psig for steam service or 30 psig for hot water service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5435. Potable Water Heaters**

A potable water heater shall not be installed or used at pressures exceeding 160 psig or water temperatures exceeding 210EF. Water heaters may be used to simultaneously provide potable hot water and space heat in combination, except in places of public assembly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5437. Safety Valves**

A. Each steam boiler shall have one or more ASME/National Board stamped and certified safety valves of the spring pop-type adjusted and sealed to discharge at a pressure not to exceed 15 psig. Seals shall be attached in a manner to prevent the valve from being taken apart without breaking the seal. The safety valves shall be arranged so that they cannot be reset to relieve at a higher pressure than the maximum allowable working pressure on the boiler. A body drain connection below seat level shall be provided by the manufacturer and this drain shall not be plugged during or after field inspection. For valves exceeding 2 inches pipe size, the drain hole or holes shall be tapped not less than 3d -inch pipe

size. For valves less than 2 inches, the drain hole shall not be less than ¼ inch in diameter.

B. No safety valve for a steam boiler shall be smaller than ½ inch. No safety valve shall be larger than 4½ inches. The inlet opening shall have an inside diameter equal to, or greater than, the seat diameter.

C. The minimum relieving capacity of the valve or valves shall be governed by the capacity marking on the boiler. The minimum valve capacity in pounds per hour shall be the greater of that determined by dividing the maximum Btu output at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1,000, or shall be determined on the basis of the pounds of steam generated per hour per square foot of boiler heating surface as given in Table EHB-6. In many cases a greater relieving capacity of valves than the minimum specified by these rules will have to be provided. In every case, the requirements of §5437.D shall be met.

**Table EHB-6  
Minimum Pounds of Steam per Hour  
per Square Foot of Heating Surface**

	<b>Firetube Boilers</b>	<b>Watertube Boilers</b>
<b>Boiler Heating Surface:</b>		
Hand fired	5	6
Stoker fired	7	8
Oil, gas, or pulverized fuel fired	8	10
<b>Waterwall Heating Surface:</b>		
Hand fired	8	8
Stoker fired	10	12
Oil, gas, or pulverized fuel fired	14	16

1. When a boiler is fired only by a gas giving a heat value not in excess of 200 Btu per cubic foot, the minimum safety valve or safety relief valve relieving capacity may be based on the value given for hand fired boilers above.

2. The minimum safety valve or safety relief valve relieving capacity for electric boilers shall be 3½ pounds per hour per kilowatt input.

3. For heating surface determination see *ASME Code* Section IV, Paragraph HG-403.

D. The safety valve capacity for each steam boiler shall be such that with the fuel burning equipment installed and operating at maximum capacity, the pressure cannot rise more than 5 psig above the maximum allowable working pressure.

E. When operating conditions are changed, or additional boiler heating surface is installed, the valve capacity shall be increased, if necessary, to meet the new conditions and be in accordance with §5437.D. When additional valves are required, they may be installed on the outlet piping provided there is no intervening valve.

F. If there is any doubt as to the capacity of the safety valve, an accumulation test shall be run (See *ASME Code*, Section VI, Recommended Rules for Care and Operation of Heating Boilers).

G. No valve of any description shall be placed between the safety valve and the boiler, nor on the discharge pipe between

the safety valve and the atmosphere. THE DISCHARGE PIPE SHALL BE AT LEAST FULL SIZE AND BE FITTED WITH AN OPEN DRAIN TO PREVENT WATER LODGING IN THE UPPER PART OF THE SAFETY VALVE OR IN THE DISCHARGE PIPE. When an elbow is placed on the safety valve discharge pipe, it shall be located close to the safety valve outlet or the discharge pipe shall be securely anchored and supported. All safety valve discharges shall be so located or piped as not to endanger persons working in the area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5439. Safety Relief Valve Requirements for Hot Water Heating and Hot Water Supply Boilers**

A. Each hot water heating and hot water supply boiler shall have at least one ASME/National Board stamped and certified safety relief valve set to relieve at or below the maximum allowable working pressure of the boiler. Each hot water supply boiler shall have at least one ASME/National Board stamped and certified safety relief valve of the automatic reseating type set to relieve at or below maximum allowable working pressure of the boiler. Safety relief valves ASME/National Board stamped and certified as to capacity shall have pop action when tested by steam. When more than one safety relief valve is used on either a hot water heating or hot water supply boiler, the additional valve or valves shall be ASME/National Board stamped and certified and may be set within a range not to exceed 6 psig above the maximum allowable working pressure of the boiler up to and including 60 psig and 10 percent for those having a maximum allowable working pressure exceeding 60 psig. Safety relief valves shall be spring loaded. Safety relief valves shall be so arranged that they cannot be reset at a higher pressure than the maximum indicated in this Subsection.

B. No materials liable to fail due to deterioration or vulcanization when subject to saturated steam temperature corresponding to capacity test pressure shall be used for any part.

C. No safety relief valve shall be smaller than  $\frac{3}{4}$  inch nor larger than  $4\frac{1}{2}$ -inch standard pipe size, except that boilers having a heat input not greater than 15,000 Btu per hour may be equipped with a safety relief valve of  $\frac{1}{2}$ -inch standard pipe size. The inlet opening shall have an inside diameter approximately equal to, or greater than, the seat diameter. In no case shall the minimum opening through any part of the valve be less than  $\frac{1}{4}$  inch in diameter or its equivalent area.

D. The required steam relieving capacity, in pounds per hour, of the pressure relieving device or devices on a boiler shall be the greater of that determined by dividing the maximum output in Btu at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1,000 or shall be determined on the basis of pounds of steam generated per hour per square foot of boiler heating surface as given in Table EHB-6. In many cases, a greater relieving capacity of valves will have to be provided than the minimum specified by these rules. In every case, the requirements of §5439.F shall be met.

E. When operating conditions are changed, or additional boiler heating surface is installed the valve capacity shall be

increased, if necessary, to meet the new conditions and shall be in accordance with §5439.F. The additional valves required because of changed conditions may be installed on the outlet piping provided there is no intervening valve.

F. Safety relief valve capacity for each boiler shall be such that, with the fuel burning equipment installed and operated at maximum capacity, the pressure cannot rise more than 6 psi above the maximum allowable working pressure for pressures up to and including 60 psi and 10 percent of maximum allowable working pressure over 60 psi.

G. If there is any doubt as to the capacity of the safety relief valve, an accumulation test shall be run. (See *ASME Code*, Section VI, Recommended Rules for Care and Operation of Heating Boilers.)

H. No valve of any description shall be placed between the safety relief valve and the boiler, nor on the discharge pipe between the safety relief valve and the atmosphere. THE DISCHARGE PIPE SHALL BE NOT LESS THAN THE DIAMETER OF THE SAFETY RELIEF VALVE OUTLET AND FITTED WITH AN OPEN DRAIN TO PREVENT WATER LODGING IN THE UPPER PART OF THE SAFETY RELIEF VALVE OR IN THE DISCHARGE PIPE. When an elbow is placed on the safety relief valve discharge pipe, it shall be located close to the safety relief valve outlet or the discharge pipe shall be securely anchored and supported. All safety relief valve discharges shall be so located or piped as not to endanger persons working in the area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5441. Steam Gages for Steam Heating Boilers**

A. Each steam boiler shall have a steam gage or compound steam gage connected to its steam space or to its water column or to its steam connection. The gage or connection shall contain a siphon or equivalent device which will develop and maintain a water seal that will prevent steam from entering the gage tube. The connection shall be so arranged that the gage cannot be shut off from the boiler except by a cock placed in the pipe at the gage and provided with a tee or lever handle arranged to be parallel to the pipe in which it is located when the cock is open. The connections to the boiler shall be not less than  $\frac{1}{4}$ -inch standard pipe size, but where steel or wrought iron pipe or tubing is used, they shall not be less than  $\frac{1}{2}$ -inch standard pipe size. The minimum size of a siphon, if used, shall be  $\frac{1}{4}$ -inch inside diameter. Ferrous and nonferrous tubing having inside diameters at least equal to that of standard pipe sizes listed above may be substituted for pipe.

B. The scale on the dial of a steam boiler gage shall be graduated to not less than 30 psig nor more than 60 psig. The travel of the pointer from 0 to 30 psig pressure shall be at least 3 inches.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5443. Pressure or Altitude Gages and Thermometer**

A. Each hot water boiler shall have a pressure or altitude gage connected to it or to its flow connection in such a manner that it cannot be shut off from the boiler except by a cock with tee or lever handle placed on the pipe near the gage. The

handle of the cock shall be parallel to the pipe in which it is located when the cock is open.

B. The scale on the dial of the pressure of altitude gage shall be graduated approximately to not less than 1½ nor more than 3 times the pressure at which the safety relief valve is set.

C. Piping or tubing for pressure or altitude-gage connections shall be of nonferrous metal when smaller than 1 inch pipe size.

D. Each hot water boiler shall have a thermometer so located and connected that it shall be easily readable when observing the water pressure or altitude. The thermometer shall be so located that it shall at all times indicate the temperature in degrees Fahrenheit of the water in the boiler at or near the outlet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5445. Water Gage Glasses**

A. Each steam boiler shall have one or more water gage glasses attached to the water column or boiler by means of valved fittings not less than ½-inch pipe size, with the lower fitting provided with a drain valve of a type having an unrestricted drain opening not less than ¼ inch in diameter to facilitate cleaning. Gage glass replacement shall be possible under pressure. Water glass fittings may be attached directly to a boiler.

B. Boilers having an internal vertical height of less than 10 inches may be equipped with a water level indicator of the glass bull's-eye type provided the indicator is of sufficient size to show the water at both normal operating and low water cutoff levels.

C. The lowest visible part of the water gage glass shall be at least 1 inch above the lowest permissible water level recommended by the boiler manufacturer. With the boiler operating at this lowest permissible water level, there shall be no danger of overheating any part of the boiler.

D. Each boiler shall be provided at the time of manufacture with a permanent marker indicating the lowest permissible water level. The marker shall be stamped, etched, or cast in metal; or it shall be a metallic plate attached by rivets, screws, or welding; or it shall consist of material with documented tests showing its suitability as permanent marking for the application. This marker shall be visible at all times. Where the boiler is shipped with a jacket, this marker may be located on the jacket.

E. In electric boilers of the submerged electrode type, the water gage glass shall be so located to indicate the water levels both at startup and under maximum steam load conditions as established by the manufacturer.

F. In electric boilers of the resistance heating element type the lowest visible part of the water gage glass shall not be below the top of the electric resistance heating element. Each boiler of this type shall also be equipped with an automatic low-water electrical power cutoff so located as to automatically cut off the power supply before the surface of the water falls below the top of the electrical resistance heating elements.

G. Tubular water glasses on electric boilers having a normal water content not exceeding 100 gallons shall be equipped with a protective shield.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5447. Stop Valves**

A. When a stop valve is used in the supply pipe connection of a single steam boiler, there shall be one used in the return pipe connection.

B. Stop valves in single hot water heating boilers shall be located at an accessible point in the supply and return pipe connections, as near the boiler nozzle as is convenient and practicable, to permit draining the boiler without emptying the system.

C. When the boiler is located above the system and can be drained without draining the system, stop valves may be eliminated.

D. A stop valve shall be used in each supply and return pipe connection of two or more boilers connected to a common system.

E. All valves or cocks shall conform to the applicable portions of HF-203 of Section IV of the *ASME Code* and may be ferrous or nonferrous.

F. The minimum pressure rating of all valves or cocks shall be at least equal to the pressure stamped upon the boiler, and the temperature rating of such valves or cocks, including all internal components, shall be not less than 250EF.

G. Valves or cocks shall be flanged, threaded or have ends suitable for welding or brazing.

H. All valves or cocks with stems or spindles shall have adjustable pressure type packing glands and, in addition, all plug type cocks shall be equipped with a guard or gland. The plug or other operating mechanism shall be distinctly marked in line with the passage to indicate whether it is opened or closed.

I. All valves or cocks shall have tight closure when under boiler pressure test.

J. When stop valves are used, they shall be properly designated substantially by tags of metal or other durable material fastened to them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5449. Feedwater Connections**

A. Feedwater, makeup water, or water treatment shall be introduced into a boiler through the return piping system. Alternatively, makeup water or water treatment may be introduced through an independent connection. The water flow from the independent connection shall not discharge directly against parts of the boiler exposed to direct radiant heat from the fire. Makeup water or water treatment shall not be introduced through openings or connections provided inspection or cleaning, safety valve, safety relief valve, blowoff, water column, water gage glass, pressure gage, or temperature.

B. The makeup water pipe shall be provided with a check valve near the boiler and a stop valve or cock between the check valve and the boiler or between the check valve and the return pipe system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5451. Water Column and Water Level Control Pipes**

A. The minimum size of ferrous or nonferrous pipes connecting a water column to a steam boiler shall be 1 inch. No outlet connections, except for damper regulator, feedwater regulator, steam gages, or apparatus which does not permit the escape of any steam or water except for manually operated blowdowns, shall be attached to a water column or the piping connecting a water column to a boiler. (See HG-705 of Section IV of the *ASME Code* for introduction of feedwater into a boiler.) If the water column, gage glass, low-water fuel cutoff, or other water level control device is connected to the boiler by pipe and fittings, no shutoff valves of any type shall be placed in such pipe, and a cross or equivalent fitting to which a drain valve and piping may be attached shall be placed in the water piping connection at every right angle turn to facilitate cleaning.

B. The steam connections to the water column of a horizontal firetube wrought iron boiler shall be taken from the top of the shell or the upper part of the head, and the water connection shall be taken from a point not above the center line of the shell. For a cast iron boiler, the steam connection to the water column shall be taken from the top of an end section or the top of the steam header, and the water connection shall be made on an end section not less than 6 inches below the bottom connection to the water gage glass.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5453. Return Pump**

A. Each boiler equipped with a condensate return pump shall be provided with a water level control arranged to automatically maintain the water level in the boiler within the range of the gage glass.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

### **Chapter 56. Potable Water Heaters (Hot Water Heaters Other Than Hot Water Supply Boilers)**

#### **§5601. Service Restrictions and Exceptions**

A. Potable water heaters supplying potable hot water for commercial purposes that exceed a heat input of 200,000 Btu per hour or a nominal water-containing capacity of 120 gallons, shall be designed, constructed, inspected and stamped in conformity with Part "HLW" of the *ASME Code*, Section IV.

B. Potable water heaters supplying potable hot water for commercial purposes that do not exceed a heat input of 200,000 Btu per hour or a nominal water-containing capacity of 120 gallons, but exceeds a nominal water-containing

capacity of 50 gallons, shall be designed and constructed to Underwriter's Laboratories or other nationally recognized standard and shall bear their label on the completed unit.

C. All other potable water heaters not otherwise exempted by the Act, shall be designed and constructed to Underwriter's Laboratories or other Nationally Recognized Standard and shall bear their label on the completed unit.

D. The maximum allowable working pressure of a potable water heater shall in no case exceed the pressure indicated by the manufacturer's identification stamped or cast on the heater or a plate or label secured to it. In no case shall the maximum allowable working pressure of a potable water heater exceed 160 psi or a water temperature of 210EF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5603. Safety Relief Valves**

A. Each potable water heater shall have at least one ASME certified pressure temperature relief valve of the automatic reseating type set to relieve at or below the maximum allowable working pressure of the potable water heater and/or no greater than 210EF. Safety relief valves officially rated as to capacity shall have pop action when tested by steam. When more than one safety relief valve is used on a potable water heater, the additional valve or valves shall be ASME rated and may be set within a range not to exceed 10 percent of the set pressure of the first valve. Safety relief valves shall be spring-loaded. Safety relief valves shall be so arranged that they cannot be reset at a higher pressure.

B. When water supply to a potable water heater exceeds 75 percent of the design pressure of the water heater, a pressure reducing valve is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5605. Controls**

A. Each individual automatically-fired potable water heater, in addition to the operating control used for normal water heater operation shall have a separate high limit temperature actuated combustion control that will automatically cut off the fuel supply. The temperature range of the high limit temperature actuated control shall not allow a setting over 210EF.

1. On gas-fired water heaters, the high limit temperature control when actuated shall shut off the fuel supply with a shut off means other than the operating control valve. Separate valves may have a common body.

2. On electrically-heated potable water heaters, the high limit temperature control when actuated shall cut off all power to the operating controls.

3. On oil-fired potable water heaters, the limit temperature control when actuated shall cut off all current flow to the burner mechanism.

B. All potable water heaters shall be equipped with suitable primary (flame safeguards) safety controls, safety limit switches, and burners, or electrical elements as required by one of the following nationally recognized standards:

1. ANSI C95.3 Standard for Safety Oil-Fired Water Heaters (UL 732).

2. NASI Z 21.10.3 American National Standards for Gas Water Heaters, Volume III, Circulating Rank, Instantaneous and Large Automatic Storage Type water Heaters.

3. Underwriter's Laboratories Inc. UL 795. Standards for Safety, Commercial-Industrial Gas-Heating Equipment.

4. Underwriter's Laboratories Inc. UL 1453, Standards for Safety, Electric Booster and Commercial Storage Tank Water Heaters.

C. The symbol of the certifying organization which has investigated such as having complied with a nationally recognized standard shall be affixed to the equipment and shall be considered as evidence that controls and heat generating apparatus were manufactured in accordance with that standard. (A certifying organization is one that provides uniform testing, examination, and listing procedures under established, nationally recognized standards and that is acceptable to the jurisdiction.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5607. Repairs**

Whenever repairs are made to fittings or appliances, or it becomes necessary to replace them, the repairs must comply with Section IV of the *ASME Code* for new construction. Welded repairs must meet the additional requirements of §5427.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

### **Chapter 58. General Requirements**

#### **§5801. Notice of Internal Inspection of Boilers**

The owner or user of a boiler or boilers not exempted by the Act or by rules and regulations promulgated under the Act, shall be provided 14 days notice of impending internal inspection requirements, by the inspector responsible for inspections of subject boiler(s). No such notice shall be required for external inspections. No inspection shall be made on Sunday or other legal holiday by an inspector employed by the Department of Public Safety except in case of accident or other emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5803. Preparation for Internal Inspection**

The owner or user shall prepare each boiler for internal inspection, and shall prepare for and apply a hydrostatic pressure test, whenever necessary, on the date arranged by the inspector. The boiler shall be prepared for internal inspection as follows.

1. Water shall be drawn off and the boiler washed thoroughly.

2. Manhole and handhole plates, washout plugs and inspection plugs in water column connections shall be removed as required by the inspector. The furnace and

combustion chambers shall be cooled and thoroughly cleaned.

3. All grates of internally fired boilers shall be removed.

4. Insulation or brickwork shall be removed as required by the inspector in order to determine the condition of the boiler, headers, furnace, supports or other parts.

5. The pressure gauge shall be removed for testing, as required by the inspector.

6. Any leakage of steam or hot water into the boiler shall be prevented by disconnecting the pipe or valve(s) at the most convenient point or any appropriate means approved by the inspector.

7. Before opening the manhole or handhole covers and entering any parts of the steam generating unit connected to a common header with other boilers, the non-return and steam stop valves must be closed, tagged and padlocked, and drain valves or cocks between the two valves opened. The feed valves must be closed, tagged and padlocked, and drain valves or cocks located between the two valves opened. After draining the boiler, the blowoff valves shall be closed, tagged and padlocked. Blowoff lines, where practicable, shall be disconnected between pressure parts and valves. All drain and vent lines shall be opened.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5805. Boilers Improperly Prepared for Inspection**

If a boiler has not been properly prepared for an internal inspection, or if the owner or user fails to comply with the requirements for a pressure test as set forth in these rules, the inspector may decline to make the inspection or test and the inspection certificate shall be withheld or the right to operate revoked, until the owner or user complies with the requirement. The owner or user shall be charged the applicable inspection fees as set by law for this missed inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5807. Removal of Covering to Permit Inspection**

If the boiler is jacketed so that the longitudinal seams of shells, drums or domes cannot be seen, sufficient jacketing, setting wall, or other form of casing or housing shall be removed to permit reasonable inspection of the seams and other areas necessary to determine the condition and safety of the boiler, provided such information cannot be determined by other means.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5809. Lap Seam Crack**

The shell or drum of a boiler, in which a lap seam crack is discovered along a longitudinal riveted joint, shall be immediately condemned. Patching is prohibited. (By lap seam crack is meant a crack found in lap seams, extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5811. Pressure Test**

A. A pressure test, when applied to boilers or pressure vessels, need not exceed the maximum allowable working pressure or the setting of the lowest set safety valves. The pressure shall be under proper control so that in no case shall the required test pressure be exceeded.

B. During a pressure test, the safety valve or valves shall be removed or each valve disk shall be held to its seat by means of a testing clamp and not by screwing down the compression screw upon the spring. A plug device designed for this purpose may be used.

C. The temperature of the water used to apply a hydrostatic test shall be no less than ambient temperature, but in no case less than 70EF. The maximum temperature of the water during inspection shall not exceed 120EF.

D. When a hydrostatic test is applied to determine tightness, the pressure shall be equal to the normal operating pressure but need not exceed the release pressure of the safety valve having the lowest release pressure setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5813. Inspection of Power Boilers**

The internal and external inspections of Power Boilers shall meet the guidelines of Subsection C6 of the *ASME Code*, Section VII, Recommended Rules for Care of Power Boilers; and the *National Board Inspection Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5815. Inspection of Heating, Supply and Potable Water Boilers**

The internal (when required), and the external inspections of Steam and Hot Water Heating, Hot Water Supply and Potable Water Boilers (Hot Water Heaters), shall meet the guidelines of 7.09 and 8.09 of the *ASME Code*, Section VI, Recommended Rules for Care of Heating Boilers; and the *National Board Inspection Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5817. Changes from Louisiana Boiler Law/Rules and Regulations**

A. On each inspection of a boiler, the inspector shall determine if changes or departures from the Louisiana Boiler Law/rules and regulations have taken place since the previous inspection was made.

B. If repairs have been made to a boiler, the owner or user shall provide documentation to the inspector determining if the repairs meet the requirements of these rules and regulations. In all cases where repairs and/or replacements are made, or new fittings or appurtenances are installed, the material and workmanship must comply with the Louisiana Boiler Law/rules and regulations for new installations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5819. Defective Conditions Disclosed at Time of External Inspection**

If, upon an external inspection, there is evidence of a leak or crack, sufficient covering of the boiler shall be removed to permit the inspector to satisfactorily determine the safety of the boiler. If the covering cannot be removed at that time, the inspector may order the boiler taken out of service until such time as the covering can be removed and proper examination made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5821. Unsafe Boilers**

Whenever the chief inspector, a deputy inspector or special inspector finds a boiler in operation or about to be placed in operation, the continued use of which constitutes an imminent hazard to life or limb, he shall order such boiler to be instantly taken out of service and/or not placed in service until proper repairs or changes have been made. He shall at that time serve a Notice of Violation on the owner or user ordering the use of such boiler discontinued. He shall have the owner or user sign the Notice of Violation, and submit the original copy to the chief inspector. He shall notify the chief inspector by telephone when a Notice of Violation is issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5823. Condemned Boilers**

A. A boiler having been inspected and declared unfit for further service by an inspector shall be stamped by the inspector on either side of the state serial number with the letters "XXX," which will designate a condemned boiler, as shown by the following facsimile:

XXX 0000 LA XXX

B. Any person, firm, partnership, or corporation using a condemned boiler shall be subject to the penalties provided by the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5825. Owner or User to Notify Chief Inspector of Accident**

When an accident occurs to a boiler, the owner or user shall, within seven calendar days, notify the chief inspector by submitting a detailed report of the accident. In the event of a personal injury or any explosion, notice shall be given within 12 hours by telephone, telegraph or messenger, and neither the boiler, nor any parts thereof, shall be removed or disturbed before permission has been given by the chief inspector, except for the purpose of saving human life and limiting consequential damage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5827. Automatic Low Water fuel Cutoff and/or Water Feeding Device**

A. Each automatically fired steam boiler shall have an automatic low-water fuel cutoff so located as to automatically cut off the fuel supply when the surface of the water falls to the lowest visible part of the water gauge glass. If a water feeding device is installed, it shall be so constructed that the water inlet valve cannot feed water into the boiler through the float chamber and so located as to supply requisite feedwater. Such a fuel cutoff or water feeding device shall comply with HG-606 of the *ASME Code*, Section IV.

B. Each automatically fired hot water heating boiler with heat input greater than 400,000 Btu/hr shall have an automatic low-water fuel cutoff which has been designed for hot water service, and it shall be located as to automatically cut off the fuel supply when the surface of the water falls to the lowest safe water level established by the boiler manufacturer. Such low-water fuel cutoff shall comply with HG-614 of the *ASME Code*, Section IV.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5829. Pressure Reducing Valves**

A. Where pressure reducing valves are used, one or more safety relief valves shall be provided on the low pressure side of the reducing valve when the piping or equipment on the low pressure side does not meet the requirements for the full initial pressure. The safety or safety relief valves shall be located adjoining or as close as possible to the reducing valve. Proper protection shall be provided to prevent injury or damage caused by the escaping fluid from the discharge of the safety relief valves if vented to the atmosphere. The combined discharge capacity of the safety or safety relief valves shall be such that the pressure rating shall not be exceeded in case the reducing valve fails in the open position.

B. The use of hand controlled bypasses around the reducing valves are permissible. If a bypass is used around the reducing valve, the safety valve required on the low pressure side shall be of sufficient capacity to relieve all the fluid that can pass through the bypass without over pressuring the low pressure side.

C. A pressure gauge shall be installed on the low pressure side of the reducing valve.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5831. Boiler Blowoff Equipment**

A. The blowdown from a boiler that enters a sanitary sewer system or blowdown which is considered a hazard to life or property shall pass through some form of blowoff equipment that will reduce the pressure leaving the blowdown equipment to not more than 5 psi, and the temperature to no more than 150EF.

B. All blowoff equipment shall be fitted with openings to facilitate cleaning and inspection and shall conform to the recommended rules for National Board Boiler Blowoff Equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5833. Location of Discharge Piping Outlets**

The discharge of safety valves, blowoff pipes and other outlets shall be located and supported so as to prevent injury to personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5835. Repairs or Alterations**

Where repairs or alterations to a boiler are necessary, an authorized inspector shall be called for consultation and advice as to the best method of making such repairs or alterations. After such repairs or alterations are made, they shall be reviewed by and found acceptable to an authorized inspector. Organizations making repairs or alterations shall be qualified in accordance with §5427.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5837. Supports**

Each boiler shall be supported by masonry or structural supports of sufficient strength and rigidity to safely support the boiler and its contents. There shall be no excessive vibration in either the boiler or its connecting piping.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5839. Boiler Door Latches**

A. A watertube boiler shall have the firing doors of the inward opening type, unless such doors are provided with substantial and effective latching or fastening devices or otherwise so constructed as to prevent them, when closed, from being blown open by pressure on the furnace side.

B. These latches or fastenings shall be of the positive self-locking type. Friction contacts, latches, or bolts actuated by springs shall not be used. The foregoing requirements for latches or fastening shall not apply to coal openings of downdraft or similar furnaces.

C. All other doors, except explosion doors, not used in the firing of the boiler, may be provided with bolts or fastenings in lieu of self-latching devices.

D. Explosion doors, if used and if located in the setting walls within 7 feet of the firing floor or operating platform, shall be provided with substantial deflectors to divert the blast.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5841. Clearance**

When boilers are replaced or new boilers are installed in either existing or new buildings, they shall be so located that adequate space will be provided for the proper operation of the boilers and their appurtenances, for the inspection of all



surfaces, tubes, waterwalls economizers, piping, valves and other equipment, and for their necessary maintenance and repair and replacement tubes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5843. Ladders and Runways**

When necessary for safety, there shall be a steel runway or platform of standard construction installed across the tops of adjacent boilers or at some other convenient level for the purpose of affording safe access. All walkways shall have at least two means of exit, each to be remotely located from the other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5845. Exit from Boiler Room**

All boiler rooms exceeding 500 square feet floor area and containing one or more boilers having a fuel burning capacity 1,000,000 Btu/hr, or equivalent electrical heat input, shall have at least two means of exit. Each shall be remotely located from the other. Each elevation in such boiler room shall have two means of exit, each remotely located from the other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5847. Air and Ventilation Requirements—Combustion Air Supply and Ventilation of Boiler Room**

A. A permanent source of outside air shall be provided for each boiler room to permit satisfactory combustion of the fuel as well as proper ventilation of the boiler room under normal operating conditions.

B. The total requirements of the burners for all fired pressure vessels in the boiler room must be used to determine the louver sizes whether fired by coal, oil or gas; however, the minimum net free louvered area must not be less than 1 square foot. The following table or formula shall be used to determine the net louvered area in square feet:

Input (Btu/hr)	Required Air (cu. ft./min.)	Minimum Net Louvered Area (sq. ft.)
500,000	125	1.0
1,000,000	250	1.0
2,000,000	500	1.6
3,000,000	750	2.5
4,000,000	1,000	3.3
5,000,000	1,250	4.1
6,000,000	1,500	5.0
7,000,000	1,750	5.8
8,000,000	2,000	6.6
9,000,000	2,250	7.5
10,000,000	2,500	8.3

$$\frac{BTUH}{10,000} \times 2.5 \text{ ' CFM} \& 300 \text{ DFM per sq. ft. of net required area}$$

C. When mechanical ventilation is used in lieu of §5847.A, the supply of combustion and ventilation air to the boiler room and the firing device shall be interlocked with the fan so the firing device will not operate with the fan off. The velocity of the air through the ventilating fan shall not exceed 500 feet per minute and the total air delivered shall be equal to or greater than shown in §5847.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5849. Gas Burners**

For installations which are gas fired, the burners used shall conform to the applicable requirements of the American Gas Association or other Nationally Recognized Standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5851. Attendance on Power Boilers**

A. No power boiler while in active service, i.e., that portion of time when the main stop valves are open and the fires are burning, shall be left unattended longer than it will take the water level to drop from the normal operating level in the water gauge glass, or by indicating devices or recorders, when the feed water is shut off and the boiler is forced to its maximum capacity unless the following are complied with:

1. the boiler is equipped with an audible alarm that will operate when the water reaches the highest and/or the lowest permissible operating level, or, for boilers having no fixed steam or water line, when the highest permissible operating temperature is reached. The audible alarm shall be sufficiently loud that it can be plainly heard at the most remote point from the boiler that the attendant is required to work; and

2. the boiler is equipped with two independently connected low water safety devices that will shut off the fuel to the burner or burners when the water reaches the lowest permissible operating level, or, for boilers having no fixed steam or water line, when the highest permissible operating temperature is reached. These devices shall require manual resetting; or

3. the attendant shall personally check the operation of the boiler, the necessary auxiliaries, and the water level in the boiler at such intervals as are necessary to insure safe operation of the boiler, and in no case shall this exceed 120 minutes.

B. The operation of the automatic controls shall be checked at the beginning of each shift.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

**§5853. Restamping of Boilers**

When the stamping on a boiler becomes indistinct, the inspector shall instruct the owner or user to have it restamped. Request for permission to restamp the boiler shall be made to the chief inspector and proof of the original stamping shall accompany the request. The chief inspector may grant such

authorization. Restamping authorized by the chief inspector shall be done only in the presence of an Authorized Inspector, and shall be identical with the original stamping. If the *ASME Code* symbol is to be restamped, it may only be done by the original manufacturer of the boiler in the presence of the inspector who signed the Manufacturers' Data Report. Notice of completion of such restamping shall be filed with the chief inspector by the inspector who witnessed the stamping on the boiler, together with a facsimile of the stamping applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5855. Moving of Boilers**

When a boiler is moved from one setting to another setting, the owner or user thereof shall furnish the chief inspector with a notice of change in location, and shall have the boiler inspected by an authorized inspector prior to firing of the boiler at the new location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5857. Safety Appliances**

A. No person shall attempt to remove or do any work on any safety appliance prescribed by these rules and regulations while the appliance is subject to pressure.

B. Should any of these appliances be removed for repair during an outage of the boiler, they must be reinstalled and in proper working order before the boiler is again placed in service.

C. No person shall alter any safety or safety relief valves or pressure relief devices in any manner to maintain a working pressure in excess of that stated on the boiler inspection certificate.

D. Repairs to safety or safety relief valves shall be made only by organizations qualified in accordance with §5411.J.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5859. Variations**

A. Any person who believes the rules and regulations promulgated by the assistant secretary are unreasonable or impose an undue burden upon the owner or user, may request a variation from such rule or regulation. The request shall be in writing and shall specify how equivalent safety is to be maintained. The assistant secretary, after investigation and such hearing as he may direct, may grant such variation from the terms of any rule or regulation provided such special conditions as may be specified are maintained in order to provide equivalent safety.

B. When there is a reason to believe, or upon receipt of a complaint that a variation does not provide freedom from danger equivalent to the published rule or regulation, the assistant secretary, after notice to the owner or user and complainant after such hearing and investigation as he may direct, may continue in force, suspend, revoke or modify the conditions specified in any variation. No declaration, act or omission of the assistant secretary, or the chief inspector,

deputy inspector or special inspectors other than a written order authorizing a variation as permitted above, shall be deemed to exempt, either wholly or in part, expressly or implied, any owner or user from full compliance with the terms of any rule or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5861. Conditions not Covered by These Rules and Regulations**

For any condition not covered by these rules and regulations, the applicable provisions of the *ASME Code* or the *National Board Inspection Code* shall apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

#### **§5863. Suggestions for Operations**

It is suggested that the Recommended Rules for Care of Power Boilers, Section VII, and the Recommended Rules for Care and Operation of Heating Boilers, Section VI of the *ASME Code*, be used as a guide for proper and safe operating practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

### **Title 46**

## **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

### **Part VIII. Boiler Inspectors**

#### **Chapters 3 - 13. Repealed.**

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531.

HISTORICAL NOTE: Adopted by the Department of Labor in 1938, filed in the Department of the State Register in 1974, amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 12:237 (May 1986), repealed LR 24:

Interested persons may submit written comments on these proposed rules to Bob Cate at 5150 Florida Boulevard, Baton Rouge, LA 70806. Comments will be accepted through the close of business June 22, 1998.

Thomas H. Normile  
Undersecretary

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

#### **RULE TITLE: Boilers**

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

There are no estimated implementation costs or savings to the Office of the State Fire Marshal. Local governments' expenditures will decrease according to the number of objects not requiring inspection.

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

Removing the required inspections of water heaters under 50 gallons in capacity will decrease state fire marshal revenues by \$136,980 per year.

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

There is an estimated savings of over \$36,000 per year to daycare operators, nursing homes, group homes and other affected businesses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment.

Thomas Normile  
Undersecretary  
9805#001

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Social Services  
Office of Rehabilitation Services**

**Community Rehabilitation  
Program (LAC 67:VII.Chapter 2)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Social Services, Louisiana Rehabilitation Services proposes to adopt the following rule in LAC 67:VII. Rehabilitation Services, Community Rehabilitation Program, Program Standards.

The rule governing Louisiana Rehabilitation Services policy relative to Community Rehabilitation Programs is proposed in order to establish standards for Community Rehabilitation Program vendors who provide services to clients of Louisiana Rehabilitation Services through the Vocational Rehabilitation Program.

**Title 67**

**SOCIAL SERVICES**

**Part VII. Rehabilitation Services**

**Chapter 2. Community Rehabilitation Program**

**§201. Purpose**

A. Principle. The Community Rehabilitation Program (CRP) shall establish its purpose and direct its activities toward accomplishment of that purpose.

B. The CRP shall state its goals and purposes clearly in appropriate publications for distribution to staff, those served, referral and payment sources, and the public.

C. The CRP shall describe the specific rehabilitation needs it is prepared to address as well as the programs and services available for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:

**§203. Organization and Management**

A. Licenses. All public and private community rehabilitation programs shall be licensed by the Department of Social Services, Bureau of Licensing or the Department of Health and Hospitals, as appropriate, based on the standards developed and published according to state law.

**B. General Requirements**

1. The CRP shall allow representatives of Louisiana Rehabilitation Services (LRS) and the appropriate program

office in the performance of their mandated duties to monitor all aspects of a program's functioning which impact on clients and to interview staff members and clients.

2. The CRP shall make any information which the program is required to have under the present requirements and any information reasonably related to assessment of compliance with these requirements available to LRS and the appropriate program office.

a. The client's rights shall not be considered abridged by this requirement.

b. A CRP shall promptly provide all necessary and needed information for review.

c. A CRP shall provide adequate space and privacy for the surveyor to review records uninterrupted.

C. A CRP shall have an administrative file including:

1. documents identifying the governing body and/or ownership of the agency;

2. list of members and officers of the governing body and their addresses and terms of membership, if applicable;

3. bylaws of the governing body and minutes of formal meetings, if applicable;

4. a written statement of the program's mission and philosophy;

5. documentation of the agency's incorporation in the state;

6. organizational chart of the agency;

7. all leases, contracts and purchase-of-service agreements to which the center is a party;

8. insurance policies;

9. annual budgets;

10. master list of all consultants used by the center.

D. Organization and Administration. The CRP should engage in short-range and long-range planning, and develop or modify its services according to identified community needs and other LRS identified needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:

**§205. Governing Body**

A. The membership of the governing body shall be representative of the community being served, and include person(s) with disabilities and/or families of person(s) with disabilities; or

B. A CRP has for-profit status, it shall have an advisory board which meets regularly and is representative of the community being served and include person(s) with disabilities and/or families of person(s) with disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:

**§207. Fiscal Accounting Systems and Record Keeping**

A. The CRP must maintain adequate fiscal records and accountability so as to demonstrate, upon request, receipt and utilization of funds from LRS. Each CRP must have an annual external audit and management letter and include a single audit where indicated or required by law.

B. The CRP must have adequate insurance to protect persons served.

C. A CRP shall not permit funds to be paid, or committed to be paid, to any corporate person to which any of the members of the governing body, administrative personnel or members of the immediate families or members of the governing body or administrative personnel have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the CRP. The CRP shall have a written disclosure of any financial transaction with the agency in which a member of the governing body, administrative personnel or his/her immediate family is involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:

### **§209. Personnel Administration and Staff Development**

A. Providers of vocational rehabilitation services shall use qualified personnel, in accordance with any applicable national or state-approved or recognized certification, licensing, or registration requirements, or in the absence of these requirements, other comparable requirements (including state personnel requirements), that apply to the profession or discipline in which that category of personnel is providing vocational rehabilitation services.

B. The CRP should encourage and support staff growth and development by providing opportunities for training, education and interaction with other persons in the rehabilitation field.

C. Providers of vocational rehabilitation services should take affirmative action to employ and advance in employment qualified individuals with disabilities.

D. The CRP will include among their personnel or make available personnel able to communicate in the native languages of individuals who have limited English proficiency if those native languages are spoken by substantial segments of the population of the state; and provide special modes of communication for individuals who rely on these special modes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:

### **§211. Physical Plan and Accessibility**

The CRP must comply with accessibility requirements as established in Section 504 of the Rehabilitation Act of 1973, as amended, and by the Uniform Federal Accessibility Standards and the Americans with Disabilities Act of 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:

### **§213. Confidentiality and Case Records**

#### **A. General**

1. All client information is confidential. All personal information in the possession of the CRP shall be used only for purposes directly connected with the administration of the program.

2. A CRP shall have written procedures for the maintenance and security of records specifying who shall

supervise the maintenance of records, who shall have custody of records and to whom records may be released. Records shall be the property of the center and the center, as custodian, shall secure records against loss, tampering or unauthorized use.

B. Notification to Clients. Individuals asked to supply the CRP with information concerning themselves shall be informed of the CRP's need to collect confidential information and the policies governing its use, release, and access including:

1. a Consent to Release Case Record Information form contained in case files which must document that individuals have been advised of the confidentiality of information pertinent to their case;

2. the principal purpose for which the CRP intends to use or release the requested data;

3. whether the individuals may refuse, or are legally required to supply the requested data;

4. any known consequence arising from not providing the requested information;

5. the identity of other agencies to which information is routinely released.

C. Release of Confidential Information. The case file must contain documentation concerning any information released with the individual's written consent.

D. No use shall be made of the name or picture of an individual served without the prior written consent of the individual, or his or her legal guardian.

E. Client Access to Data. When requested in writing by the involved individual or an authorized representative, clients or applicants have the right to see and obtain in a timely manner copies of any information that the CRP maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the individual's physical or mental health;

2. medical, psychological, or other information which the CRP determines harmful to the individual;

Note: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the individual's representative, or a physician or a licensed or certified psychologist;

3. personal information that has been obtained from another agency or organization. Such information may be released only by or under the conditions established by the other agency or organization.

F. Informed Consent. Informed consent means that the individual has signed an authorization to release information and such authorization is as follows:

1. in a language that the individual understands;

2. dated;

3. specific as to the nature of the information which may be released;

4. specifically designates the parties to whom the information may be released;

5. specific as to the purpose(s) for which the released information may be used;

6. specific as to the expiration date of the informed consent which must not exceed one year.

G. Release of Client Information Without Informed Consent

1. The CRP must have written authorization to release confidential client information except in the following instance:

a. the CRP can release personal information without informed written authorization to protect the client or others when the client poses a threat to his/her safety or to the safety of others;

b. the CRP can only release that information necessary to protect the client or others.

c. the CRP or employee providing the information must carefully record all the facts and circumstances in the client's case record.

2. Examples of Emergency Situations. Emergency situations that might require release of personal information without informed written authorization could possibly include the following:

- a. threats of murder and/or suicide;
- b. threats to the safety of the workplace;
- c. national security violations.

H. Confidentiality—HIV Diagnosis. Each time confidential information is released on applicants or clients who have been diagnosed as HIV positive, a specific informed written consent form must be obtained.

I. Location of Records

1. The CRP shall keep on site the following records:

- a. all IWRP's and Agency Service Plans;
- b. all client plan updates and progress notes;
- c. all client evaluations;
- d. a copy of the CRP's policy and procedure manual(s);
- e. a copy of the employee's criminal history check.

2. All other records shall be kept in the main office of the CRP, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:

**§215. Available Programs and Program Outcomes**

A. Intake and Orientation. The CRP should make a reasonable effort to obtain necessary case file information before planning services for an individual, and make appropriate use of such information throughout the individual's program.

B. Assessment and Program Planning

1. The CRP should review referral information and, using appropriate appraisal and evaluation procedures, determine the individual's need for services.

2. The CRP's policies shall specify that the individual's plan for rehabilitation services will be established with his or her involvement and that it will focus on the individual's achievement of independent functioning in the community and/or achievement or maintenance of the individual's appropriate level of employment outcome or independent functioning.

C. Program Management, Treatment, and Training

1. The CRP shall develop a procedure to insure that services provided each individual are organized, coordinated

and reviewed regularly by a program manager or service coordinator.

2. The individual's progress toward the planned goals shall be measured and recorded monthly and communicated to the individual, the referral source, LRS and any other authorized parties.

3. Individually scheduled conferences shall take place on a timely basis to review the progress of the individual served and to develop further plans, if necessary. The results shall be recorded in the case record and communicated to LRS and any other appropriate parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:

**§217. Public Relations and Marketing**

A. Principle. The CRP shall be actively involved in its community to create acceptance, understanding and support for its goals and services.

B. The CRP should thoroughly investigate the employment and related needs of its current and future users, and organize its services to meet those needs.

C. The CRP should conduct its activities in a manner that encourages understanding, cooperation and support from the public, from other agencies and from other groups in the community.

D. The CRP should function in the community as an advocate for those it serves by promoting positive attitudes toward them, and developing awareness of their legal rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:

**§219. Vocational Modules**

A. A Vocational Evaluation/Assessment shall utilize professionally accepted methods based on client-specific needs to result in a suitable and appropriate employment goal.

B. A Community Based Situational Assessment shall be client-specific to result in a suitable and appropriate employment goal.

C. Employment Preparation (Job Club, Job Readiness, Job Retention Training, etc.)

1. The employment preparation should be provided according to the needs identified in the evaluation/assessment and IWRP.

2. The employment preparation should be provided according to goals that are specific and individualized to meet the demands of the employment goal.

3. The employment preparation should result in skills required for successful placement of the individual into a job in the community based on the designated employment goal.

D. Job Development/Placement

1. Job development and placement of LRS clients should meet the employment goal cited in the IWRP.

2. The CRP shall provide documentation of the job development efforts which are consistent with the employment goal on the client's IWRP.

3. Client shall be placed into an integrated competitive employment position and be compensated at or above the

minimum wage, but not less than the customary or usual wage paid by the employer for the same or similar work performed by individuals who are not disabled.

4. Individuals should be followed in their employment progress for at least 90 days and should be contacted at 6-month and 12-month intervals to ascertain progress.

5. The CRP shall have an 80 percent placement and retention rate of all individuals referred by LRS.

6. The CRP shall maintain and disseminate client performance information regarding their employment to LRS staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:

Interested persons may also submit written comments for 40 days from the date of this publication to May Nelson, Director, Louisiana Rehabilitation Services, 8225 Florida Boulevard, Baton Rouge, LA 70806-4834. Ms. Nelson is responsible for responding to inquiries regarding the proposed rule.

Public hearings will be conducted at 10 a.m. on Wednesday, June 24, 1998, as follows: Shreveport, LRS Regional Office, 1525 Fairfield Avenue; Baton Rouge, LRS Regional Office, 2097 Beaumont Drive; and New Orleans, University of New Orleans, Training, Resource and Assistive Technology Center, UNO Lakefront Campus.

Individuals with disabilities who require special services should contact Marsha Blackmon, Program Manager, Louisiana Rehabilitation Services, at least 14 working days prior to the hearing if special services are needed for their attendance. For information or assistance, call (504) 925-4131 or 1-800-737-2958 or for voice and TDD, 1-800-543-2099.

Madlyn B. Bagneris  
Secretary

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

**RULE TITLE: Community Rehabilitation Program**

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

There is no projected implementation cost. This rule proposes to adopt standards for Community Rehabilitation Program vendors who provide services to clients through the Vocational Rehabilitation Program.

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

There is no anticipated increase or decrease in revenue.

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

This rule will affect LRS Community Rehabilitation Program vendors who provide services to LRS' vocational rehabilitation clients. If a vendor does not meet the 80 percent successful job placement rate, the vendor could potentially be removed from the LRS' list of approved vendors.

There is no effect on the receipts and/or income resulting from this rule change.

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

There is no proposed change in competition and employment in the public and private sectors.

May Nelson  
Director  
9805#044

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

**Commercial Fisherman's Assistance  
Program (LAC 76:XVII.101)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the rule on proof of income for the Commercial Fisherman's Assistance Program.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the Fiscal and Economic Impact statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part XVII. Commercial Fisherman's Assistance  
Program**

**Chapter 1. Proof of Income**

**§101. Criteria for Establishing Proof of Income and  
Procedures**

A. The eligibility of applicants for economic assistance under R.S. 56:13.1, Commercial Fisherman's Assistance Program, shall be determined in accordance with the following criteria:

1. the applicant shall have purchased a saltwater gill net license in at least two of the years 1993, 1994 and 1995; and
2. the applicant shall have derived more than 50 percent of his earned income from the legal capture and sale of seafood species in at least two of the years 1993, 1994 and 1995; and
3. the applicant shall have suffered a loss of income due to the enactment of the Louisiana Marine Resources Conservation Act of 1995; and
4. applicant must have been a bona fide resident of Louisiana on June 30, 1995 and must provide proof of such as defined under R.S. 56:8(12)(a); and
5. the applicant must have submitted his/her application not later than October 1, 1998.

B. Proof of such income for any of the years 1993, 1994 and 1995 shall be provided by applicant using any of the methods listed below.

1. Method 1. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (i.e., Schedule C of federal form 1040, form W-2, etc.), which has been certified by the Internal Revenue Service (IRS).

2. Method 2. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (i.e., Schedule C of federal form 1040, form W-2, etc.), which has been filed and stamped "received" at a local IRS office

accompanied with a signed cover letter acknowledging receipt by the IRS.

3. Method 3. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a signed copy of his federal tax return including all attachments (i.e., Schedule C of federal form 1040, form W-2, etc.), along with IRS stamped transcripts and IRS signed cover letter. Transcripts are available at local IRS offices.

C. The Socioeconomic Section of the Department of Wildlife and Fisheries, Office of Management and Finance will review the submitted tax return information and determine applicants income eligibility as defined by R.S. 56:13.1(B)(1). Proof of loss of income by the applicant shall be provided in the form of federal tax returns as specified in §101.B and determined by using the method below.

1. Proof of income loss will be determined by comparing the applicants average earned income from the legal capture and sale of seafood species for two of the years 1993, 1994 and 1995 and the earned income for tax years 1996 or 1997 as reported on their federal income tax returns. Proof of such income shall be provided by the applicant using any of the methods listed in §101.B.

2. The criteria for providing economic assistance shall be determined by the Department of Wildlife and Fisheries, and shall be based on an individuals loss of income due to the enactment of the Louisiana Marine Resources Conservation Act of 1995.

D. Applicants who receive economic assistance under the Commercial Fisherman's Assistance Program (R.S. 56:13.1) shall be disqualified from receiving any mullet license permit pursuant to R.S. 56:333.

E. The Department of Labor will provide to the Department of Wildlife and Fisheries Licensing Section a quarterly status report containing the name, address, social security number, type of training with beginning date and estimated ending date, the anticipated cost and actual cost as incurred, for each fisherman receiving economic assistance under the Commercial Fisherman's Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:13.1(D).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:235 (March 1996), amended LR 24:

Interested persons may comment on the proposed rule in writing to Janis Landry, Fiscal Section, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 until 4:30 p.m., July 2, 1998.

Thomas M. Gattle, Jr.  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Commercial Fisherman's Assistance Program**

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

It is the opinion of the department that there will be virtually no commercial fishers participating in the Commercial Fisherman's Assistance Program, since applicants receiving assistance will be disqualified from receiving a mullet permit. Thus, no costs or savings and no increase or decrease in workloads is anticipated from the implementation of this rule.

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

Effects on state and local revenue collections cannot be determined at this time and are not anticipated to change from previous years.

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

Louisiana residents who are eligible and choose to participate in the Commercial Fisherman's Assistance Program will be directly affected by the proposed rule. Commercial fisher participants will receive economic assistance to obtain training at approved Department of Labor educational facilities until July 1, 2000. Those fishers who chose to participate in the program will be disqualified from receiving any license or permit pursuant to R.S. 56:333, thus, forgoing any future income benefits from the capture and sale of Mullet.

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

No significant effect on competition and employment in the public and private sectors is anticipated from the proposed rule change.

Ronald G. Couvillion, Sr.  
Undersecretary  
9805#051

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

# Potpourri

## POTPOURRI

### Department of Agriculture and Forestry Horticulture Commission

#### Retail Florist Exam

The next retail floristry examination will be given July 20-24, 1998, at 9:30 a.m. at the Lomax Hall, Louisiana Tech Campus, Ruston, LA. The deadline for sending in application and fee is June 5, 1998. No applications will be accepted after June 5, 1998.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone (504) 925-7772.

Any individual requesting special accommodations due to a disability should notify our office prior to June 5, 1998. Questions may be directed to (504) 925-7772.

Bob Odom  
Commissioner

9805#021

## POTPOURRI

### Department of Agriculture and Forestry Office of the Commissioner

#### North Carolina Sweet Potato Quarantine and Embargo Reciprocal

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:1771 and 1772, the commissioner of Agriculture and Forestry hereby exercises the powers granted to him by R.S. 3:1771 and 1772 to lift the reciprocal quarantine on sweet potatoes from North Carolina and embargo prohibiting importation of all sweet potatoes, vines, plants and slips from North Carolina imposed by the commissioner on July 17, 1997 and published in the *Louisiana Register*, Vol. 23, No. 8, page 1070.

Based on a reciprocal agreement with the state of North Carolina the quarantine and embargo on Louisiana sweet potatoes imposed by North Carolina and the quarantine and embargo on North Carolina Sweet Potatoes imposed by Louisiana is hereby lifted, except for the 1997 sweet potato crop, in the following manner and in accordance with the following schedule.

Plants, slips or cuttings to be used to produce the 1998 crop may begin movement on or after May 1, 1998 between the two states. Sweet potatoes harvested from the 1998 crop may begin movement between the two states on or after August 1, 1998. North Carolina and Louisiana will notify each other

when the harvest of the 1998 crop in the respective state begins.

Under no circumstances shall sweet potatoes harvested from the 1997 crop be permitted to move between Louisiana and North Carolina.

Signed this 8th day of May, 1998 at Baton Rouge, Louisiana.

Bob Odom  
Commissioner

9805#050

## POTPOURRI

### Department of Environmental Quality Office of Air Quality and Radiation Protection Air Quality Division

#### PM<sub>2.5</sub> Monitor Siting Plan—Comment Period and Hearing Dates

The final rule for revised requirements for designation of reference and equivalent methods for PM<sub>2.5</sub> (particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) and ambient air quality surveillance for particulate matter was published in the *Federal Register* on Friday, July 18, 1997. The Louisiana Department of Environmental Quality, Office of Air Quality and Radiation Protection must participate in the development of a PM<sub>2.5</sub> monitoring network. The purpose of this network is to collect data to determine the applicability of the new PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS) on any metropolitan statistical area in Louisiana.

A PM<sub>2.5</sub> monitor siting plan is open for public comments beginning on May 20, 1998 and ending on June 24, 1998 at 4:30 p.m. A public hearing will be held at 1:30 p.m. on Wednesday, June 24, 1998 in Room 326 of the Maynard Ketchum Building located at 7290 Bluebonnet Boulevard. Interested persons are invited to attend and submit oral or written comments on the proposed siting plan.

Written comments concerning the proposed siting plan may also be submitted to Manop Vanichchagorn at any time during the public comment period. Those comments must be received no later than 4:30 p.m. on June 24, 1998. Mail comments to Mr. Vanichchagorn at: Air Quality Analysis Section, 5222 Summa Court, Baton Rouge, LA, 70809. Mr. Vanichchagorn may be contacted at (504) 765-2595.

A copy of the PM<sub>2.5</sub> monitor siting plan may be viewed at the Air Quality Division File Room from 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays, at 7290 Bluebonnet, Second Floor, Baton Rouge, or at any of the regional offices located at the following addresses: 100 Asma Blvd., Suite 151, Lafayette, LA; 804 31st Street, Suite D, Monroe, LA; 1525 Fairfield, Room 11, Shreveport, LA; 3501



Chateau Boulevard-West Wing, Kenner, LA; 3519 Patrick Street, Room 265A, Lake Charles, LA; 5222 Summa Court, Baton Rouge, LA.

Gustave Von Bodungen, P.E.  
Assistant Secretary

9805#082

## POTPOURRI

### Department of Environmental Quality Office of the Secretary

Laboratory Accreditation—Risk/Cost/Benefit  
Statement (LAC 33:I.Chapters 45-57)(OS007)

The following is an abbreviated version of the Risk/Cost/Benefit Statement prepared for the Joint Legislative Committee on the Budget, which consists of the main body of the statement but which excludes the attachments. The complete statement may be viewed or purchased at the Department of Environmental Quality, Investigations and Regulatory Development Division, Fourth Floor, 7290 Bluebonnet Road, Baton Rouge, LA. Additionally, the complete statement is available on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>. Call (504) 765-0399 for additional information.

#### Introduction

The Louisiana Department of Environmental Quality has promulgated the Laboratory Accreditation rule (OS007). This rule establishes a formal regulatory program to provide for accreditation of commercial environmental laboratories which produce environmental data pursuant to department regulations or permits or to the Environmental Quality Act (R.S. 30:2001 et seq.). This program is authorized under R.S. 30:2011(D)(22). This program will include commercial environmental laboratories in Louisiana and those outside the state which do business in Louisiana. The department roughly estimates this to be approximately 120 laboratories.

This statement is prepared to satisfy the requirements of R.S. 30:2019(D) and R.S. 49:953(G) (Acts 600 and 642 of the 1995 Louisiana Legislature, respectively). However, this document does not purport to be a scientific quantitative analysis of cost, risk, or economic benefit, although costs of implementation were quantified to the extent practical.

The department interprets the statutes above as allowing a qualitative analysis of economic and environmental benefit where a more quantitative analysis is not practicable and when the qualitative benefits outweigh the costs in a manner which is intuitively obvious. The statute allows the secretary to certify, based on qualitative benefits alone, that the benefits of a rule outweigh the costs.

This is the approach which is taken with this risk/cost/benefit statement. As discussed further in this document, the Laboratory Accreditation Rule provides indirect environmental and economic benefits by ensuring high quality laboratory data. Assessing dollar benefits of avoided environmental risk or economic benefits of this rule is not

practicable. In addition, the department asserts that the indirect and direct environmental and economic benefits to be derived from this rule will, in the judgment of reasonable persons, outweigh the costs associated with the implementation of the rule and that the rule is the most cost-effective alternative to achieve these benefits.

#### Risks Addressed by the Rule

Although the Laboratory Accreditation Rule does not address direct risks to human health or the environment, it does impact risk that indirectly can have great effects on human health and environment. Most regulatory programs of the department, such as the air, water, waste, and radiation programs rely principally on self-reported data from regulated entities to determine environmental violations, environmental contamination, human health and environmental risk, environmental contamination and damage, etc. Much of this self-reported information is laboratory data (e.g., discharge monitoring reports, air quality data, groundwater monitoring reports). It is absolutely essential to these programs that these laboratory data are sound. In addition, most facilities regulated by the department rely on third-party, commercial laboratories to produce part or all of their laboratory data which, in turn, is submitted to the department. These facilities are ultimately responsible for the quality of this data. It is of the utmost importance that the department, the regulated community, and the public have confidence in environmental laboratory data.

This rule addresses the direct risks of use of improper or inconsistent laboratory procedures and methods; use of faulty laboratory equipment; failure to properly maintain laboratory equipment; poor or fraudulent record keeping; improper QA/QC procedures or data; fraudulent laboratory data; fraudulent QA/QC data; employment of untrained or unqualified personnel; and the simple accumulation of minor procedural, equipment, or record keeping errors that lead to overall lower quality laboratory data.

These direct risks can lead to many indirect risks that may be of great consequence. For example, poor or fraudulent data can lead to under reporting or over reporting of environmental violations (e.g., incorrect NPDES Discharge Monitoring Reports). It can also cause underestimation or overestimation of the extent of contamination of a remediation site. Underestimation or overestimation of human exposure to toxic agents can result from incorrect laboratory sample results. Another example is liner construction for hazardous waste or solid waste disposal facilities (e.g., landfills). Incorrect or fraudulent sample results from QA/QC testing during liner construction can lead to improper liner construction and ultimate liner failure.

Poor or fraudulent initial background groundwater sample results at a hazardous waste or solid waste disposal facility or at a remediation site can cause the subsequent groundwater monitoring program to be useless. Improper QA/QC procedures or data can render associated sample results as suspect or useless, even though they may in reality be accurate. Poor or fraudulent sample data generated during a permit application process (e.g., emission sources or wastewater discharges) may result in permit limits or conditions that are either overprotective or underprotective of human health or the

environment.

These or other risks can lead to increased risk to human health or the environment (e.g., leaking landfill liners, incomplete soil or groundwater cleanups, improper discharges or emissions to surface water or air, delayed or missed detection of significant groundwater contamination, etc.). On the other hand, these risks can lead to increased and unnecessary expense to regulated facilities (e.g., overtreatment of discharges or emissions due to overly protective permits, reinstallation or repair of improperly-installed liners, unnecessary cleanup of soils or groundwater, etc.).

#### **Laboratory Fraud**

Fraudulent activity, as stated earlier, is one of the risks addressed by the rule. Although the extent of fraudulent activities in environmental laboratories in Louisiana is not known, fraud does occur. At least four recent cases of laboratory fraud are worth noting.

#### **State of Louisiana vs. Laboratory A**

In August 1992, a chemical manufacturing company in St. Gabriel, LA, pleaded no contest to charges of producing fraudulent laboratory QA/QC data in their in-house laboratory and agreed to pay a \$250,000 fine and \$50,000 each to the Iberville Parish Drug Task Force and the East Baton Rouge-Pointe Coupee Drug Task Force. In addition, the company terminated the employment of seven laboratory employees and demoted the laboratory manager to a nonsupervisory level.

In this case, the involved employees logged false spike and blank sample results (associated with the NPDES and LWPDS permits) over at least a two-year period. Apparently, the data reported on the facility's discharge monitoring reports were not affected.

#### **United States vs. Laboratory B**

In January 1991, charges of submission of false claims were filed against a commercial laboratory in Baton Rouge, LA, by the U.S. Attorney's office. The company pleaded guilty and agreed to pay a \$500,000 fine. This commercial lab was performing work on EPA contract.

In this case, two laboratory employees admitted to falsifying laboratory sample results on the instructions of the laboratory manager.

#### **United States vs. Laboratory C**

In April 1992, three employees of a commercial laboratory in St. Rose, LA, pleaded guilty to conspiracy to submit false claims. Two were fined \$500 and sentenced to two years probation; one was fined \$250 and sentenced to two years probation. This commercial lab was performing superfund work on contract with EPA.

In this case, the three employees intentionally failed to calibrate a GC/MS instrument and manually overrode the automatic features of the instrument in order to obtain false analytical results, which were ultimately submitted to EPA.

#### **United States vs. Laboratory D**

In July 1995, the vice president/manager of a commercial laboratory in Lafayette, LA, pleaded guilty to falsification of laboratory data. In a pretrial diversion agreement, charges against the company were deferred for two years based on the company meeting certain conditions, including submitting to

independent lab audits. This commercial laboratory was performing NPDES discharge analysis for oil production companies and publicly-owned treatment works.

In the case, the defendant, who was both vice president of the company and manager of the laboratory, was altering lab results which were obtained by lab technicians, fabricating lab data where no analysis was performed, and directing lab technicians to falsify lab results.

#### **Environmental and Public Health Benefits**

Although environmental and public health benefits of the rule are not to be quantified in this statement, on a qualitative basis the benefits are self-evident. This rule will address the direct and indirect risks discussed earlier and produce significant environmental and public health benefits.

Specifically, through a reasonable program of accreditation, self-reporting, performance sampling, and third-party audit inspections, this program will significantly reduce the frequency of laboratory errors and fraudulent results, and will maintain and increase confidence of regulators, customers, and the public in commercial environmental laboratory data. The accreditation program will also help to level the highly competitive playing field among commercial laboratories in the state. The program will provide a means of overseeing out-of-state laboratories which provide services to Louisiana customers. It will also allow accredited in-state laboratories to receive reciprocal accreditation from other states in order to provide analyses to customers in those states. Reciprocal accreditation from multiple states allows laboratories to avoid applying for accreditation in every state, thereby lowering their operating costs.

In directly reducing the frequency of errors and fraudulent results, the laboratory accreditation program will also yield indirect benefits. Improved monitoring and enforcement of emission, discharge, and disposal regulations and permits should result from better laboratory data. Further, the accreditation program can be expected to reduce the indirect environmental and human health risks, some of which were listed in the previous section. Better laboratory data is a double-edged sword. It makes catching violators easier, but it also may result in fewer regulated entities being unfairly penalized. Also, assessment and remediation of contaminated sites become a more precise, fair, and environmentally-protective process with good laboratory data.

#### **Estimated Social and Economic Costs**

##### **Implementation Costs to Regulated Community**

Costs to the regulated community of complying with the rule were estimated by surveying a sample of affected laboratories. It should be noted that these costs were strictly based on these laboratory survey responses which were interpreted using best agency judgment. There is the strong possibility that these figures overstate actual implementation costs to some degree because many laboratories in the state already meet all or part of the rule requirements and will incur lower implementation costs. However, to what degree this is true is not easy to quantify.

Surveys were sent to 43 laboratories within the state. Completed surveys were returned by 19 environmental laboratories. These survey results were averaged to obtain a per-laboratory cost to implement the rule. The average costs

per laboratory were as follows:

First Year Costs Per Lab	\$38,412
Second Year Costs Per Lab	\$26,777
Third Year Costs Per Lab	\$21,215
Total Costs Per Lab	\$86,404

These costs do not include fees charged by the department. These per-laboratory costs were multiplied by 120 environmental laboratories to determine a total cost to the regulated community for implementing the rule. These total costs were as follows:

Total First Year Cost	\$ 4,609,440
Total Second Year Cost	\$ 3,213,240
Total Third Year Cost	\$ 2,545,800
Total Three-Year Cost	\$10,368,480

**Fee Costs to Regulated Community**

Under the rule, each laboratory must submit a \$500 accreditation fee once every three years. In addition, each laboratory must submit an annual fee which ranges from \$250 to \$2500 depending on the size and complexity of the laboratory. To estimate costs to the regulated community due to fees, it was assumed that each laboratory would pay an average annual fee equal to the midpoint between the minimum and maximum annual fees, or \$1375 per year. Using the figure of 120 laboratories, the following costs due to fees were estimated:

Total First Year Accreditation Fees	\$ 60,000
Total First Year Annual Fees	\$165,000
Total Second Year Annual Fees	\$165,000
Total Third Year Annual Fees	\$165,000
Total Three-Year Fees	\$555,000

**Audit Costs to the Regulated Community**

The rule requires that each laboratory must undergo an independent third-party audit once every three years. Based on telephone inquiries, audits by private auditors are assumed to range in cost from \$500 to \$750 per day and last from 2.5 to 3.5 days. Averaging these figures gives an average per day cost of \$625 and average audit duration of three days. Based on this, the average audit can be assumed to cost \$1875. Using the figure of 120 laboratories, the following costs due to audit expenses were estimated:

Total First Year Audit Expenses	\$ 75,000
Total Second Year Audit Expenses	\$ 75,000
Total Third Year Audit Expenses	\$ 75,000
Total Three-Year Audit Expenses	\$225,000

**Total Costs to Regulated Community**

Therefore, the total costs to the regulated community over three years can be estimated by totaling compliance costs, audit costs, and fee costs, as follows:

	Implementation	Fees	Audit Expense	Total
First Year Costs	\$ 4,609,440	\$225,000	\$ 75,000	\$ 4,909,440

Second Year Costs	\$ 3,213,240	\$165,000	\$ 75,000	\$ 3,453,240
Third Year Costs	\$ 2,545,800	\$165,000	\$ 75,000	\$ 2,785,800
Total Three-Year Costs	\$10,368,480	\$555,000	\$225,000	\$11,148,480

**Agency Costs**

Agency Costs were estimated by totaling personnel, equipment, and supply costs for the number of new department personnel that would be needed to implement the rule. The new personnel identified were as follows:

- Environmental Quality Coordinator;
- Environmental Chemist 3;
- Environmental Chemist 2;
- Environmental Program Analyst 1; and
- Word Processor Operator 1.

Costs for these personnel were estimated using midpoint salaries plus related benefits, and using generic equipment, supply, travel, and telephone costs. These were estimated as follows:

Total First Year Agency Cost	\$187,944
Total Second Year Agency Cost	\$188,489
Total Third Year Agency Cost	\$194,969
Total Three-Year Agency Cost	\$571,402

It should be noted that above agency costs do not represent additional costs of implementing the rule, as these agency costs will be borne by the user fees which were previously counted.

**Total Cost of Implementation**

The total estimated cost of implementing the rule over the first three years is \$11,148,480, which yields an average annual cost of approximately \$3,716,160.

**Conclusion**

The department understands that there are significant costs associated with the implementation of the Laboratory Accreditation rule. However, as described in this document, the department believes that the benefits of avoided environmental and public health risk, as well as other benefits, significantly outweigh the costs of implementation of the rule in a manner that is intuitively obvious.

J. Dale Givens  
Secretary

9805#084

**POTPOURRI**

**Office of the Governor  
Oil Spill Coordinator's Office**

Natural Resource Damages Restoration Plan Draft

On May 19, 1998 a public hearing was held in St. James Parish to present the draft restoration plan for natural resource damages resulting from the May 24, 1996 gasoline release by Marathon Ashland Pipeline LLC (as successor in interest to

Marathon Pipe Line Company). Members of the public are invited to submit written comments on the restoration plan between May 20 and May 29, 1998. Comments may be submitted to the address below, to the attention of Marion Boulden.

This draft restoration plan is available for review at the Louisiana Oil Spill Coordinator's Office in Baton Rouge, Louisiana. Individuals wishing to make an appointment to review this document should contact Marion Boulden at: Louisiana Oil Spill Coordinator's Office, 1885 Wooddale Boulevard, 12th Floor, Baton Rouge, Louisiana 70806; (504) 922-3230.

Roland J. Guidry  
Oil Spill Coordinator

9805#081

**POTPOURRI**

**Office of the Governor  
Oil Spill Coordinator's Office**

Natural Resource Damage Assessment  
Comment Period Extended

The Oil Spill Coordinator's Office announced at an April 29, 1998 public hearing on the proposed Louisiana Natural Resource Damage Assessment rule that the period for submitting written comments has been extended through June 9, 1998, at the request of the Department of Environmental Quality.

Comments on the proposed rule published in the March 1998 Register may be submitted to: Marion Boulden, Oil Spill Coordinator's Office, 1885 Wooddale Blvd., 12th Floor, Baton Rouge, Louisiana 70806.

Roland J. Guidry  
Oil Spill Coordinator

9805#080

**POTPOURRI**

**Department of Natural Resources  
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	Well Name	Well Number	Serial Number
Adco Producing Company	Black Hawk	Panola L&D Co A	001	100525

James D. Barber	Milestone Forks	H A Turner Sr et al D	D001	071168
James D. Barber	Milestone Forks	H A Turner Sr et al D	009	080236
James D. Barber	Milestone Forks	H A Turner Sr et al C	010	087902
James D. Barber	Greens Bayou	Yakey GB SWD	002	180941
James D. Barber	Greens Bayou	Yakey GB SWD	003	187202
James D. Barber	South Monterey	MIL SU4; Rabb	001	114633
James D. Barber	South Monterey	Rabb SWD	001	112810
James D. Barber	South Monterey	Madison N	002	151736
James D. Barber	Black Hawk	Peabody SBP	001	214347
Cajun Minerals Inc.	West Mermentau	Bruce et al	001	217815
Cajun Minerals, Inc.	Ellis	A Z Leonards et al SWD	001	972181
Cajun Minerals, Inc.	Pecaniere	NS RB SUA; L Benoit	001	214110
Cajun Minerals, Inc.	Pecaniere	NS RA SUA; Olivier	001	194699
Cajun Minerals, Inc.	Ellis	A Z Leonards et al A	001	209168
Cajun Minerals, Inc.	West Fenris	Y SUA: Deshotels	002	177823
Cajun Minerals, Inc.	West Fenris	VICK RA SUA; Russell	002	109830
Cajun Minerals, Inc.	West Fenris	VUA: L W Russell	2-D	111050
Cajun Minerals, Inc.	Napoleonville	VUA; Armelise Planting Co SWD	002	155997
Cajun Minerals, Inc.	Napoleonville	VUA; Armelise	001	069060
Cajun Mineals, Inc.	Pecaniere	Carroll Olivier SWD	001	972398
Caspen Operating Company	Starks	Industrial Lumber Co C	002	105749
Coastal States - Pel - Tex	South Lake Maurepas	Guste	001	120267
Cretaceous Oil & Gas, Inc.	Caddo Pine Island	Hawkins etal	001	219448

Cretaceous Oil & Gas, Inc.	Caddo Pine Island	Hawkins SWD	002	214808
D&M Operating Company, Inc.	Ragley	VUA; Hollingsworth et al	001	203997
Davis Oil & Meyers-Lasher Inc.	South Lake Maurepas	Lutcher & Moore	001	136977
Davis Oil & Meyers-Lasher Inc.	South Lake Maurepas	Lutcher & Moore	002	139389
Jade Petroleum, Inc.	Tepetate	Jack R Eaton	003	205541
Jade Petroleum, Inc.	Tepetate	Jack R Eaton	004	205807
Jade Petroleum, Inc.	Tepetate	Carrol J & Calvin J Ortego	001	198881
Jade Petroleum, Inc.	Tepetate	Jack R Eaton	001	087052
Jade Petroleum, Inc.	Tepetate	Jack R Eaton	002	078035
Jade Petroleum, Inc.	West Parcperdue	MAYO 12700 RA VUA; Lily B Huval	001	213220
Jade Petroleum, Inc.	West Parcperdue	G B Duhon SWD	001	971808
Lake A, Ltd.	Lake Athanasio	SL 7684	002	167200
Lake A, Ltd.	Lake Athanasio	SL 7684	004	214581
LA.-TX. Operating, Inc.	Greenwood-Waskom	Gray-Hickey	021	080294
LA.-TX. Operating, Inc.	Greenwood-Waskom	Gray-Hickey	003	117353
LA.-TX. Operating, Inc.	Greenwood-Waskom	Gray-Hickey	004	117463
LA.-TX. Operating, Inc.	Greenwood-Waskom	Gray-Hickey	001	126595
LA.-TX. Operating, Inc.	Greenwood-Waskom	Gray-Hickey	007	126778
LA.-TX. Operating, Inc.	Greenwood-Waskom	Gray-Hickey	009	126844

LA.-TX. Operating, Inc.	Greenwood-Waskom	Gray-Hickey	016	129072
LA.-TX. Operating, Inc.	Greenwood-Waskom	Gray-Hickey	010	129444
LA.-TX. Operating, Inc.	Greenwood-Waskom	Gray-Hickey	019	129543
LA.-TX. Operating, Inc.	Greenwood-Waskom	Gray-Hickey	018	129975
LA.-TX. Operating, Inc.	Greenwood-Waskom	Gray-Hickey	020	130118
LA.-TX. Operating, Inc.	Greenwood-Waskom	Gray-Hickey	014	130549
LA.-TX. Operating, Inc.	Greenwood-Waskom	Gray-Hickey	012	130888
LA.-TX. Operating, Inc.	Greenwood-Waskom	Gray-Hickey	011	133684
LA.-TX. Operating, Inc.	Greenwood-Waskom	Gray-Hickey	013	134119
LA.-TX. Operating, Inc.	Greenwood-Waskom	Gray-Hickey	008	134545
LA.-TX. Operating, Inc.	Greenwood-Waskom	Gray-Hickey	017	138292
Don R. Long	Tullos Urania	Hosea J Coleman	001	174295
M&Z Engineering, Inc.	Bayou Chauvin	X 1 RA SUA; Laterre	001	187158
M&Z Engineering, Inc.	Bayou Chauvin	Y RB SUB; Laterre	003	194134
M&Z Engineering, Inc.	Bayou Chauvin	Tenneco Laterre	004	198456
M&Z Engineering, Inc.	Bayou Chauvin	X RA SUA; Laterre	005	200014
M&Z Engineering, Inc.	Bayou Chauvin	Tenneco-Laterre	3-D	201095
M&Z Engineering, Inc.	Bayou Chauvin	W RB SUA; Laterre	4-D	201953
M&Z Engineering, Inc.	Bayou Chauvin	Tenneco Laterre SWD	006	202590
M&Z Engineering, Inc.	Bayou Chauvin	Tenneco Laterre	007	204070

Magnum Minerals, Inc.	Delta Farms	C W Hopkins	001	028743
Magnum Minerals, Inc.	Delta Farms	C W Hopkins	003	029880
Magnum Minerals, Inc.	Delta Farms	C W Hopkins	004	049101
Magnum Minerals, Inc.	Delta Farms	C W Hopkins	007	142060
Magnum Minerals, Inc.	Stella	Numa C Hero	001	206750
Magnum Minerals, Inc.	Stella	Numa C Hero	002	207392
MA-SI, Inc.	Lisbon	LI NEP RE SU; Henry A	009	037613
MA-SI, Inc.	Lisbon	LI NEP RE SU; Enloe A	010	037933
MA-SI, Inc.	Lisbon	LI NEP RE SU; Fowler A	016	038260
MA-SI, Inc.	Lisbon	LI NEP RE SU; Fowler B	011	038829
MA-SI, Inc.	Lisbon	LI NEP RE SU; Henry C	008	039004
MA-SI, Inc.	Lisbon	LI NEP RE SU; Enloe B	014	039280
MA-SI, Inc.	Lisbon	LI NEP RE SU; Tatum	012	039493
MA-SI, Inc.	Lisbon	LI NEP RE SU; Enloe C	015	039595
MA-SI, Inc.	Lisbon	LI NEP RE SU; W J Wilson	005	039740
MA-SI, Inc.	Lisbon	LI NEP RE SU; Henry D	002	039839
MA-SI, Inc.	Lisbon	LI NEP RE SU; Kinder B	007	039966
MA-SI, Inc.	Lisbon	LI NEP RE SU; Henry E	003	040050
MA-SI, Inc.	Lisbon	LI NEP RE SU; Enloe D	004	040142
MA-SI, Inc.	Lisbon	LI NEP RE SU; M E Wilson	006	040202
MA-SI, Inc.	Lisbon	LI NEP RE SU; Tanner	001	040293
MA-SI, Inc.	Lisbon	LI NEP RE SU; Fowler D	013	040355
Mideast Gas Systems, Inc.	Big Lake	VUC; Iris Magee	001	158143

Mideast Gas Systems, Inc.	Chalkley	Katherine Brewer	001	210587
Mineral Equipment Co., Inc.	Caddo Pine Island	J Barlow	001	156762
Mineral Equipment Co., Inc.	Caddo Pine Island	J Barlow	002	156763
Mineral Equipment Co., Inc.	Caddo Pine Island	J Barlow	003	156764
Mineral Equipment Co., Inc.	Caddo Pine Island	J Barlow	004	156765
Mineral Equipment Co., Inc.	Caddo Pine Island	Cecil Barlow	001	157648
Mineral Equipment Co., Inc.	Caddo Pine Island	Cecil Barlow	002	157649
Mineral Equipment Co., Inc.	Caddo Pine Island	Cecil Barlow	004	157651
Mineral Equipment Co., Inc.	Caddo Pine Island	Biedenharn	001	205999
Mineral Equipment Co., Inc.	Caddo Pine island	Biedenharn	002	206586
Mineral Equipment Co., Inc.	Caddo Pine Island	Biedenharn	003	206819
Mineral Equipment Co., Inc.	Caddo Pine Island	Biedenharn	004	206929
Mineral Equipment Co., Inc.	Caddo Pine Island	Biedenharn	005	207247
Mineral Equipment Co., Inc.	Caddo Pine Island	Biedenharn	007	207475
Mineral Equipment Co., Inc.	Caddo Pine Island	Biedenharn	008	207476
Mineral Equipment Co., Inc.	Caddo Pine Island	J R Barlow	001	202872
Omega Energy Inc.	Caddo Pine Island	Hemperly	002	174190
Omega Energy Inc.	Caddo Pine Island	J SU 4; Hemperly	003	177972
Omega Energy Inc.	Caddo Pine Island	J SU 30; Hemperly	004	182023
Omega Energy Inc.	Caddo Pine Island	J SU 31; Hemperly	005	186037
Omega Energy Inc.	Caddo Pine Island	J SU 5; Hemperly	006	194511
Omega Energy Inc.	Caddo Pine Island	Hemperly A	001	196371

Omega Energy Inc.	Caddo Pine Island	Murray James	003	050872
Omega Energy Inc.	Caddo Pine Island	Murray James	006	064692
Omega Energy Inc.	Caddo Pine Island	Murray James SWD	002	049002
Omega Energy Inc.	Caddo Pine Island	Hemperly A	002	196372
Omega Energy Inc.	Caddo Pine Island	Bussa A	001	158217
Phoenix Operating Co. of Texas	Frisco	Frank Ringo	001	210289
Stratco Operating Co., Inc.	Bethany Longstreet	HOSS SU49; Talbert Heirs A	001	207945
W. H. Talbot	Charenton	Mrs D Boudeaux	005	023123
W. H. Talbot	Charenton	LeBlanc	010	062392
Tola Production Company	Logansport	JETER SUR; Alston	001	042022
Tola Production Company	Gahagan	Campbell	001	188892
Tola Production Company	Gahagan	Campbell	002	181005
Tola Production Company	Bayou Ferblanc	Lafourche Realty	002	146920
Tola Production Company	Bayou Ferblanc	Lafourche Realty	001	162784
Tola Production Company	Bayou Ferblanc	Lafourche Realty	003	165857
Tola Production Company	Bayou Ferblanc	Lafourche Realty	004	168555
Tola Production Company	Bayou Ferblanc	Lafourche Realty	005	175341
Tola Production Company	Bayou Ferblanc	Lafourche Realty	006	190412
Tola Production Company	East Haynesville	VUB; Jones Baucum	001	046506
Westen Oil & Gas, Inc.	Section 28	St Martin	003	070489
Westen Oil & Gas, Inc.	Section 28	St Martin	004	072656
Westen Oil & Gas, Inc.	Section 28	St Martin	001	153531
Westen Oil & Gas, Inc.	Section 28	St Martin	002	153532

Westen Oil & Gas, Inc.	Section 28	St Martin	005	155658
Westen Oil & Gas, Inc.	Section 28	St Martin	007	157467
Westen Oil & Gas, Inc.	Section 28	St Martin	006	157614
Westen Oil & Gas, Inc.	Section 28	St Martin	008	159102
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Westen Oil & Gas, Inc.	Section 28	St Martin	010	159104
Westen Oil & Gas, Inc.	Section 28	St Martin	011	167131
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Warren A. Fleet  
Commissioner of Conservation

9805#083

**POTPOURRI**

**Department of Public Safety and Corrections  
Board of Parole**

**Sexually Violent and Child  
Predator—Public Hearing**

In accordance with the laws of the State of Louisiana and with particular reference to the provisions of LSA-R.S. 15:574, notice is hereby given that the Louisiana Board of Parole will conduct public hearings in all municipalities with a population of not less than 50,000. At such hearing, the Board of Parole will receive information and input from the public relative to sex offenders, sexually violent predators and child predators. The Board of Parole will consider which rules, regulations, policies and guidelines they should adopt, and what information regarding sex offenders, sexually violent predators and child predators should be disclosed and/or released to the public.

The hearing for the City of Alexandria will be held on Monday, June 1, 1998, from 5 p.m. to 6 p.m. in the Alexandria Probation and Parole District Office, Training Room, 1534 Lee Street, Alexandria, Louisiana.

The hearing for the City of Shreveport will be held on Monday, June 1, 1998, from 5 p.m. to 6 p.m. in the Shreveport City Hall, Room 211, 1234 Texas Street, Shreveport, Louisiana.

The hearing for the City of Baton Rouge will be held on Tuesday, June 2, 1998, from 5 p.m. to 6 p.m. in the Governmental Building, Room 348, 222 St. Louis Street, Baton Rouge, Louisiana.

The hearing for the City of Monroe will be held on Tuesday, June 2, 1998, from 5 p.m. to 6 p.m. at the Ouachita Parish Courthouse, Courtroom No. 1, 300 St. John, Monroe, Louisiana.

The hearing for the City of New Orleans will be held on Wednesday, June 3, 1998, from 5 p.m. to 6 p.m. at New Orleans City Hall, Council Chambers, Room 104, 1300 Perdido Street, New Orleans, Louisiana.

The hearing for the City of Houma will be held on Wednesday, June 3, 1998, from 5 p.m. to 6 p.m. in the Terrebonne Courthouse, Annex Building, Second Floor, Division "E" Courthouse, 7856 Main Street, Houma, Louisiana.

The hearing for the City of Lafayette will be held on Thursday, June 4, 1998, from 5 p.m. to 6 p.m. at the Lafayette City Hall, Council Chambers, 705 University Street, Lafayette, Louisiana.

The hearing for the City of Lake Charles will be held on Friday, June 5, 1998, from 5 p.m. to 6 p.m. in the Lake Charles Council Chambers, 320 Pujo Street, Lake Charles, Louisiana.

All interested persons will be afforded an opportunity to present data or views, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., July 5, 1998, at the Baton Rouge office. Comments should be directed to the Board of Parole, P.O. Box 94304, Baton Rouge, Louisiana 70804-9304, Re: Sexual Predator Law.

Fred Clark  
Chairman

9805#033

**POTPOURRI**

**Department of Revenue  
Tax Commission**

**Whole Residential Property Ratio Study—1997**

Pursuant to R.S. 47:1837 the following is the result of the Tax Commission's measurement of the level of appraisal and/or assessment and the degree of uniformity for Whole Residential Property Ratio Study for the year 1997 (1998 Orleans Parish). This data shall constitute prima facie evidence of the uniformity or lack of uniformity with constitutional and/or statutory requirements of each parish in the state.

Parish	Mean (%)	Median (%)	Coefficient of Dispersion (%)
Acadia	10.6	10.7	14.2
Allen	9.8	9.7	10.4

Ascension	9.1	9.2	13.7
Assumption	9.8	9.7	9.9
Avoyelles	9.1	9.5	7.8
Beauregard	10.2	9.8	17.1
Bienville	8.9	9.2	10.0
Bossier	9.0	9.3	11.1
Caddo	9.9	9.3	9.9
Calcasieu	9.7	9.7	8.5
Caldwell	9.8	10.0	11.5
Cameron	9.9	9.8	4.9
Catahoula	9.7	9.8	8.2
Claiborne	9.9	10.0	8.1
Concordia	9.3	9.7	7.4
Desoto	9.5	9.9	8.7
East Baton Rouge	9.5	9.6	7.8
East Carroll	9.9	9.9	7.7
East Feliciana	9.0	9.0	13.8
Evangeline	9.1	9.7	9.0
Franklin	9.8	9.7	12.2
Grant	9.9	9.9	12.3
Iberia	9.8	10.0	3.7
Iberville	9.0	9.3	12.9
Jackson	11.2	10.8	13.2
Jefferson	10.2	10.3	6.4
Jefferson Davis	9.6	9.3	13.2
Lafayette	9.4	9.3	9.2
Lafourche	9.8	10.0	3.7
Lasalle	9.7	9.8	7.7
Lincoln	9.5	9.5	10.6
Livingston	9.2	9.3	10.5
Madison	9.8	9.8	10.7
Morehouse	9.9	10.0	7.1
Natchitoches	10.5	10.2	13.8
Orleans—			
First M.D.	10.1	9.9	14.4
Second M.D.	9.9	10.0	11.7
Third M.D.	10.2	9.9	11.1
Fourth M.D.	9.9	9.7	13.4
Fifth M.D.	9.8	9.8	8.0



Sixth M.D.	10.3	10.1	17.2
Seventh M.D.	10.1	10.1	14.4
Ouachita	9.0	9.1	7.7
Plaquemines	10.1	10.1	5.1
Pointe Coupee	9.4	9.3	9.4
Rapides	10.0	9.9	7.9
Red River	10.4	10.0	13.0
Richland	10.1	9.8	12.6
Sabine	10.6	10.1	12.7
St. Bernard	10.1	10.0	6.3
St. Charles	10.3	10.2	6.2
St. Helena	9.2	9.1	9.3
St. James	11.0	11.0	8.8
St. John the Baptist	9.7	9.9	10.0
St. Landry	9.9	9.7	8.3
St. Martin	9.6	10.0	18.8

St. Mary	8.9	9.0	17.2
St. Tammany	9.1	9.1	8.3
Tangipahoa	9.3	9.4	9.9
Tensas	10.1	9.9	14.0
Terrebonne	9.0	9.0	9.6
Union	10.1	10.1	9.5
Vermilion	10.2	9.9	11.2
Vernon	10.2	10.1	5.3
Washington	9.1	9.1	7.8
Webster	9.8	9.8	9.2
West Baton Rouge	9.9	9.9	7.2
West Carroll	9.8	9.8	7.1
West Feliciana	8.9	9.1	12.9
Winn	9.4	9.7	18.5

Malcolm B. Price, Jr.  
Chairman

9805#022

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